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FORM NO. XXXII
PART 'A'
(Title Page of Judgment)

	<u>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SHRIRAMPUR, TAL. SHRIRAMPUR, DIST. AHMEDNAGAR.</u> Presiding Officer :- Shri. Ankush S. Kambale <u>[R.C.C. No. 106 of 2022]</u> <u>Exh.45</u>
	[Details of FIR No. I-482/2021 for an offence punishable under Section 324, 323, 504, 506 r.w. 34 of IPC]
Complainant	State of Maharashtra, Through- Shrirampur Loni Police Station, Tal. Shrirampur, Dist. Ahmednagar.
Represented by	Ld. A.P.P. Shri. D.V. Patil.
Accused	1. Balasaheb Kashinath Waditke, Age - 45 Yrs., Occu- Agri,
	2. Manisha Balasaheb Waditke, Age - 37 Yrs., Occu- Agri, Both R/o. Mandve, Tal. Shrirampur, Dist. Ahmednagar.
	Ld. Adv. Shri. P. L. Mhaske for accused.

PART 'B'
[Para 44 (ii) of Chapter VI of Criminal Manual]

Date of offence	26.12.2021
Date of FIR	27.12.2021
Date of charge-sheet	30.03.2022
Date of framing charge.	06.04.2022
Date of commencement of evidence	17.10.2022

Date of which judgment is reserved.	--
Date of the judgment	06.08.2026
Date of sentencing order, if any	--

Accused Details.

Rank of the accused	Name of accused	Date of arrest	Date of release on bail	Offence charged with.	Whether acquitted or convicted	Sentence imposed.	Period of detention undergone during trial for the purpose of 428 Cr.PC.
1.	Balasaheb Kashinath Waditke,	---	---	324, 323, 504 & 506	---	As per final order	---
2.	Manisha Balasaheb Waditke,	---	---	r.w. 34 of the I.P.C.	---		---

PART 'C'

[Para 44 (iii) of Chapter VI of Criminal Manual]

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**A. Prosecution witnesses:-**

Rank	Name	Nature of evidence.	Exh. No.
P.W.1	Sakubai Bapusaheb Waditke	Informant	Exh.16
P.W.2	Bapusaheb Vishwanath Waditke	Witness	Exh.20
P.W.3	Kailash Rakhama Khemnar	Panch Witness	Exh.25
P.W.4	Santosh Chhatrapati Nehule	Investigating Officer	Exh.30
P.W.5	Harshada Machhindra Shirsath	Medical Officer	Exh.41

B. Defence witnesses, if any:-

Rank	Name	Nature of evidence.
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C. Court witnesses, if any.

Rank	Name	Nature of evidence.
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :-

Sr. Nos.	Description.	Exhibit No.
1	Complaint	Exh.17
2	Spot Panchnama	Exh.26
3	Medical certificate	Exh.42

B. Defence :-

Sr. Nos.	Exhibit No.	Description.
1	--	--

C. Court Exhibits :-

Sr. Nos.	Exhibit No.	Description.
1	--	--

D. Material objects:-

Sr. No.	Material Object No.	Description.
1	--	--

J U D G M E N T

(Delivered on 06th August, 2026)

Accused are facing trial for the offences punishable under Sections 324, 323, 504 and 506 r.w. 34 of the Indian Penal Code, 1860 (*for the sake of brevity hereinafter referred as "I.P.C."*).

Prosecution case in nutshell is as under :-

2. The informant Sakubai Bapusaheb Waditake was residing along with her husband Bapusaheb Viswanath Waditke, son Sidheswar Bapusaheb Waditke, daughter-in-law Sarita Siddheshwar Waditke and her grand daughter Praniti at village Mandve Tal.

Shrirampur. Accused No.1 and 2 were residing in their neighborhood. On 26.12.2021 at about 06:00 p.m., on putting firewood in front of informant's house by the accused No.2 Manisha the informant asked her about the same. At that time, the accused said that said land was belongs to them land therefore, there was exchange of abuse. Manisha bite on the informant's left and right leg. Moreover, she has also bite to her right hand's middle finger. At the same time accused No.2 husband of accused No.1, Balasaheb came there and he has bitten her with fist and kick blows and caused threatening. Therefore, she has lodged report against accused.

3. Accordingly, Crime registration No. I-482/2021 for an offences punishable under Sections 324, 323, 504 and 506 r.w. 34 of the I.P.C was registered against accused and the investigation was handed over to Police Head Constable S. N. Nehule. During his investigation, the Investigating Officer (hereinafter referred as 'I.O'.) has prepared spot panchnama, recorded statements of witnesses, arrested accused persons, collected medical certificates and relevant documents. After completion of the investigation as he has found sufficient material against the accused persons filed final report in the court against accused.

4. My Ld. Predecessor had framed charge under Section Sections 324, 323, 504 and 506 r.w. 34 of I.P.C. against accused Nos.1 and 2 below Exh.11. The charges were read over and explained to all accused persons in vernacular, to which, they have pleaded not guilty. Hence, the prosecution has examined in total five witnesses to bring home the guilt of accused.

5. As incriminating evidence came on record against accused, the examination of accused persons under Section 313 (1) (b) of Cr.P.C. were recorded vide Exh.43 and 44. The defence of accused is of total denial and false implication.

6. Considering the prosecution case, following points arise for my determination, to which I have recorded my findings for the reasons discussed below;

Sr. Nos.	Points for determination.	Findings.
1.	Whether prosecution proves that on 26.12.2021 at about 06.00 p.m., at village Mandve, Taluka Shrirampur, Dist. Ahmednagar, accused in furtherance of their common intention voluntarily caused hurt to the informant by human bite which may be the weapon likely to cause death and thereby caused hurt to the informant and thereby has committed an offence punishable under Section 324 r.w. 34 of the I.P.C.?	Negative.
2.	Whether prosecution proves that on above mentioned date, time and place, accused Nos.1 and 2 in furtherance of their common intention voluntarily caused hurt to the informant by beating them with fist and kick blows and thereby have committed an offence punishable under Section 323 r.w. 34 of the I.P.C.?	Negative.
3.	Whether prosecution proves that on above mentioned date, time and place, accused Nos.1 and 2 in furtherance of their	

common intention, intentionally insulted informant by abusing her and thereby gave her provocation intending or knowing it to be likely that such provocation will cause her to break public peace or commit any other offence and thereby committed an offence punishable under **Section 504 r.w. 34 of the I.P.C.?**

Negative.

4. Whether prosecution proves that on above mentioned date, time and place, accused Nos.1 and 2 in furtherance of their common intention committed criminal intimidation by threatening the informant with intend to cause alarm to her or to cause her to do an act which she was legally not bound to do and thereby have committed an offence punishable under **Section 506 r.w. 34 of the I.P.C.?**

Negative.

5. What order ?

As per final order.

:- REASONS :-

AS TO POINTS NOS. 1 to 4 :-

7. Fundamental ingredients of all these points and evidence on the same is interlinked with each other therefore, to avoid repetition of facts and evidence, I have taken them together for discussion. To bring guilt of accused home the prosecution is requires to prove the ingredients of Section 324 and 323 of I.P.C. Therefore, the prosecution has to prove that accused No.2 with intention of causing hurt to the informant with knowledge that ahe is likely thereby to cause hurt to the informant and thereby voluntarily

caused hurt by human bite which may likely to cause death. Prosecution is further required to prove that, accused No.1 and 2 have caused hurt to the informant by fist and kick blows.

8. Prosecution to prove the above ingredients has examined informant Sakubai (PW-1). She has deposed that, as accused are her relatives she know them. The incident was occurred on 26.12.2021 at about 06.00 p.m. in front of her house. On the same day she had kept firewood in front of house. However, the accused had pushed it, she told the accused that it has been put in her land, don't push it. At that time, accused started abusing her. Accused No.2 Manisha has started beating her. The Manisha has bitten over both legs of informant and on the middle finger of right hand. At the same time accused No.1 Balasaheb has beaten her with fist and kick blows. Thereafter she had taken at Fatyabad and taken treatment there. On the second day, she had been to police station and lodged report. On the same day she had also gone at Rural Hospital Loni and taken treatment there. She has identified her thumb impression over the report and admitted its contents as a true and correct. Thereafter, she had been to police station and on the second day lodged report.

9. During her cross-examination she has admitted that, near her house there are about 50 to 60 people's home. Rajendra Gade, Dattatraya Waditke, Raosaheb Nannor, Bharat Waditke and Shahaji Waditke are residing in their neighborhood. Anjanabai Waditke is her cousin mother-in-law. Bhagwan Narayan Waditke and Yesu Narayan Waditke were her cousin father-in-law. Bhausaheb Shivram Waditke is her cousin brother-in-law. All these persons were residing in her

neighborhood. She has admitted that, Yesu Waditke had told her to make partition of the house in between her son and daughter-in-law. In the said house her son and daughter-in-law are residing. The accused have claimed their share in the house therefore, there was dispute between them.

10. Some contradictions have also been brought during her cross-examination. She has deposed that, at that time of recording her statement before police she had told the police that, accused pushed the firewood kept in front of informant's house. Further, she has deposed that, she has told the police that, she has told the accused that don't through firewood in their land at that time the accused have pushed the said firewood. Even, she had told the police that, she had first gone at Fatyabad for treatment. All the above facts are missing in her statement before police.

11. She is unable to assign any reason for the same. She has further deposed that, in next day morning she had also gone at Loni Hospital. She has further admitted that, prior to one year cow was bitten on her right hand. She has further admitted that, in between her house and the house of accused there is mark of partition even poles have been erected there. They were doing their work within limits of their land received in partition. Even today she is doing her regular work like milking cows, putting them grass, cutting grass. She has denied that, while she was putting grass to their animals. She has denied that, she was fallen down and got alleged injuries.

12. Bapusaheb (PW-2) the husband of informant has materially corroborated to the oral testimony of the informant (PW1)

in regard to causing human bite by the accused No.2 and assault by fist and kick blows by the accused No.1 and 2. He has further deposed that, on the day of incident he was in their house. In their land accused No.2 had thrown firewood thereby, the informant asked her the reason of the same. The accused No.2 told her that, she had thrown the firewood in her land and she has started abusing the informant even she has bite over both legs of the informant and bite over middle finger of her right hand. Thereby, she had sustained bleeding injuries. At that time, he rescued her and taken her at Fatyabad in Avdhut Clinic. She has taken treatment there thereafter police sent them at PMT hospital Loni where she has taken further treatment. Accordingly, police had recorded his statement.

13. During his cross-examination he has also admitted that, adjacent to their house there were about 70 to 80 residential houses. Rajendra Gade, Dattatraya Waditke, Raosaheb Nannor, Bharat Waditke and Shahaji Waditke are residing in their neighborhood. The accused No.1 is his nephew and accused No.2 is the wife of accused No.1. He has also admitted relations with Anjanabai Waditke, Bhagvat Waditke, Yesu Waditke and Bhausahab Waditke as admitted by the informant. He has further admitted that, his uncle and cousins are residing in their neighborhood. He has denied that, Yesu Waditke had partitioned the house in between accused and them. He has also denied that, his son and daughter-in-law are residing in the said house received in partition. The accused are claiming share in the said house. He has stated that in grampanchayat house No.333 in the year 2008-2009 they have constructed house. He has further voluntarily stated that, it has been constructed in the land gat No.22.

The assessment extract Exh.21 of grampanchayat house No.333 was shown to him. He has further admitted that, in the said extract there is nothing mentioned about land gat No.22. The panch witness Kailash Khemnari PW-3 is his relative and brother-in-law of his son.

14. During his further cross-examination some omissions have been brought on record. He has stated that, while recording his statement before police he has told that, excessive blood was oozing and he taken her to the hospital. However, the said fact is missing in his statement before police. He has denied that, on 26.12.2021 their cow had bitten her wife however, he has voluntarily stated that it was bitten prior to 4 to 5 years back.

15. Kailas (PW-3) is the spot panch witness. He has deposed that, on 27.12.2021 at about 2.00 p.m. as informant got assaulted he had been to meet her. At that time, his father-in-law Gangadhar Balme was with him. At about 3.30 p.m. police had came there for preparing spot panchanama. Police prepared spot panchanama in front of house of informant. It was shown by the informant. Adjacent to the spot of incident there was house and cow shed of the informant. Police had prepared spot panchanama and read over to him accordingly he had signed it. The prosecution has proved the spot panchanama Exh.26 in his evidence.

16. During his cross-examination he has stated that the informant is the mother of his brother-in-law. He has denied that police has not prepared spot panchanama in his presence and only because informant is his nearest relative he is deposing false.

17. The Dr. Shirsath (PW-5) medical officer has deposed that, On 27.12.2021, she was working as a Medical Officer at Rural Hospital Loni. At the relevant time Dr. R. M. Gaikwad was also working as a medical officer in the said hospital and he was her colleague. As such she can recognize his handwriting and signature. The injury certificate Exh.42 bears the handwriting and signature of Dr. R. M. Gaikwad and it was issued by Rural Hospital Loni. During examination of said patient he was found injuries i.e. human teeth bite, CLW to right middle finger having size 1/2 X 1/2 c.m., contusion black red in color on posterior aspect of lower limb having size of 2 X 2 c.m. As per her experience the first injury could be possible by human teeth bite and second injury could be possible by hard and blunt object. The entries in the injury certificate on record are same as per original MLC register brought along with her and its contents are true and correct as per the entries of the original MLC register.

18. During her cross-examination she has admitted that, she has personally not examined the said patient by name Sakhubai Waditake therefore she could not say whether the thumb impression over the injury certificate was made by the said patient or not. She has further admitted that, as she has not personally examined the said patient therefore, she could not say whether the injuries mentioned in the said injury certificate were sustained by the said patient or not. In Loni and Rahata there are separate Rural Hospitals. She has admitted that, human bite marks pattern and animal bite marks patterns are different in appearance. She has further admitted that, the like nature bite injury sustained by the said patient could be

possible by animal bite even it could be possible by self bite. The other like nature injuries would also be possible if anyone fall on the surface.

19. The investigating officer PHC Nehule (PW-4) has deposed that, during his investigation he has prepared spot panchanama in presence of two panchas. The spot of incident was in front of house of informant. Accordingly, the spot panchanama (Exh.26) was proved in his evidence. He has issued letter Exh.34 to the medical officer Pravara Hospital for the injury certificate of the injured and accordingly collected the same. Recorded statements of witnesses and filed final report.

20. During his cross-examination he has admitted that, for village Loni there is separate police station. The village Pravara is situated adjacent to the Loni village. He has not made investigation in regard to treatment taken by the injured at Fatyabad. He has further admitted that, accused were residing in land gat No.71 in their agriculture land. He could not say whether adjacent to the house of informant there were houses of Rajendra Gade, Dattatray Waditke, Raosaheb Nannor, Bharat Waditke and Shahaji Waditke. Further during his cross-examination the omissions in the evidence of Bapusaheb (PW-2) has been proved. He has further stated that, there was land dispute between accused and informant. He has not collected the documents in that regard. He has denied that, as accused were not residing adjacent to the house of informant therefore, he has not collected the documents in that regard. During his investigation he has not found that the memo was issued to the

informant for treatment. He had not issued notice to the panchas. He has not collected teeth impressions of accused. In Loni there is separate rural hospital. He has not made correspondence to the Loni Rural Hospital for collection of injury certificate even, he has not collected injury certificate from Pravara Hospital.

21. The learned A.P.P. has vehemently argued that, the oral ocular testimony of the informant (PW-1) has been corroborated by her husband Bapusaheb (PW-2) an eye witness. The injuries caused to the informant has been proved in the oral testimony of medical officer Shirsath (PW-5) and injury certificate has been proved is at Exh.42. The spot of incident has also been proved by the prosecution in view of spot panchanama Exh.26. No material admissions to rebut the oral testimony of the informant has been brought on record. There is no material omissions and contradictions in the testimony of the informant. Thereby, the prosecution has proved beyond reasonable doubt that, accused No.2 has caused hurt by human bite and accused No.1 has caused hurt by fist and kick blows to the informant and further they have caused abuse and threatening. Thereby, the prosecution has proved charges leveled against the accused beyond reasonable doubt. Thus, requested to convict the accused.

22. Per contra the learned advocate for accused vehemently argued that, there is material contradictions in the oral testimony of the informant and an eye witness Bapusaheb (PW-2). No independent witnesses of the incident though available has been examined by the prosecution. The PW-2 is the interested witness. The

injury certificate has not been proved in the oral testimony of the medical officer who has allegedly examined the injured. There is previous enmity between the parties in regard to land dispute. Even, the informant had a cow bite i.e. animal bite to her same hand. During cross-examination of the medical officer she has admitted that, human bite marks pattern and animal bite marks pattern are different in appearance. She has further admitted that, the like nature bite injury sustained by the said patient could be possible by animal bite, even it could be possible by self bite. The other like nature injuries would also be possible if anyone fall on the surface. As such, there is substance that, the injury sustained by the informant could be out of animal bite or self bite. There is material variation brought in the evidence of informant and her husband PW-2 during cross-examination. There was dispute in regard to partition between the parties in regard to the landed disputed house and out of same this false FIR has been lodged by the informant. The panch witness is interested witness and he is nearest relative of the informant. His oral testimony could not be relied upon. The prosecution has not examined the independent panch witness to prove the said panchanama therefore the said panchanama has not proved beyond reasonable doubt. There were material admissions have been brought on record during cross-examination of prosecution witnesses. All the aforesaid facts raises doubt on the prosecution story therefore, the prosecution has not proved the guilt of accused beyond reasonable doubt. Thus, requested to acquit the accused.

23. The prosecution has alleged that, on 26.12.2021 accused

No.2 voluntarily caused hurt to the informant by biting her on both legs and the middle finger of her right hand and that accused No.1 assaulted her by fist and kick blows. It is further alleged that both the accused intentionally insulted and criminally intimidated the informant. The prosecution has mainly relied upon the evidence of the informant (PW-1), her husband Bapusaheb (PW-2), the spot panch (PW-3), the Medical Officer (PW-5) and the Investigating Officer (PW-4).

24. The testimony of PW-1 shows that there was admittedly a long-standing dispute between the parties regarding partition of the house and claim over the property. She has admitted that the accused are her close relatives and that the dispute regarding partition was existing prior to the incident. Thus, the evidence itself establishes previous enmity between the parties, requiring the Court to scrutinize her testimony with greater caution.

25. During her cross-examination, material omissions have been brought on record. She admitted that she had not stated before the police that the accused had pushed the firewood, that she had objected to the accused for throwing firewood in her land and that she had first taken treatment at Fatyabad. These facts form part of the genesis of the prosecution case. No satisfactory explanation has been offered by the witness for these omissions. Consequently, they amount to material improvements affecting the reliability of her testimony.

26. Bapusaheb (PW-2) is the husband of the informant and

an interested witness. Though his testimony supports the informant regarding the alleged assault, his evidence is also not free from omissions. His statement before the police regarding excessive bleeding from the injuries has been proved as an omission through the Investigating Officer. During cross-examination of informant (PW1) she has admitted that, prior to one year she had cow bite to the same hand. During cross-examination of PW-2 he has denied the said fact. He further voluntarily stated that the cow bite was taken prior to 4 to 5 years. Moreover, the informant during her cross-examination has admitted that, Yesu Waditke had told her that, the said disputed house shall be given in partition to the accused. She has further admitted that, in the house of son and daughter-in-law are residing and accused are claiming their say in the said house and therefore, there were dispute between them. However, the PW-2 during his cross-examination has denied all these aspects which have been admitted by the informant. Therefore, there is material variation and improvements in the evidence of PW-1 and PW-2. Even, the evidence of PW-2 being that of a closely related witness requires independent corroboration.

27. The prosecution has not examined any independent witness though PW-1 herself admitted that there were about 50 to 60 houses in the locality and several neighbours were residing adjacent to the place of occurrence. The incident is alleged to have occurred at about 6.00 p.m. in front of the house. In spite of the availability of independent witnesses, none has been examined without any explanation. Such non-examination assumes significance in the facts of the present case where the parties are admittedly close relatives

having previous disputes.

28. The spot panch witness (PW-3) is admittedly related to the informant. His evidence merely proves preparation of the spot panchanama and does not establish the occurrence of assault. The medical evidence also does not conclusively support the prosecution case. Medical Officer (PW-5) has admitted that she had not personally examined the injured. She merely identified the handwriting and signature of another Medical Officer who had examined the injured. She has specifically admitted that she cannot state whether the injuries mentioned in the certificate were actually sustained by the informant or not. More importantly, she has admitted that injuries similar to those mentioned in the certificate could be possible due to an animal bite, self-bite or even by a fall on a hard surface. Even it reveals that, there were no leg injuries were found though the informant has stated during her evidence. These admissions materially weaken the evidentiary value of the medical evidence.

29. The evidence of PW-1 further shows that she had sustained a cow bite on her right hand prior to the incident. Though she stated that the bite had occurred earlier, this circumstance assumes relevance in view of the admission of PW-5 that similar injuries may also be caused by an animal bite.

30. The investigation also suffers from serious deficiencies. The Investigating Officer has admitted that he did not investigate the treatment allegedly taken at Fatyabad, did not collect the teeth impression of the accused for comparison with the bite marks, did

not collect documents regarding the admitted land dispute and did not obtain the injury certificate from the hospital where the injured allegedly received treatment. In a case where the principal allegation relates to human bite injuries, failure to collect dental impressions assumes considerable significance.

31. The prosecution has also failed to adduce satisfactory evidence regarding the ingredients of Sections 504 and 506 of the Indian Penal Code. The evidence merely states that abuses were exchanged and threats were extended. There is no evidence to establish the exact words of abuse, the intention to provoke breach of peace or that the alleged threats caused alarm to the informant. Therefore, the essential ingredients of Sections 504 and 506 IPC have not been proved.

32. Thus, the prosecution evidence suffers from material omissions, absence of independent corroboration despite availability of independent witnesses, inconclusive medical evidence, admitted previous enmity between the parties and significant lapses in investigation. These circumstances create a reasonable doubt regarding the prosecution version. It is a settled principle of criminal jurisprudence that where two views are possible, the view favourable to the accused must be adopted. The prosecution is required to prove its case beyond reasonable doubt, but in the present case it has failed to discharge that burden. Accordingly, I hold that the prosecution has failed to prove beyond reasonable doubt charges leveled against the accused. As such, I am inclined to answer **point No.1 to 4 in negative.**

AS TO POINT NO. 5 :-

33. After considering discussion and findings as to point Nos. 1 to 4 in negative, as the prosecution has not established the guilt of accused No.1 and 2 beyond reasonable doubt thus, I am inclined to acquit the accused by extending them benefit of doubt and in answer to point No.5 passed following order;

:-O R D E R:-

1. The accused **No.1 Balasaheb Kashinath Waditke and No.2. Manisha Balasaheb Waditke** are acquitted for the offence punishable under Sections 324, 323, 504, 506 r.w. 34 of Indian Penal Code, vide Section 248 (1) of the Code of Criminal Procedure, 1973.
2. Bail bonds of accused are stand canceled.
3. Accused shall furnish his Personal Bond & Surety Bond of Rs.15,000/- each in compliance under Section 437-A of Cr. P.C.

Judgment is dictated and pronounced in open court.

Place :- Shrirampur.
Date :- 06/08/2026.

(Ankush S. Kambale)
Judicial Magistrate First Class,
(Court No.2) Shrirampur.

-: C E R T I F I C A T E :-

“ I affirms that the contents of this P.D.F file Order/Judgment are same word to word, as per original Order/Judgment. ”

Name of Stenographer : N.P. Ghuge (Grade-3)

Name of the Court : J.M.F.C.,(Court No.2),
Shrirampur.

Date of judgment : 06.08.2026

Order/Judgment signed by : 06.08.2026
presiding officer on

Order/Judgment uploaded on : 06.08.2026