

MHBU-1100-0163-2022



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Form No. XXXII

Part 'A'

(Para 44 (i) of Chapter VI of Criminal Manual)

IN THE ADDITIONAL SESSIONS COURT, MALKAPUR,

AT : MALKAPUR, DIST. BULDANA

(Present: R. B. Giri, Additional Sessions Judge, Malkapur)

Date of Judgment : 18/03/2026

Sessions Case No.12 of 2022

Exh. No.69

(FIR/Crime No.- 157/2017 of Police Station Dhamangaon Badhe,
u/s 353, 332, 341, 506 r/w 34 of Indian Penal Code)

PROSECUTION	:	The State Of Maharashtra Through Police Station Dhamangaon Badhe, Dist. Buldana
REPRESENTED BY	:	Mr. S. H. Joshi, Ld. A.P.P for the State.
ACCUSED	:	1. Mohammad Shakil Mohammad Musa, Age :- 37 years, Occupation- Labour
		2. Mohammad Saddam Mohammad Alim, Age :- 25 years, Occupation- Labour Both 1 & 2 R/o.- Rohinkhed, Tq. Motala, Dist. Buldana.
REPRESENTED BY	:	Mr. S. D. Rawat, Ld. Advocate for accused.

Part - 'B'

(Para 44(ii) of Chapter VI of Criminal Manual)

Date of Offence	14.10.2017
Date of FIR	14.10.2017
Date of Charge-sheet	09.03.2022
Date of Framing of Charges	22.09.2025

Date of commencement of evidence	24.11.2025
Date on which judgment is reserved	Nil
Date of Judgment	18.03.2026
Date of the sentencing Order, if any	Nil

Accused Details.

Rank of the Accused	Name of the Accused	Date of Arrest	Date of release on bail.	Offences charges with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Sections 428 of Cr.PC.
(1)	Mohammad Shakil Mohammad Musa.	17.10.2017	17.10.2017	353, 332, 341, 506 r/w 34 of Indian Penal Code	Acquitted	---	---
(2)	Mohammad Saddam Mohammad Alim.	17.10.2017	17.10.2017	353, 332, 341, 506 r/w 34 of Indian Penal Code	Acquitted	---	---

Part 'C'

(Para 44 (iii) of Chapter VI of Criminal Manual)
LIST OF PROSECUTION/DEFENCE/COURT WITNESSES.

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS.
PW-1 (Exh.49)	Sahebrao Pandhari Kushod.	Informant.
PW-2 (Exh.53)	Kishor Digambar Sarnaik.	Witness.
PW-3 (Exh.55)	Budhan Khan Haidar Khan.	Witness.
PW-4 (Exh.56)	Ashok Mansing Chavhan.	Witness.

PW-5 (Exh.60)	Vikas Suresh Chavhan.	Panch witness.
PW-6 (Exh.63)	Samadhan Kisan Tayade.	Investigation Officer.

B. Defence Witnesses, If any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS).
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C. Court witnesses, if any :-

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS).
CW-1	Nil----	Nil----

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS.**A. Prosecution :**

Sr. No.	Exhibit Number	Description
1.	50	Report.
2.	51	FIR.
3.	58 – 59	Property Search Seizure Form.
4.	61	Spot Panchanama.
5.	64	Medical Memo.
6.	65	Jabab.

B. Defence :

Sr. No.	Exhibit Number	Description
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C. Court Exhibits :

Sr. No.	Exhibit Number	Description
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1.	44	Charge
2.	66	Evidence Close Pursis.
3.	67 – 68	Statement u/s 313 Cr.P.C.

D. Material Objects :

Sr. No.	Material object	Description
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- : J U D G M E N T :-(Delivered on this 18th day of March, 2026)

The accused are charged with the offences punishable under Section 353, 332, 341, 506 r/w 34 of Indian Penal Code, 1860.

02. The prosecution case in short is as under :-

On 14/10/2017 informant Sahebrao Pandhari Kushod lodged oral report in Police Station Dhamangaon Badhe wherein he alleged that he is working as a Forest Guard within the forest range of Motala since June 2016. on 14/10/2017, he was on patrolling duty within the forest area with forest labour Budhan Khan. While patrolling, he found one tractor bearing No.MH-28-9334 carrying mined sand in its trolley, in an illegal manner. He informed about the same to his senior officers and asked the tractor driver to take the tractor to the Forest Office. While they were proceeding to the office from Gulbheli Khamkhed road, at about 7.30 p.m. accused No.1, the owner of the tractor, came on the motorcycle and driven it on his person. As he went aside, the accused No.1 fell down from the two-

wheeler. He, alongwith other accused started assaulting him by fist and kick blows and threatened to kill him. In the said assault, he had sustained blunt injury near his left eye.

03. On the basis of said report, Crime No.157/2017 for the offences punishable under Section 353, 332, 341, 506 r/w 34 of Indian Penal Code was registered against the accused and the Investigation Officer commenced its investigation. The informant was sent for medical examination to the Primary Health Centre at Dhamangaon Badhe. During investigation, he had visited the spot of incident in presence of Panchas and prepared spot panchanama. He had seized the vehicle involved in the incident. He had recorded the statements of witnesses and arrested the accused. He had obtained the Medical Certificate of the informant from Primary Health Centre Dhamangaon Badhe and after completion of investigation, he had filed charge sheet against accused before the learned JMFC Court at Motala.

04. As the offence under section 353 of the Indian Penal Code is triable by the Session Court, the case was committed to the Court of sessions by the concerned Court.

05. I have framed charge against accused for the offences punishable under section 353, 332, 341, 506 r/w 34 of Indian Penal Code at Exh.44 which was read over and explained to accused in vernacular to which they pleaded not guilty and claimed to be tried. The accused took the defence of false implication in their statements under section 313 of Criminal Procedure Code at Exhs.67 & 68 however they did not examine

any defence witness.

06. Considering the evidence of prosecution and defence of accused, following points arise for determination to which I record my findings thereon for reasons to follow. -

<u>Sr.</u> <u>No.</u>	<u>Points</u>	<u>Findings</u>
01.	Does the prosecution prove that the accused in furtherance of their common intention used criminal force or assaulted the informant, a public servant, with intent to deter him from discharging his duty, as such public servant and thereby committed an offence punishable under section 353 r/w 34 of Indian Penal Code ?	No.
02.	Does the prosecution prove that the accused in furtherance of their common intention voluntarily caused hurt to the informant, a public servant, with intent to deter him from discharging his duty, as such public servant and thereby committed an offence punishable under section 332 r/w 34 of Indian Penal Code ?	No.
03.	Does the prosecution prove that accused in furtherance of their common intention wrongfully restrained the informant from proceeding in a direction to which he had	

	right to proceed and thereby committed an offence punishable under section 341 r/w 34 of Indian Penal Code ?	No.
04.	Does the prosecution prove that accused in furtherance of their common intention threatened the informant to cause death or with such threat which is likely to cause alarm to him and thereby committed an offence punishable under section 506 r/w 34 of Indian Penal Code ?	No.
05.	What order ?	Accused are acquitted.

REASONS

07. Heard learned APP for state and learned counsel for accused Shri. S. D. Rawat.

08. In order to substantiate the case, the prosecution has examined the witnesses noted in part C of the Judgment.

09. The accused has admitted the seizure of tractor bearing No.MH-28-T-3334 and two wheeler bearing No.MH-28-N-5502 vide seizure memos at Exhs.58 & 59.

AS TO POINT NOS.1 & 3 -

10. I proceed to discuss the evidence of prosecution on these points simultaneously, due to sake of convenience.

11. To bring home the guilt of the accused under section 353 & 332 of Indian Penal Code, it is must for the prosecution to prove that (i) the informant was discharging his duty as public servant, (ii) the accused assaulted or used criminal force or voluntarily caused hurt to the informant, (iii) and such assault or criminal force or hurt was caused with intent to deter him from discharging his public duty as such. Similarly, for proving the offences under section 341 of Indian Penal Code, it must be proved on record that the accused have wrongfully restrained the informant from proceeding in a direction to which he had right to proceed.

12. Considering the above noted ingredients of the offences, the prosecution evidence needs to be appreciated. In proving the said offences, the prosecution has predominantly relied upon the evidence of PW-1 informant Sahebrao & PW-2 Kishor as well as PW-3 Budhan Khan as the PW-4 Ashok did not support the prosecution.

13. As far as the main incident is concerned, PW-1 informant Sahebrao stated before the court that on 14/10/2017 while he was patrolling within the forest area of Gulbheli in Rohinkhed range at about 6.00 a.m. on-wards, he found a tractor carrying sand. He inquired with the tractor driver about the permit of transporting sand. As he could not produce any permit, he took the tractor towards the Forest Office at Gulbheli. When they reached near Datta Bhavan, accused No.01 came

there on motorcycle. He had driven the motorcycle on his person and as he went aside, he fell down. He started altercation with him and the tractor driver caught hold of his neck. They both have assaulted him. They emptied the tractor and went away. He had sustained blunt injury to his chest and near eye. He had lodged report of the incident at Exh.50 in the Police Station Dhamangaon Badhe.

14. In his cross examination, this witness stated that he had not given his duty list to the Police during investigation. He had not informed about the mining of the sand to the Revenue Officers. He had met with accused No.02 at a distance of 1.5 k.m. from the spot of incident Datta Bhavan and thereafter the accused No.01 came on the spot nearly after 1.00 hour. He could not state as to from where the accused No.02 had brought the sand in the tractor. The spot of incident does not fall within the forest area.

15. The narration of over all incident by this witness goes to suggest that he had caught the tractor driven by accused No.01 at or near forest area and found that it was carrying a mineral i.e. sand. As he restrained the said tractor, the accused No.02 who is the owner of the tractor came there and both the accused have assaulted him, thus causing obstruction in his discharge of public duty as a public servant.

16. It is apparent from his evidence that, he had no knowledge that the sand was mined and it was being carried

from the forest area. It was not a forest produce. The informant was merely a forest guard. Inspecting the vehicles for illegally mined sands does not fall within his jurisdiction or power as he was merely a forest guard without any specific assigned duty to inspect and restrict the transportation of sand. The prosecution has not produced either his duty list or any document showing the informant discharging his official duty, at the time of incident.

17. Besides the above noted reasons, the evidence of PW-1 needs comprehensive appreciation as far as the whole incident is concerned. He had stated that the accused started altercation with him and the accused No.02 caught hold of his neck from back side and they have assaulted him. He admitted that catching hold of his neck by accused No.02 is not mentioned in his statement before the Police. Once this omission is left aside, the only incriminating evidence is in respect of his generalized statement in respect of assault by the accused. He did not state as to on which part of the body, the accused have assaulted. His said part of evidence is not corroborated by the Medical Certificate. Even PW-3 Budhan Khan, the forest labour who was accompanying him at the time of incident did not state anything about such assault by the accused persons. He merely stated that the accused, when caught while transporting the sand, have emptied the tractor and went away.

18. In such fact situation, it is important to note that the incident took place at about 7.30 a.m. whereas its FIR Exh.57 was registered in the Police Station Dhamangaon Badhe at about 11.40 p.m., even though the informant specifically stated that he went to the Police Station Dhamangaon Badhe immediately after the incident.

19. Even PW-2 Kishor specifically admitted in his cross-examination that he had not witnessed the actual incident and it was narrated to him by the informant.

20. In substance, the evidence of PW-1 informant Sahebrao Kushod in respect of his discharging of official duty as well as the actual assault by the accused is neither corroborated by the testimony of any other prosecution witness nor by way of the promptly lodged FIR. In this background the investigation carried out by the PW-6 Police Head Constable Samadhan Tayade assumes formal character as there is no much dispute about the preparation of spot panchanama Exh.61 by him on the spot in presence of PW-5 panch Vikash Chavhan. Even the hostility of this PW-5 panch Vikas has no material bearing on the outcome of the case, as far as the accused is concerned.

21. Taking overall view of the matter, there is no convincing evidence on record to show that the PW-1 Sahebrao was discharging his public duty and the accused have assaulted him with intent to deter him from doing such public duty as the transportation of sand and the inquiry pertaining to its legality

does not fall within his authority, he being a forest guard i.e. a Class-IV employee. The transportation of sand falls within the realm of jurisdiction of Revenue Authorities. Similarly, the assault on him by the accused is neither corroborated by the witness i.e. PW-3 Budhan Khan, who was accompanying him nor from the evidence of any other witness or for that matter by way of medical certificate.

22. Consequently the prosecution has failed to prove the guilt of the accused beyond reasonable doubt on these aspects of the case and therefore I answer point Nos.1 to 3 in negative.

AS TO POINT NO. 4 -

23. For proving the offence under section 506 r/w 34 of Indian Penal Code, it must be established that accused threatened the informant to kill or caused alarm by putting him under threat. It is pertinent to note that this is a verbal offence and therefore, the prosecution is required to bring on record the utterances or the gestures made by the accused at the time of the incident so the the court can infer as to whether those were sufficient to bring home the guilt against accused. No specifics are narrated by either the informant or PW-3 and in fact they have conspicuously maintained silence on this aspect of the case. Therefore I am inclined to grant benefit of doubt to the accused, on this count also. Hence I answer point No. 4 in negative.

24. In view of the reasons stated above while answering point Nos.1 to 4, I proceed to pass the following order. :-

ORDER

01. Accused Nos. (1) Mohammad Shakil Mohammad Musa, (2) Mohammad Saddam Mohammad Alim stands acquitted for the offences punishable under Section 353, 332, 341, 506 r/w 34 of Indian Penal Code, 1860 vide section 235(1) of Code of Criminal Procedure.
02. Their bail bonds stand cancelled.
03. Vehicles i.e. one Swaraj Company Tractor bearing registration No.MH-28-T-9334, one Trolley bearing registration No.MH-28-E-7549, one Bajaj company Discover motorcycle bearing registration No.MH-28-N-5501 are already released on supurtnama. Supurtnama stands canceled.
04. Accused to furnish personal and surety bond of Rs.10,000/- each for six months in compliance with Section 437-A (1) of the Code of Criminal Procedure.

Dictated and pronounced in open court.

Malkapur.
Date : 18/03/2026.

(R. B. Giri)
Additional Sessions Judge,
Malkapur.

CERTIFICATE

I certify that this order P.D.F. uploaded is a true and correct copy of original signed order.

Name of Court : Adhoc District Judge – 1 & Additional
Sessions Judge, Malkapur.
Name of Stenographer : Shri. V. S. Jadhav. (Jr. Clerk)
Date of order : 18.03.2026
Date of signed on order
by Judicial Officer : 18.03.2026
Date of uploading : 23.03.2026