



Presented on	:	11/09/2019.
Registered on	:	11/09/2019.
Decided on	:	17/03/2026.
Duration	:	06Y - 06M - 06D.

Part 'A'

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, GONDIA,
DISTRICT GONDIA.**

(Presided Over by A. C. Khurana)

Date of Judgment: 17/03/2026.

Session Case No. 122/2019.

CNR No.:MHGO-01001013-2019.

EXH. NO.36.

(Crime No.85/2018 of Gondia City Police Station)

**Offence: Punishable under Sections 353, 504 and 506 of the
Indian Penal Code, 1860.**

Prosecution	The State of Maharashtra through Police Station Officer, Police Station, Gondia City, Tq - and Dist - Gondia.
Represented by	Learned APP, Shri. P. S. Agashe, for the State.
Accused	Pravin s/o Gyaniram Mendhe, Aged - about 48 years, Occ. - Agricultrist, R/o - Chota Gondia, Gondia, Tq & Dist - Gondia.
Represented by	Learned advocates Shri. A. M. Fendarkar for accused.

Part -B

Date of offence	:	23/02/2018.
Date of FIR	:	23/02/2018.
Date of Charge-sheet	:	10/05/2019.
Date of framing of Charge	:	17/09/2025.
Date of commencement of evidence	:	20/01/2026.
Date on which judgment is reserved	:	17/03/2026.
Date of Judgment	:	17/03/2026.
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 Sec. 428 of Cr. P. C.
1.	Pravin Gayniram Mendhe	07.03.2018	12.03.2018	Sec. 353, 504 and 506 of the Indian Penal Code, 1860.	Acquitted	---	---

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

<u>Rank</u>	<u>Name</u>	<u>Nature of Evidence</u>
PW-1	Balaram Mohanlal Banote (Exh- 15)	Informant.
PW-2	Vishnu Babulal Nagrikar (Exh- 19)	Witness.

PW-3	Chotelal Kuwarlal Rahangdale (Exh-20)	Panch Witness.
PW-4	Surendra Bhaiyalal Bisen (Exh-22)	Panch Witness.
PW-5	Sandip Dhanraj Bankar (Exh-24)	Witness.
PW-6	Rajesh Mahedev Hukare (Exh-24)	Investigating officer.

B - Defence Witness, if any :

<u>Rank</u>	<u>Name</u>	<u>Nature of Evidence</u>
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C - Court Witness, if any :

<u>Rank</u>	<u>Name</u>	<u>Nature of Evidence</u>
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS.**A- Prosecution :-**

<u>Sr. No.</u>	<u>Exhibit Number.</u>	<u>Description.</u>
1.	Exh. 16/PW.1	Report
2.	Exh. 17/PW.1	Printed FIR
3.	Exh. 30/PW.6	Spot Panchnama.
5.	Exh. 31/PW.6	Portion mark "A" in the statement of witness Vishnu Nagrikar.
6.	Exh. 32/PW.6	Portion mark "A" in the statement of witness Sandip Bankar.

7.	Exh. 33/P.W.6	Arrest Panchnama.
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B- Defence :-

<u>Sr. No.</u>	<u>Exhibit Number.</u>	<u>Description.</u>
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C- Court Exhibits :-

<u>Sr. No.</u>	<u>Exhibit Numbers.</u>	<u>Description.</u>
1.	Exh.9	Charge
2.	Exh.10	Plea of accused
3.	Exh.35	Statements of accused u/s 313 of Cr.P.C.

B- Material Objects :-

<u>Sr. No.</u>	<u>Material Object Number.</u>	<u>Description.</u>
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J U D G E M E N T(Delivered on 17th March, 2026)

The accused has been prosecuted for the offences punishable under Sections 353, 504 and 506 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC" for the sake of brevity) in connection with crime No. 34/2019, registered with Police Station, Gondia City, Dist – Gondia.

Brief facts of the prosecution case are as under :-

2. On 23.02.2018 the informant Balaram Banote, who was serving as a Talathi at Talathi Office, Gondiya Khurd, filed a written report (Exh-P-16) with police station Gondia City,

alleging that on that day, he was present in his office and was performing his official duties such as government recovery work, processing forms received under the Sanjay Gandhi Scheme, and preparing extracts of 7/12 and 8-A for the cultivators. It is alleged that at about 1:30 p.m. to 2:00 p.m., the accused Pravin Mendhe and two others came to the Talathi office in a drunken condition and demanded issuance of 7/12 extract. When the informant did not immediately comply with their demand, the accused allegedly abused him in filthy language referring to his mother and sister and threatened him by saying that “मला ७/१२ दया, नाहीतर मी पाहुन घेईल”. Thereafter, the accused persons left the office.

3. It is further alleged that at about 3:30 p.m. on the same day, the accused persons again came to the office and abused the informant in filthy language and extended threats of assault, stating that they would beat him. Due to the said conduct of the accused persons, the informant felt threatened and apprehended danger to his life. The informant further alleged that by coming to the government office and abusing and threatening him, the accused persons caused obstruction in the discharge of his official duties and disturbed the government work being carried out in the office. The incident is stated to have occurred in the presence of the witnesses namely Vishnu Babulal Nagrikar (Exh-19) and Sandip Dhanraj Bankar (Exh-24), Guddu Bisen, Milind Kumbhare and Ravi Madame.

4. On the basis of said report (Exh.P-16) Omeshwar Meshram, NPC, B. No. 558, of Police Station, Gondia City has registered the crime against the accused for the offence punishable under sections 353, 504 and 506 of Indian Penal Code vide Crime No. 85/2018.

5. Initially Investigation was assigned to Madhukar Sadoji Raut, Police Constable, Police Station, Gondia City, Gondia, who visited the spot of incident and drew spot panchnama (Exh-P-30) in presence of two panch witnesses and arrested the accused. Thereafter, the investigation was conducted by Rajesh Mahadev Hukare (P.W.6). During the course of investigation, he recorded the statement of witnesses as per their say. After completion of investigation, the charge-sheet is filed against the accused for the offences punishable under Sections 353, 504 and 506 of the Indian Penal Code, 1860.

6. The cognizance of offence was taken by the learned Judicial Magistrate First Class (Court No.2), Gondia. The record shows that the learned Judicial Magistrate First Class (Court No.2), Gondia complied the provisions under section 207 of the Cr.P.C. It is to be noted that in view of the State amendment in Section 353 of the Indian Penal Code, 1830 (Maharashtra Act, XL of 2018) the matter later on committed by the learned Judicial Magistrate First Class (Court No.2), Gondia to the Court of Session by passing the committal order dated 20.08.2019.

7. Considering the allegations in the charge-sheet, I have framed the charge (Exh.-9) against the accused for the offences punishable under Sections 353, 504 and 506 of the Indian Penal Code, 1860. The same was read over and explained to the accused in vernacular. Accused pleaded not guilty and claimed to be tried. His plea (Exh.10) is recorded accordingly.

8. To prove it's case, prosecution examined six witnesses mentioned in part C in title clause. The prosecution relied upon documents mentioned in part A in title clause. Then, the prosecution closed it's evidence side by filing pursis (Exh.34).

9. Incriminating circumstances were put to the accused and his statement under sections 313(1)(b) of Cr.PC. was recorded at Exh.35. His defence is that of total denial and of false implication. The accused has not lead any oral or documentary evidence.

10. Heard learned Public Prosecutor for the State Shri. P. S. Agashe who argued that the prosecution has proved its case beyond reasonable doubt by examining P.W.1 who was working as Talathi at the relevant time. His evidence is duly corroborated with the contents of written report at Exh-P-16. He further argued the spot panchanama (Exh-30) is duly proved through investigation officer P.W.6. Nothing is

brought in cross-examination to disbelieve the testimony of informant. He further submitted that though Vishnu (P.W.2) and Sandip (P.W.5) have not supported on material points, the sole testimony of informant can not be disbelieve. Hence, prayed for holding the accused guilty.

11. On the contrary, the learned advocate Shri. A. M. Fendarkar for the accused argued that the independent witnesses have not supported the prosecution's case. He further submitted that, Balaram (P.W.1) has not deposed about any criminal force or assault. Prosecution has failed to prove that P.W.1 was working as Talathi at Talathi Office, Gondia Khurd, Gondia. Therefore, he argued that prosecution has failed to prove guilt against the accused beyond reasonable doubt. Hence, prayed to acquit the accused.

12. Upon hearing the rival submissions and on perusal of the evidence and other material on record, following points arise for my determination. I have recorded my findings on those points for the reasons recorded as under :

<u>Sr. No.</u>	<u>POINTS.</u>	<u>FINDINGS.</u>
1]	Does the prosecution prove that on 23.02.2018 at about 03.30 p.m. at Talathi Office, Gondia Khurd, Gondia Tah- and Dist. Gondia, accused assaulted or used criminal force to the informant - Balaram, from discharging his official duty as	In the Negative.

	such public servant and thereby committed an offence punishable under Section 353 of the Indian Penal Code, 1860 ?	
2]	Does the prosecution further prove that on the aforesaid date, time and place, the accused intentionally insulted to the informant Balaram and thereby gave provocation to him intending or knowing it to be likely that such provocation will cause him to break the public peace or to commit any other offence and thereby committed on offence punishable under Section 504 of the Indian Penal Code, 1860 ?	In the Negative.
3]	Does the prosecution further prove that on the aforesaid date, time and place, the accused committed criminal intimidation by threatening the informant Balaram with intent to cause alarm to him and thereby committed an offence punishable under Section 506 of the Indian Penal Code, 1860 ?	In the Negative.
4]	What is order?	Accused is acquitted as per final order.

REASONS

AS TO POINT NOS. 1 TO 3 :-

13. As the points are interlinked with each other, they

are being taken together in view of the nature of evidence and for sake of brevity.

14. The prosecution, in order to prove the guilt of the accused under various offences, has to prove following ingredients:

Section 353 : Assault or criminal force to deter public servant from discharge of his duty : -

- (1) Accused assaulted or used criminal force to a public servant;
- (2) Such public servant was then acting in the discharge of his duty;
- (3) Accused assaulted with the intention of preventing or deterring such public servant from discharging his duty, or
- (4) It was used in consequence of anything done or attempted to be done by the said public servant.

15. The primary ingredient to bring home the guilt of the accused under Section 353 of I.P.C. is that the person shall be a public servant, executing his official duty and there was assault and criminal force on the said person.

16. It would be just to refer Sections 349 and 351 of I.P.C., which reads as under,

349. Force. - A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change

of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling:

Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described.

First.— By his own bodily power.

Secondly.— By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.— By inducing any animal to change its motion, or to cease to move.

351. Assault.- Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.- Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

17. At the outset, it is just to see as to what evidence the prosecution has lead to prove the guilt against the accused within the parameters. The prosecution's witness Balaram (P.W.1) the informant, deposed that on 23.02.2018, he was serving as Talathi at Gondia Khurd. On that day, he was present in the Talathi Office and was performing his official duties such as government recovery work and processing forms received

under the Sanjay Gandhi Scheme and preparing 7/12 extracts for cultivators. He stated that, at about 01.30 to 02.00 P.M., the accused Pravin Mendhe came to the Talathi office in a drunken condition and demanded 7/12 extract. When he did not immediately provide the same, the accused abused in filthy language referring to his mother and sister and threatened to assault him. He further deposed that, thereafter, at about 03.00 to 03.30 P.M., the accused again came to the office along with 2 and 3 other persons and again abused him and extended threats of beating. Due to the conduct of the accused, obstruction was caused in his official work. Therefore, he filed a written report at Exh-P-16. He further deposed that, the incident was witnessed by Sandip Bankar (P.W.5) and Shri. Rahangadale.

18. Vishnu (P.W.2) deposed that, he knows the informant Balaram (P.W.1) and accused Pravin. According to him, the incident occurred prior 7 to 8 years in Talathi Office, Gondia Khurd, in the afternoon when he had gone there for some work. He stated that at the time, the accused came there and demanded 7/12 extract to the informant. However, he stated that, nothing had actually happened in his presence and accused has not abused or threatened the informant. He denied that any quarrel had taken place between them in office. He also denied the contents of the statement allegedly recorded by the police.

19. Sandip (P.W.5) who is eye witness to the alleged incident has not supported the prosecution. He denied that any incident took place before me. Learned APP has put the questions to him in the nature of cross examination, but nothing fruitful to corroborate the prosecution case, came out.

20. Vishnu (P.W.2) and Sandip (P.W.5) was examined as eye witness to the alleged incident. However, both witnesses have not supported the prosecution on material point. They have categorically stated that, no quarrel on abusive incident had taken place in their presence in the Talathi Office and denied the material portion of their police statement. The learned APP argued that though Vishnu (P.W.2) and Sandip (P.W.5) have not supported the prosecution, the relevant portion marked from their statements have been duly proved through Rajesh (P.W.6), investigation Officer, therefore, the same lends support to the prosecution. Said contention can not be accepted as such. It is settled principle that, the previous statement of the witnesses recorded during investigation, even if duly proved through the investigation officer, do not constitute substantive evidence. The proof of such portions only establishes that the witnesses had made such statement before Police, but the contents thereof can not be treated as evidence of the truth of those facts. Therefore, the argument of learned APP that the proved portion of the statements of Vishnu (P.W.2) and Sandip (P.W.5) support the prosecution case, can not be accepted.

21. Chotelal (P.W.3) deposed that, the police called him as panch witness in the year 2018 and spot panchamana (Exh-P-30) was prepared at Talathi office, Gondia Khurd. However, he stated that, the contents of the panchanama were not known to him and that police had not read over to him before obtaining his signature. He further denied that the police had prepare panchanama in his presence and he had witnessed preparation of the same.

22. Surendra (P.W.4) deposed that, police had never called him for panchanama and no writing work was done in his presence. He stated that, he does not know who had shown the spot to the police. He admitted his signature on the spot panchanama (Exh-P-30) dated 24.02.2018, but stated that he had signed it without knowing the contents and that police had not read over to him.

23. The learned APP Shri. P. S. Agashe vehemently argued that though the panch witnesses Chotelal (P.W.3) and Surendra (P.W.4) have not supported the prosecution, the spot panchanama (Exh-30) stands duly proved through Rajesh (P.W.6), Investigation officer, who has identified the signature and handwriting of the PC Madhukar Raut, who is reported as dead, who had prepared the spot panchanama. He further argued that there is no material in cross-examination to disbelieve the investigation officer. The said submission can not be accepted in its entirety. It is settled that a Panchanama is not

a substantive piece of evidence and its evidentiary value depends upon the credibility of the panch witnesses who are accepted to deposited about the manner in which it was prepared and facts observed at the spot. In the present case, both Chotelal (P.W.3) and Surendra (P.W.4) have not supported the prosecution and have specifically stated that, the contents of the panchanama were not read over to them and it was not prepared in their presence.

24. Though Rajesh (P.W.6) investigation officer has deposed about the signature and hand writing of the scribe, such evidence at the most proves the formal aspects that the document bears the handwriting and signature of the concerned Police Constable. However, it does not proved the truthfulness of the contents of the panchanama. The identification of handwriting can not substitute the substantive evidence required to establish the contents and correctness of the panchanama. Hence, the argument of the learned APP that, the spot panchanma (Exh-P-30) stands duly proved merely on the basis of P.W.6's testimony can not be accepted. At the highest it can be said to be formally proved.

25. In the present case, Balaram (P.W.1) informant has deposed that, at the relevant time he was serving as Talathi and discharging his official duty in Talathi Office, Gondia Khurd. He stated that the accused came in a drunken condition, abused him and threaten him and due to such conduct

obstruction was caused in his official work. However, from his evidence, there appears no specific overt act of assault or use of criminal force. Mere presence in drunken condition, verbal abused or, threat, without any physical act and use of force, would not by itself satisfy the essential ingredients of Section 353 of the Indian Penal Code, 1860. Further, in absence of corroboration from independent witnesses, his version regarding obstruction in discharge of duty remains unsubstantiated. hence, the evidence of Balaram (P.W.1) is insufficient to bring home the charge under Section 353 of the Indian Penal Code, 1860.

26. Balaram (P.W.1) has stated that, the accused abused him in filthy language referring his mother and sister. Such utterances, if proved, may amount to intentional insult. However, for attracting Section 504 fo the Indian Penal Code, 1860, it must further establish that, such insult was with intend or knowledge that it would provoke breach of peace. In the present case, except the bare words of the Balaram (P.W.1), there is no independent corroboration regarding the alleged abuses or the surrounding circumstances indicating likelihood of breach of peace. The material witnesses, have not supported the prosecution. Therefore, though the allegation of abuse is made, the necessary ingredients of intention of provoke breach of peace is not satisfactorily establish beyond reasonable doubt. Further, Balaram (P.W.1) informant deposed that, the accused threatened to assault him and later returned

with 2-3 persons and again extended threat. However, the nature of the threat as deposed is general and not shown to be such gravity as to call alarm in the mind of the Balaram (P.W.1) or compel him to do or omit any act which he was legally entitled to do. There is no material on record to show that, the Balaram (P.W.1) was actually put in fear and that alleged threats had any real impact on his conduct. In absence of clear, cogent and corroborated evidence regarding criminal intimidation, the ingredients of 506 of the Indian Penal Code, 1860 are not satisfactorily proved.

27. These cumulative omissions cast a serious doubt on the prosecution case. When such a doubt arises, the benefit must necessarily go to the accused. As such I hold that prosecution has failed to prove charges against accused beyond reasonable doubt. **Hence, I answered points nos. 1 to 3 in the negative.**

28. **AS TO POINT NO. 4:**

In view of my findings on point Nos.1 to 3, I hold that the prosecution has failed to prove it's case and the accused as such is liable to be acquitted. Hence, I pass following order.

<u>ORDER</u>	
1.	Accused namely Pravin Gyaniram Mendhe is hereby acquitted of the offences punishable under Sections 353, 504 and 506 of the Indian Penal Code

	vide section 235(1) of the Code of Criminal Procedure.
2.	Accused is on bail. His bail bond is canceled and surety is discharged .
3.	Accused is directed to execute PR Bond of Rs. 15,000/- and furnish one surety in the like amount in compliance of the provision of Section 437-A of the Cr.P.C. which shall remain in force for a period of six months from today for his appearance in appeal, if appeal is preferred.
4.	Case is disposed of accordingly.

Place : Gondia.
Date :17/03/2026.

Sd/-
(A. C. Khurana)
Additional Sessions Judge,
Gondia.