

MHBU010012972025.



Presented on : 25.07.2024.
Registered on : 15.10.2025.
Decided on : 07.05.2026.
Duration : 00Y 06M 22D.

EXHIBIT NO.40.

FORM NO. XXXII.

PART 'A'

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, BULDHANA.

Presided Over by : A.G. Santani, Additional Sessions Judge.

Date of Judgment : 07.05.2026.

SESSION CASE NO. 95/2025.

Crime No. 405/2024, registered with Police Station, Buldhana (City), District Buldhana, for the offences punishable U/s. 353 r/w. 34 of the Indian Penal Code, 1860.

Prosecution : The State of Maharashtra,
through Police Station Officer, Buldhana (City).

Represented By : Mr. Vasant L. Bhatkar, APP

Accused 1. Mohsinalishah Khwajaalishah,
Aged : 46 Years, Occupation : Business,
2. Anishshah Munirshah,
Aged : 39 Years, Occupation : Business,
Both Residing at Buldhana, Tq. and Distt. Buldhana.

Represented By : Mr. Mohd. Raj Shaikh, Advocate.

PART 'B'

Date of Offence	25.05.2024.
Date of FIR	25.05.2024.
Date of Charge-sheet	25.07.2024.
Date of Framing of Charges	05.02.2026.
Date of Commencement of Evidence	25.02.2026.
Date on which Judgment is Reserved	07.05.2026.
Date of the Judgment.	07.05.2026.
Date of the Sentencing Order, if any.	Not Applicable.

ACCUSED DETAILS

Rank of the accused : 2.
 Name of the accused : 1. Mohsinalishah Khwajaalishah.
 2. Anishshah Munirshah.
 Date of arrest : --
 Date of release on bail : 12.09.2025.
 Offences Charged with : Sections 353 r/w. 34 of the Indian
 Penal Code, 1860.
 Whether acquitted or convicted : Acquitted on 07.05.2026
 Sentences imposed : Not Applicable.
 Period of detention undergone : Not Applicable.
 during Trial for purpose of
 Section 428 of the Code of
 Criminal Procedure, 1973.

PART 'C'LIST OF PROSECUTION/DEFENCE/COURT WITNESSESA. Prosecution Witnesses :

Rank.	Name.	Nature of Evidence
PW 1.	Subhash Gitaram Kharat.	The informant.
PW 2.	Ansarshaha Ismailshaha.	Witness to Spot panchanama.
PW 3.	Mansoor Khan Kamruddinkhan.	Witness to Spot panchanama.
PW 4.	Shivram Ramlal Bendwal.	Witness to the incident.
PW 5.	Shaikh Jakir Shaikh Lal.	Witness to the incident.
PW 6.	Shaikh Anwar Shaikh Rafiq.	Witness to the incident.
PW 7.	Shantilal Parashram Bendwal.	Witness to the incident.
PW 8.	Mangal Baban Ingle.	Witness to the incident.
PW 9.	ASI Ramesh Pandurang Kanadje.	Investigating Officer (IO).

B. Defence Witnesses : NIL.C. Court Witnesses : NIL.LIST OF PROSECUTION/DEFENCE/COURT EXHIBITSA. Prosecution Exhibits :

Sr. No.	Exhibit Number	Description
1.	Exhibit P-14	Police Report.

- | | | |
|----|--------------------------------|---|
| 2. | Exhibit P-15 | Printed FIR. |
| 3. | Exhibit P-17 | Spot Panchanama. |
| 4. | Exhibit P-33 | Letter to C.O., Municipal Council, Buldhana, seeking Appointment Order of the informant, Muster Roll and Identity Card, etc.. |
| 5. | Exhibit P-34 | Letter providing such Records. |
| 6. | Exhibit P-35
(Collectively) | Copy of Appointment Order of the informant, his Muster Roll, Identity Card and Duty Details. |
| 7. | Exhibit P-36 | Intimation Letter to the accused. |

- B. Defence Exhibits : NIL.
C. Court Exhibits : NIL.
D. Material Objects : NIL.

J U D G M E N T.

DATED : 07.05.2026.

01. The accused are facing this trial for the offence punishable U/s. 353 r/w. 34 of the Indian Penal Code of 1860 (the IPC).

02. Briefly stated, the prosecution case is that on 25.05.2024, at 11.00 a.m., in between Jaiswal Square to Court Square, at Buldhana, the accused, in furtherance of their common intent, assaulted and used criminal force to informant - Subhash Gitaram Kharat, the then Clerk of Municipal Council, Buldhana, and the others, in execution of their duty of removing encroachments, as such public servants, and thereby, made themselves liable for this prosecution. The prosecution case is originated from report of the informant, lodged with P.S. Buldhana (City), on the same day. Accordingly, the said police station registered this Crime and the investigation followed. The spot panchanama was drawn, the police statements of witnesses to the incident were recorded. On completion of investigation, the said police station filed the charge-sheet as against the accused, U/s. 173 of the Criminal Procedure Code, 1973, (the Cr.P.C.).

03. Having complied with the provisions of Section 207 of the Cr.P.C., the concerned Court committed this matter. My Ld. Predecessor framed the charge against the accused below Exhibit 07, to which they pleaded not guilty and claimed for trial by recording their pleas as per Exhibit 08 and 09. Their defence, as it appears from cross-examination and their statements (Exhibit 38 and 39), as recorded U/sec. 313 of the Cr.P.C., is that of total denial and their false implication.

04. The points for determination, along-with my findings and the reasons therefor, are as under:

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
(1).	Whether the prosecution proved that on 25.05.2024, at 11.00 a.m., in between Jaiswal square to Court square, Buldhana, Tq. and District Buldhana, the accused, in furtherance of their common intention, assaulted or used criminal force to the informant and the others i.e. the Public Servants, in discharge of their duties as such public servants?.....No.	
(2).	What Order?.....	The accused are acquitted.

05. The prosecution unfurled its case by examining 9 witnesses. The informant has been examined as PW 1, below Exhibit 13, witnesses to spot panchanama namely Ansarshaha Ismailshaha and Mansoor Khan Kamruddinkhan have been examined as PW 2 and PW 3, below Exhibit 16 and 18, witnesses to the incident Shivram Ramlal Bendwal, Sk. Jakir Sk. Lal, Sk. Anwar Sk. Rafiq, Shantilal Parashram Bendwal and Mangal Baban Ingle have been examined as PW 4 to PW 8 respectively, below Exhibit 20, 21, 22, 23 and 24. Lastly, the Investigating Officer – Rtd. ASI Ramesh Pandurang Kanadje has been examined as PW 9, below Exhibit

46. Out of them, barring ASI - Ramesh (PW 9), none of the prosecution witness supported to its case. Additionally, the prosecution relied upon the documents, as referred to in 'Part- C' of the above Schedule. On the contrary, the accused did not lead any evidence in their defence.

-: REASONS FOR THE FINDING :-

AS TO POINT NO. 1 :

06. The prosecution cited the informant as its star witness, who testified that since last 30 years, he was serving with Municipal Council, Buldhana. On 25.05.2024, he was leading Encroachment Removal Dept. That day, he was assigned with work of removal of encroachment from Jaiswal square to Court square, Buldhana. At about 11.00 a.m., he was removing some of the unauthorized stalls of Cloth Merchants and that time, he was accompanied with the other staff members namely Shivaji (PW4), Sk. Jakir (PW5), Shaikh Ibrahim, Ravi Aaval and the others. For the said cause, the squad had one Tractor. However, when he instructed the accused to remove their encroachment, they denied to do the same and resisted their activity. Thus, they obstructed them to discharge their public duty. Hence, he reported this incident to the police. However, he also averred that the accused didn't scuffle with Shivram (PW4) and Sk. Jakir (PW5). As such, Ld. APP was permitted to put the questions in the form of cross-examination to this witness. However, even thereafter, he did not support to the prosecution. More so, during cross-examination by the accused, he admitted that prior to removal of encroachment, it is required to give 03 days time to all the concerned persons and to ensure publication of the proposed activities for removal. He admitted that the accused were not intimated about such removal 'in writing'. That apart, Shivram (PW4) and Sk. Jakir (PW5) were the Retired employees of the Municipal Council, Buldhana. More so, there was no written Order for joining them in removal of such encroachment. In the like manner, even

the rests of witnesses didn't support to the prosecution case. Ansarshaha (PW2) and Mansoorkha (PW3) denied the drawing of spot panchanama (Exhibit 17) in their presence. The witnesses to this incident - Shivram (PW4) and Sk. Jakir (PW5), who were scuffled by the accused, outright denied occurrence of any such incident in their presence. Likewise, Sk. Anwar (PW6), Shantilal (PW7) and Mangal (PW8), who were allegedly present in the said squad for removal of encroachment, testified like the strangers to this incident. In the last, the testimony of Ramesh (PW9) is revolving around the aspect of investigation. During cross-examination, he could not assign that near the spot of incident, CCTV were installed. Although, he admitted that the spot was having heavy traffic and he did not record statement of 'independent' witnesses to the incident, barring employees of the Municipal Council, Buldhana.

07. The accused are facing this trial for the offence punishable U/s. 353 r/w. 34 of the IPC. To bring home their guilt, it was incumbent on the prosecution wing to substantiate that on the eventful day, they, in furtherance of common intention, assaulted or used criminal force to the informant and the others, in execution of their public duties as such public servants and, thereby, obstructed them to discharge such duties. However, in the light of such required ingredients, when this evidence is scanned, I have no hitch to express my view that at no point of time, the prosecution could prove their guilt beyond all the shadow of doubt. The informant and the material witnesses like Shivram (PW4) and Sk. Jakir (PW5), **who** were so scuffled by the present accused, **disowned** the very occurrence of any such incident. Nor, they whispered 'anything' against the accused, suggesting their participation in commission of the offence. **Thus**, their non co-operation proved fatal to the prosecution case. In the circumstances, I am of the opinion that the prosecution failed to prove their guilt beyond the reasonable doubt and therefore, they deserve for

an acquittal. Consequent thereto, I answered point No.1 in the negative and in answer to point No.2, I pass the following Order:

-: O R D E R :-

- (1). The accused namely Mohsinalishah Khwajaalishah and Anishshah Munirshah are acquitted of the offence punishable under Section 353 r/w. 34 of the Indian Penal Code, 1860, vide Section 235 of the Criminal Procedure Code, 1973.
- (2). Their bail bonds stand cancelled.
- (3). They are directed to execute personal bonds of Rs. 25,000/- (Rs. Twenty Five Thousand) each with one surety in the like amount, for their appearance before the Court in view of the compliance vide Section 437-A of the Criminal Procedure, Code, 1973.

Buldhana.
Dated : 07.05.2026.

{A.G. Santani}
Addl. Sessions Judge, Buldhana.
District : Buldhana.

Certificate

I affirm that the contents of this Judgment/order are same word for word as per original.

Name of Court	Additional Sessions Judge, Buldhana.
Name of Steno	Sanjay Chaudhari (Steno Grade I)
Pronounced on	07.05.2026.
Upload Date	07.05.2026.