

State X Kishor Kawdo



Presented on	: 01/08/2022
Registered on	: 01/08/2022
Decided on	: 30/03/2026
Duration	: Yr. Ms. Ds 03 07 29

JUDGMENT

(Delivered on 30th day of March, 2026)

C.N.R. NO. MHGA13-000275-2023

EXHIBIT NO. 46

FORM NO. XXXII

Part 'A'

(Title Page of Judgment)

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

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, AT AHERI, DIST. GADCHIROLI.		
Present :- Rohan B. Rehpade, Additional Sessions Judge		
	Date of Judgment :- 30/03/2026	
	Sessions Case No. 123/2023 (Old Sessions Case No. 72/2022)	
	FIR/Crime No. 17/2016 Etapalli Police Station.	
COMPLAINANT/ PROSECUTION		State of Maharashtra , through Police Station, Etapalli
REPRESENTED BY		A.P.P. Shri. S.D. Gawade

ACCUSED	A-1	Kishor @ Gonglu @ sobhu Ghisu Kawdo Age – 38 Years, Occu. - Labour, R/o. Ramantola, Tahsil - Etapalli, District - Gadchiroli.
REPRESENTED BY		Advocate Shri. P. P. Bramhanwade

Part 'B'

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

Date of Offence	29/06/2016
Date of FIR	29/06/2016
Date of Charge-sheet	01/08/2022
Date of framing of Charges	22/09/2022
Date of Commencement of Evidence	04/10/2023
Date on which judgment is reserved	24/03/2026
Date of the Judgment	30/03/2026
Date of the Sentencing order, if any.	---

Accused Details

Rank of the Accused	Name of accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of Section 428 Cr.PC.
1)	Kishor @ Gonglu @ Sobu Kawdo	29/01/2022	In Jail	U/s. 143, 147, 148, 149, 307, 353, 332, 120-B of I.P.C., S. 5/28 of Arms Act & S.16, 18, 20, 23 of Unlawful Activities (Prevention) Act.	Acquitted.	N.A.	N.A.

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	Balasaheb Bhimraj Shinde (Exhibit P-10)	Informant
PW-2	Aspakali Bakarali Kistiya (Exhibit P-15)	Witness
PW-3	Gunwant Maluji Bhandekar (Exhibit P-16)	Panch Witness

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-4	Dr. Milind Babaji Ramteke (Exhibit P-19)	Medical Officer
PW-5	Dr. Mangesh Suresh Bele (Exhibit P-23)	Medical Officer
PW-6	Sanket Satish Gosavi (Exhibit P-25)	Investigating Officer
PW-7	Surender Rajesh Minj (Exhibit P-28)	Spot Panch
PW-8	Zuru Masu Gota (Exhibit P-30)	Spot Panch
PW-9	Mangu Peka Gawade (Exhibit P-31)	Witness
PW-10	Samayya Kamlakar Jejjulwar (Exhibit P-32)	Inquest Panch
PW-11	Bhiva Dobi Pada (Exhibit P-35)	Eye-witness

(Evidence is taken before amendment in Criminal Manual. Therefore, to show the source of exhibit as prosecution letter 'P' is written before number.)

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
	-NIL-	-NIL-

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
	-NIL-	-NIL-

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution :

Sr.No.	Exhibit Number	Description
1.	Exhibit P-11/PW-1	Report
2.	Exhibit P-12/PW-1	First Information Report
3.	Exhibit P-13/PW-1	Seizure panchanama
4.	Exhibit P-14/PW-1	Seizure Memo
5.	Exhibit P-17/PW-3	Summons
6.	Exhibit P-18/PW-3	Inquest Panchnama
7.	Exhibit P-20/PW-4	OPD Card

Sr.No.	Exhibit Number	Description
8.	Exhibit P-21/PW-4	Medical Case Record
9.	Exhibit P-22/PW-4	Injury Report
10.	Exhibit P-24/PW-5	Post-mortem examination Report
11.	Exhibit P-29/PW-7	Spot Panchnama
12.	Exhibit P-37 and 38,	Seizure Memo (Admitted by accused)
13.	Exhibit P-39	Crime Detail Form (Admitted by accused)
14.	Exhibit P-40 to 42	Examination Reports (Admitted by accused)
15.	Exhibit P-43	Sanction Order (Admitted by accused)

(Evidence is taken before amendment in Criminal Manual. Therefore, to show the source of exhibit as prosecution letter 'P' is written before number.)

B. Defence :

Sr.No.	Exhibit Number	Description
	-NIL-	-NIL-

C. Court Exhibits :

Sr.No.	Exhibit Number	Description
	-NIL-	-NIL-

D. Material Objects :

Sr.No.	Material Object Number	Description
	-NIL-	-NIL-

(Evidence is taken before amendment in Criminal Manual. Therefore, some articles are shown as by alphabetical characters, now shown as Muddemal Object i.e. MO)

Accused Kishor has been put to trial for offences under Sections 143, 147, 148, Section 307 read with Section 149, Section 353 read with Section 149, Section 332 read with Section 149, Section 120-B of the Indian Penal Code, Section 28 read with Section 5 of the Arms Act and Sections 16, 18, 20 and 23 of the Unlawful Activities (Prevention) Act.

Prosecution's Case

1. The informant was working at Special Squad Pranhita Aheri. On 29.6.2016, secret information was issued by

Additional Police Commissioner, Gadchiroli about naxal activities in Bodmeta Forest. At about 3.00 a.m., C-60 parties, which included the informant, reached at Tadgaon. At about 12.00 p.m., the party reached Bodmeta Forest. Suddenly naxalites started firing at the party. The party also counter fired. There were 30 to 40 naxalites. The party asked them to surrender but they did not do so. One of the members of the party, namely, Bhiva Pada got injured while taking position. After firing, one of the naxalites was found was lying in injured condition. 8 cartridges, two pittus, one radio, two torches and naxal literature was found at the spot. The injured naxalite was taken to General Hospital, Gadchiroli where he was found to be dead. Involvement of accused persons including accused Kishor was revealed. The informant lodged report with Police Station, Gadchiroli. Subsequently, First Information Report appears to have been forwarded to Police Station, Etapalli.

Investigation

2. On the basis of First Information Report, Crime No.17/2016 was registered at Police Station, Etapalli for

offences punishable under Sections 307, 353, 332, 143, 147, 148, 149 and 120-B of the Indian Penal Code and Section 28 read with Section 5 of the Arms Act and Sections 16, 18, 20 and 23 of the Unlawful Activities (Prevention) Act against absconding accused persons. Investigation of crime was made over to Police Sub-Inspector Mahesh Patil. After him, several other Sub-Divisional Police Officers took over investigation. In presence of panchas, spot panchnama was drawn. In course of investigation, 8 cartridges, 4 empty cartridges, two pittus, two radios, two torches, one gun and one round were seized from the spot and in presence of panchas seizure panchnamas were drawn. Inquest panchnama of dead body of one naxal was drawn in presence of panchas. Medical papers of injured Bhiva Pada were collected. Dead body of the deceased naxalite was sent for post-mortem to General Hospital, Gadchiroli. His post-mortem report was obtained. Clothes, blood samples, nail clippings and skin of deceased naxal were seized in presence of panchas and seizure panchnama thereof was drawn. Handwash of deceased naxal was seized in presence of panchas under seizure panchnama. Articles

seized from the spot, clothes of deceased naxalite, his handwash and skin were sent to Regional Forensic Laboratory, Nagpur for analysis. Reports of analysis were received. Statements of witnesses were recorded. Investigating officer sent investigating papers to Government of Maharashtra for sanction under Unlawful Activities (Prevention) Act (for short UAPA). Accordingly, sanction was granted. Only accused Kishor was arrested whereas other accused persons were absconding. Accordingly, charge-sheet was filed against accused Kishor and other absconding accused persons for offences punishable under Sections 307, 353, 332, 143, 147, 148, 149 and 120-B of the Indian Penal Code and Section 28 read with Section 5 of the Arms Act and Sections 16, 18, 20 and 23 of UAPA.

Committal

3. The case being exclusively triable by Court of Sessions, learned Judicial Magistrate First Class, Aheri, committed the case vide Section 209 of the Code of Criminal Procedure.

Charge

4. My learned predecessor framed charge against accused Kishor vide Exhibit No.4. Plea of accused Kishor (Exhibit No.5) was recorded, he pleaded not guilty and expressed his intention to contest the charge.

Defence of Accused Kishor

5. From suggestions given to prosecution witnesses and from statement of accused Kishor under Section 313 of Code of Criminal Procedure, defence of accused Kishor appears to be of denial and false implication.

Points for determination

6. The points for determination and my findings thereon are as under :-

Sr.No.	Points	Findings
1.	Does the prosecution prove that on 29.06.2016 between 12:30 to 13:00 hours at Bodmeta Forest area, Tah. Etapalli, District- Gadchiroli accused	

Sr.No.	Points	Findings
	Kishor along with absconding accused persons was member of unlawful assembly and common object of such assembly was to cause death of police personnel ?	No
2.	Does the prosecution prove that on aforesaid date, time and place, accused Kishor along with absconding accused persons was member of unlawful assembly and common object of the assembly was to cause death of police personnel by indiscriminate firing ?	No
3.	Does the prosecution prove that on aforesaid date, time and place, accused Kishor along with absconding accused persons was member of unlawful assembly and common object of unlawful assembly was to cause death of police personnel by indiscriminate firing and he was	

Sr.No.	Points	Findings
	armed with deadly weapon like gun or rifle ?	No
4.	Does the prosecution prove that on aforesaid date, time and place, accused Kishor along with absconding accused persons was member of unlawful assembly and in prosecution of common object of unlawful assembly indiscriminately fired at police party with intention to kill police personnel with such intention or knowledge and under such circumstances, that if by that act, he caused the death of police personnel, he would have been guilty of murder ?	No
5.	Does the prosecution prove that on aforesaid date, time and place, accused Kishor along with absconding accused persons was member of unlawful assembly and in prosecution	

Sr.No.	Points	Findings
	of common object of the said assembly indiscriminately fired at police personnel and used criminal force against them in discharge of their duty as such public servant with intent to prevent or deter them from discharging their lawful duties as public servants ?	No
6.	Does the prosecution prove that on aforesaid date, time and place, accused Kishor along with absconding accused persons was member of unlawful assembly and in prosecution of common object of the said assembly voluntarily caused hurt to Biwa Pada in the discharge of his duty as such public servant with intent to prevent or deter him from discharging his lawful duty as public servant ?	No

Sr.No.	Points	Findings
7.	Does the prosecution prove that on aforesaid date, time and place, accused Kishor along with absconding accused persons agreed to do illegal act of firing by firearms on police party with intention to commit murder of police personnel and in pursuance of said agreement the act of indiscriminate firing at police personnel was done ?	No.
8.	Does the prosecution prove that on aforesaid date, time and place, accused Kishor used gun in contravention of Section 5 of the Arms Act without licence ?	No
9.	Does the prosecution prove that on aforesaid date, time and place, accused Kishor along with absconding accused persons, were the members of banned organization Communist Party of India (Maoist) and had taken	

Sr.No.	Points	Findings
	part in incident of preventing and obstructing police personnel and opening fire at them with intention to kill them or causing voluntarily hurt to them ?	No
10.	Does the prosecution prove that on aforesaid date, time and place, accused Kishor along with absconding accused persons was member of banned organization i.e. Communist Party of India and after making conspiracy with each other committed terrorist act by indiscriminate firing at police personnel with intention to kill them or prevent or obstruct them while discharging their duties and voluntarily causing hurt to one of them ?	No
11.	Does the prosecution prove that on aforesaid date, time and place, accused Kishor along with absconding	

Sr.No.	Points	Findings
	accused persons, was member of Communist Party of India (Maoist), a terrorist gang or terrorist organization which is involved in terrorist act ?	No
12.	Does the prosecution prove that on aforesaid date, time and place, accused Kishor along with absconding accused persons was the member of banned terrorist organization i.e. Communist Party of India (Maoist) with intent to aid the terrorist or terrorist organization found in unauthorized possession of firearms like guns and rifles capable of mass destruction ?	No
13.	What Order?	As per final order.

Submissions on behalf of prosecution

7. Learned Additional Public Prosecutor submitted that Balasaheb (PW-1) proved Report (Exhibit No.11). He deposed as how the incident occurred. He named naxalites which included accused Kishor. He proved seizure of cartridges and gun from the spot under seizure panchnamas (Exhibit No.13 and 14). Spot panchanama (Exhibit No.29) is also proved by the prosecution. Seizure of biological samples and clothes of deceased naxalite is proved under seizure panchnama (Exhibit No.17). Forensic Reports (Exhibit No.40 to 42) also support the prosecution. Sanction order (Exhibit No.43) is admitted by accused Kishor. Therefore, there is satisfactory evidence against accused Kishor. He prayed accused Kishor be convicted for offences he has been charged with.

Submissions on behalf of accused Kishor

8. Per contra, learned advocate for accused Kishor submitted that Balasaheb (PW-1) simply named accused Kishor. On the basis of his evidence, it cannot be said that he had

opportunity to see accused Kishor at the time of fire. Other prosecution witnesses do not connect accused Kishor with the crime. There is no satisfactory evidence indicating involvement of accused Kishor. Consequently, he is liable to be acquitted.

Analysis of Evidence

As to Points No. 1 to 12

9. Since all points for determination arise out of same set of facts, it is profitable to club them for the purpose of discussion.
10. Balasaheb (PW-1) is the informant. He deposed that on 29.02.2016, upon secret information received by Additional Police Commissioner, Gadchiroli, at about 3.00 a.m., C-60 party went to Bodmeta Forest. At about 12.00 p.m. naxalites started firing at C-60 party, C-60 party counter fired. One of the police personnel, namely, Bhiva Pada got injured in course of operation as he slipped. In counter fire by C-60 party, one of the naxalites, got seriously injured. One rifle was along his side. 8 live cartridges and one damaged cartridge were found. 12

empty cartridges were found. Balasaheb (PW-1) further deposed that 2 pittus, green pant, two torches, two radios and naxal literature were found. Injured naxalite was taken to General Hospital, Gadchiroli where he was declared dead. Balasaheb (PW-1) further deposed names of naxalites who were involved in the incident. This included name of accused Kishor. Balasaheb (PW-1) proved Report (Exhibit No.11), Seizure panchnama (Exhibit No.13), Seizure memo (Exhibit No.14). He identified gun (Article A), 8 lives cartridges (Article B), 4 empty cases (Article C) and one damaged cartridge (Article D). He also identified pittus (Article E and F), pouch (Article G), two radios (Article H) and two torches (Article I).

11. Ashfak Ali (PW-2) in his evidence deposed that he used to maintain Naxal Dalam Profile. Naxal information used to be updated on the basis of statements of surrendered naxalites.
12. Gunwant (PW-3) is witness to inquest panchnama (Exhibit No.18) which is in respect of dead body of deceased naxal.

13. Dr. Mangesh (PW-5) conducted Post-mortem on dead body of deceased naxal and proved Post-mortem Report (Exhibit No.24). From evidence of Dr. Mangesh (PW-5) and Post-mortem Report (Exhibit No.24), it appears that there was deep penetrating wound on the chest of deceased naxal. Left lung was ruptured and cause of death was firearm injuries with hemorrhage with rupture of heart and left lung with shock.
14. Dr. Milind (PW-4) proved OPD card (Exhibit No.20) and injury certificate (Exhibit No.22) which is of injured Bhiva Pada.
15. Sanket (PW-6) recorded statement of surrendered naxalites, statement of driver of vehicle and statement of police personnel.
16. Surinder (PW-7) was examined on the point of spot panchnama but he did not support the prosecution. Same is the case with Zuru (PW-8).
17. Mangu (PW-9) did not support to the prosecution.
18. Sammayya (PW-10) deposed that deceased naxalite was

from his village and his dead body was identified by his mother.

19. Bhiva (PW-11) was part of C-60 police party and he was injured in course of operation. He deposed that on 29.6.2016 at about 12.30 p.m. near Bodmeta mountain there was firing from naxalites. There was counter firing and naxalites ran away. One of the naxalites was found in injured condition and was hospitalised at hospital in Gadchiroli. He further deposed that 5 cartridges, 2 pittus, 2 torches were found at the spot. While taking position, he fell down and sustained injuries on leg and neck. He failed to identify the accused. It is to be noted that he has been cross-examined by accused Kishor. Thus, his evidence is not shaken on the point of death of one of the naxalites and seizure of articles from the spot.
20. Forensic Reports (Exhibit No.40 to 42) and sanction order (Exhibit No.43) have been admitted by accused Kishor.
21. Balasaheb (PW-1) in his evidence deposed about articles which were seized from the spot. Accused Kishor did not dispute that one naxlite had died. Thus, there appears to

be no doubt about facts that one naxlites died in counter fire and some articles were seized from the spot. However, the question which needs to be addressed is that accused Kishor was amongst those naxlites who fired at C-60 party. Balasaheb (PW-1) in his evidence simply named naxlites who were members of Communist Party of India (Maoist). However, he did not depose that he had opportunity to see those naxalites. Therefore, there is no identification of accused Kishor by Balasaheb (PW-1). Bhiva (PW-11) was also part of C-60 party which was fired at by naxalites. He could not tell names of naxlites involved. When accused Kishor was shown to him through Video Conference, he could not identify accused Kishor. In view of this, there is no satisfactory evidence that accused Kishor was amongst those naxalites who fired at police party. Forensic Reports (Exhibit No.40 to 43) do not connect accused Kishor with the firing. Merely because some articles were seized from the spot and one naxalite died, on that ground alone, accused Kishor can not be held guilty in absence of satisfactory evidence on the point of identification. Consequently, I answer Points No.1 to 12 in the negative.

Conclusion

As to Point No.13

22. In view of my negative findings on Points No.1 to 12, there is no reliable evidence that accused Kishor has committed offences he has been tried for. So, I pass following order.

ORDER

1. Accused **Kishor @ Gongalu @ Sobu Ghisu Kawdo** is acquitted of offences punishable under Sections 143, 147, 148, Section 307 read with Section 149, Section 353 read with Section 149, Section 332 read with Section 149, Section 120-B of the Indian Penal Code, Section 28 read with Section 5 of the Arms Act and Section 16, 18, 20, 23 of Unlawful Activities (Prevention) Act, vide Section 235(1) of the Code of Criminal Procedure.
2. Accused Kishor be released forthwith if not required in any other offence.
3. Other accused persons are absconding. If investigating officer is of the opinion that there is

sufficient material to proceed against absconding accused persons, he is at liberty to arrest them and file separate charge-sheet against them vide Rule 218(3) of the Bombay Police Manual, 1959 Volume III.

4. Seized properties be returned to Poilce Station, Etapalli.
5. Accused Kishor shall furnish P. R. Bond of ₹ 15,000/- (Rupees Fifteen Thousand only) for his appearance before Appellate Court or Higher Court in case the said Court issues notice to him in respect of any appeal or petition filed against this judgment and such bond shall remain in force for period of six months vide Section 437-A of the Code of Criminal Procedure.
6. Copy of the judgment be sent to District Magistrate, Gadchiroli vide Section 365 of the Code of Criminal Procedure.

(The judgment is dictated and delivered in open Court.)

Aheri.
Date – 30/03/2026

(Rohan B. Rehpade)
Additional Sessions Judge,
Aheri.

MHGA13-000275-2023
JUDGMENT (EXH. 46)

..26..

Sessions C. No. 123/2023
(Old Sessions C.No. 72/2022)
State X Kishor Kawdo

CERTIFICATE

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

Name of Court : Additional Sessions Judge, Aheri.

Name of Steno.(Gr.-II) : Shri. J. N. Sawarkar.