


MHJN110042232021 	Presented on	:	25.03.2021
	Registered on	:	25.03.2021
	Decided on	:	04.04.2026
	Duration	:	Y. M. D. 05 00 10

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, AMBAD AT
AMBAD**

(Presided over by : M. J. J. Baig, Additional Sessions Judge, Ambad)

Date of Judgment **04.04.2026**

Special Case No. 351/2021
Exh. No.76

Crime No. 386/2020 of Ambad police station, Tq. Ambad Dist.
Jalna.

Prosecution :-	State of Maharashtra Thr. Incharge of Ambad police P.S. Ambad, Tq. Ambad Dist. Jalna) For the offence punishable U/Sec. 307, 354, 143, 147, 148, 149, 323, 504, 506 of Indian Penal Code & Section 3 (1)(r)(s) S.C.S.T. Act.
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Represented by :-	Mr. W. A. Ghuge, Ld. A.P.P
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Accused :-	(1)	Nyajukha Yasimkha Pathan, Age :- 50 yrs.,
	(2)	Naserkha Nyajukha Pathan, Age :-24 yrs.,
	(3)	Najerkha @ Munnakha Nyajukha Pathan, Age :- 22 yrs.,

	(4)	Sayyad Salman Chand, Age :-25 yrs.,
	(5)	Taufik Chand Sayyad, Age :- 29 yrs.,
	All R/o. Bori, Tq. Ambad, Dist: Jalna	

Represented by :-	Shri. H. D. Zol, Ld. Advocate
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Date of Offence	:-	09.08.2020
Date of F.I.R.	:-	09.08.2020
Date of Charge sheet/committal	:-	25.03.2021
Date of Framing of Charges	:-	28.08.2024
Date of commencement of evidence	:-	16.09.2025
Date on which judgment is reserved	:-	27.03.2026
Date of the Judgment	:-	04.04.2026
Date of the Sentencing order, if any	:-	04.04.2026

Accused Details

Rank of the Accused	Name of the 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 the purpose of Section 428 Cr.PC.
1.	Nyajukha	17-08-2020	31-08-2020	U/Sec. 307, 354, 143, 147, 148, 149, 323, 504, 506 of IPC & Section 3 (1) (r)(s) S.C.S.T. Act	Convicted	Yes	14 days
2.	Naserkha	--do--	--do--	--do--	Convicted	Yes	14 days
3.	Najerkha	--do--	--do--	--do--	Convicted	Yes	14 days
4.	Sayyad	--do--	--do--	--do--	Convicted	Yes	14 days

	Salman						
5.	Taufik Chand	18-08-2020	--do--	--do--	Convicted	Yes	13 days

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	Bhimrao Rakshe, testified below Exh.37,	Informant / Injured
PW 2	Chhayabai Rakshe, testified below Exh.44,	Eye witness
PW 3	Dr. Ashwini Gudade, testified below Exh.50,	Medical Officer
PW 4	Sunil Bhasmare, testified below Exh.54,	Panch witness
PW 5	Rajendra Dhone, testified below Exh.65,	Panch witness
PW 6	Champalal Shevgan, testified below Exh.69,	Investigation officer

B. Defence Witnesses, if any :

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

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

Sr. No.	Exhibit Number	Description
1.	Exhibit P-38	Information report
2.	Exhibit P-39	Caste Certificate
3.	Exhibit P-55 to 58 & 60	Memorandum Panchnama
4.	Exhibit P-51	Letter regarding injury certificate
5.	Exhibit P-52 & 53	Injury certificates
6.	Exhibit P-66	Spot Panchnama
7.	Exhibit P- 67 & 68	Seizure Panchnamas
8.	Exhibit P-70	Evidence Closing Pursis

B. Defence :-

Sr. No.	Exhibit Number	Description
1	Exhibit D-1/DW1	Nil
2	Exhibit D-2/DW2	Nil

C. Court Exhibits :-

Sr. No.	Exhibit Number	Description
1	Exhibit C-26	Charge
2	Exhibit C-27 to 31	Plea of accused
3	Exhibit C1-71 to 75	Statements of accused U/sec 313 of Cr.PC.

D. Material Objects :-

Sr. No.	Material Object Number	Description
1	Articles 1 to 5	Three sticks, two axe

JUDGMENT(Delivered on 04th April, 2026)

Accused are facing trial for offences punishable under sections u/ss. U/Sec. 307, 354, 143, 147, 148, 149, 323, 504, 506 of Indian Penal Code & Section 3 (1)(r)(s) S.C.S.T. Act.

2] In short it is case of prosecution is that, on 09-08-2020, At about 1 pm, informant was spraying herbicide in his land wherein, Pigeon pea crop was taken. In that land, his wife Chhayabai was work of weeding. At that time, the neighbours of his land, i.e. Nyajukha Pathan, his son namely Naser, Munna, and brother-in-law, Salman, Taufik & others came there and Nyajukha told him that, "का रे चांभा-या कशाला फवारणी करतो, तुला इथे राहू देणार नाही, तुला जिवेच मारुन टाकु". Informant told them, why you are abusing. On that, Nyajukha Pathan & his sons & brothers-in-law & other two persons assaulted him. In their hands were sticks & axe. Naser inflicted blow of axe on his right hand, Accused Muuna Pathan inflicted blow of axe on his head & others accused assaulted him by means of sticks. Because of that, blood was oozing from his head & hands. Wife of informant came there for rescue him. Accused also assaulted her, and because of assaulting, her blouse was torn. Nyajukha Pathan and his sons pulled his wife. Due to assault, informant fell down in pool of blood. People who graze cattle rescued them and they called their son. Thereafter, their son came there. Thereafter, their son took them to police station and thereafter, went to Civil Hospital, Ambad. Police recorded their statement in hospital and lodged the FIR against the accused.

3] After registering crime u/Sec U/Sec. 307, 354, 143, 147, 148, 149, 323, 504 & 506 of Indian Penal Code & Section 3 (1)(r)(s) S.C.S.T. Act, investigation was handed over to Champalal Shevgan (SDPO). He prepared spot panchnama & Seizure panchnamas. He arrested the accused. He obtained the injury certificates. He seized muddemal. He obtained caste certificate. After completion of investigation, Police submitted charge sheet before this Court.

4] I have framed charge at Ex.26. The same came to be explained to the accused in vernacular to which they pleaded not guilty and claimed to be tried.

5] In order to prove the guilt of the accused, the prosecution examined in all 06 witnesses and closed the evidence by filing pursis at Exh-70.

6] The statements of the accused under section 313 of the Code of Criminal Procedure came to be recorded. The accused have not led any evidence in their defence. Their defence is that unknown persons assaulted informant and filing false case against them on suspicion..

7] Heard Ld. APP Shri. W. A. Ghuge for the State, Ld Advocate Mr. Bhojane for complainant and Ld. Advocate Shri. H. D. Zol for the accused.

8] By considering the evidence led by prosecution and rival submissions, following points arise for my determination to which I have given my findings along with the reasons discussed hereinafter :

Sr. No.	POINTS	FINDINGS
(1)	Whether prosecution has proved that, on on 09/08/2020 at about 13.00 p.m., at Bori Tq. Ambad District Jalna, were members of unlawful assembly, and in prosecution of the common object of such assembly, committed an offence of rioting and thereby committed an offence punishable	...In the affirmative

	under Section 143 of IPC ?	
(2)	Whether prosecution has proved that, on the aforesaid date, time and place, being members of an unlawful assembly, did in prosecution of common object, assaulted the complainant prosecution of common object, assaulted the complainant and witnesses, committed the offence of rioting and thereby committed an offence p/u/s 147 of the Indian Penal Code?	...In the affirmative
(3)	Whether prosecution has proved that, on the aforesaid date, time and place, were being a members of an unlawful assembly, and in prosecution of common object of such assembly, commit the offence or rioting and at that time all armed with deadly weapons such as axe and wooden stick which are used as a weapons of offence, and thereby committed an offence punishable under Section 148 of the Indian Penal Code ?	...In the affirmative
(4)	Whether prosecution has proved that, on the aforesaid date, time and place, were members of an unlawful assembly and in prosecution of the common object of such assembly attempted to commit murder of defacto complainant by assaulting him with axe and sticks with such intention or knowledge and under such circumstances that by that act had	

	caused the death of the said defacto complainant would have been guilty of murder and that have thereby committed an offence punishable under Section 307 read with 149 of IPC ?	...In the affirmative
(5)	Whether prosecution has proved that, on the aforesaid date, time and place, were being a member of an unlawful assembly, and in prosecution of common object of such assembly, all accused voluntarily caused hurt to complainant and witness and thereby committed an offence punishable under Section 323 read with 149 of the Indian Penal Code	...In the affirmative
(6)	Whether prosecution has proved that, on the aforesaid date, time and place, were being a member of an unlawful assembly, and in prosecution of common object of such assembly, assaulted or used criminal force to the victim intending to outrage her modesty or knowing it to be likely that would thereby outrage her modesty and thereby committed an offence punishable under Section 354 read with 149 of the Indian Penal Code ?	...In the negative
(7)	Whether prosecution has proved that, on the aforesaid date, time and place, were a member of an unlawful assembly and in prosecution of common object of such assembly, intentionally insulted complainant and	

	witnesses and thereby gave provocation to them, intending or knowing it to be likely that such provocation would cause them to break the public peace, and thereby committed an offence punishable under Section 504 read with Section 149 of IPC ?	...In the negative
(8)	Whether prosecution has proved that, on the aforesaid date, time and place, were a member of an unlawful assembly and in prosecution of common object of such assembly, committed criminal intimidation by threatening the defacto complainant and thereby committed an offence punishable under Section 506 read with 149 of IPC ?	...In the negative
(9)	Whether prosecution has proved that, all accused, on the aforesaid date, time and place, knowingly and intentionally touched the victim belongs to "Chambhar" caste and being member of Scheduled case and accused not being members of S.C. and S.T. caste, by acting in acts of a sexual nature towards victim belonging to a Schedule caste and thereby committed an offence punishable u/s 3(1) (r) 3(1) (s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocity) Act?	...In the negative
(10)	What Order ?	...AS per final order

:- REASONS :-

9] The learned APP submitted that, the evidence adduced by the prosecution is convincing and reliable one. The evidence of Bhimrao Rakshe & Chhayabai Rakshe clearly makes out that, all accused were member of unlawful assembly and with common object, assaulted informant by means of sticks & axe. The medical evidence adduced by the prosecution makes out that injured Bhimrao has suffered grievous injury. The evidence adduced by the prosecution cannot be termed as the evidence of interested witnesses. The accused were member of unlawful assembly and with common object, assaulted informant by means of sticks & axe on the head i.e. vital part of the body of injured Bhimrao. He lastly submitted that the prosecution has proved beyond reasonable doubt that the accused were member of unlawful assembly and with common object and assaulted injured Bhimrao as well as her wife by sticks & axe and attempted to cause murder of Bhimrao.

10] As against this, learned advocate for the accused submitted that the evidence adduced by the prosecution is not reliable one. He further submitted that the evidence of PW-1 cannot be accepted mechanically. Sole injured witness must be wholly reliable. There is inconsistencies between ocular and medical testimony. No medical evidence indicating that, blade of the axe was used from the blunt side. PW-1 stated during his cross-examination that, Police had written wrong statement. There is inconsistencies between the evidence of PW-1 & PW-2. The evidence of witnesses is exaggerated. He also submitted that the prosecution has failed to prove the author of assault on Bhimrao. No independent eye witness is examined. Allegations of abuses on caste in chorus by several accused

inherently, improbable. Allegations that, during quarrel, blouse of Chhayabai was torn, nothing to indicate any criminal force with intent to outraged modesty by intention or knowledge, offence under section 354 of IPC could not made out. He lastly submitted that there is inconsistencies between the ocular and medical evidence and therefore, the ocular evidence should not be accepted as gospel truth. In support of his submission he has relied upon following judgments of Hon'ble Supreme Court and Hon'ble Bombay High Court.

i] Narayan Kanu Datavale & Ors. Vs. The State of Maharashtra, [1997 ALL MR (Cri) 448], *Wherein Hon'ble Bombay High Court has held that,*

“Evidence Act (1872), S. 3- Appreciation of evidence- Murder Case- Evidence of injured witnesses – such evidence should not be mechanically accepted as gospel truth, for injuries may only at the best ensure presence of witness but are no guarantee of his credibility and truthfulness, 1984 Allahabad Law Journal 1316 foll ”.

ii] Tulsiram & Ors. State of M. P. [2009 (3) Criminal Court Cases 174 (S. C.) Supreme Court of India, *Wherein Hon'ble Supreme Court has held that,*

“Indian Penal Code, 1860, Ss.307, 325, 147, 148 & 149-Conviction – Affirmed by High Court-Appeal against-Prosecution suppressed the genesis of occurrence -Injured was declared hostile - In his statement before police he stated that three other persons armed with weapons were also present apart from the present four appellants -In the Court he sated that non else was present at the spot apart from appellants -According to injured he received 28 injuries but as per medical evidence there were

only three injuries - Inconsistency between medical and ocular evidence - Other PW was also declared hostile - His evidence did not go to show that incident had happened in the manner deposed by prosecution - Appellants given benefit of doubt - Judgment of trial Court and High Court convicting appellants set aside ”. (Paras 17 to 22)

iii] Sanjay Fakirchand Fatelashkar & Ors. Vs. State of Maharashtra & Ors. [2025 ALL MR (Cri) 3755], *Wherein Hon’ble Bombay High Court, bench at Aurangabad has held that,*

“Penal Code (1860), Ss.324, 452-Hurt and Trespass - Proof-All appellants and acquitted accused along with 10-15 other persons armed with sword, sickle and other articles came together to informant's house - Allegedly assaulted informant and his brothers - Medical evidence indicate that injuries suffered by victims were simple in nature - Injuries found to be caused due to assault with hard and blunt objects while, case of injured is that they were assaulted with sharp-edged weapons like sword and sickle Though incident took place at very populated area, none of neighbours examined - Three months after incident injured, three brothers stated to police that at time of lodging of FIR, informant was not having good psychological condition and therefore, he wrongly stated name of one 'B' in FIR - This dilutes prosecution case Failure to conduct test identification parade, proved fatal to prosecution - PW 6 gave police statement consciously consistent with averments in FIR Evidence of three injured brothers not inspiring confidence - Independent witnesses to recovery of sickle and/or sword did not

stand by prosecution None of seized articles borne any blood stains - Nature of real incident hushed up Persons, who actually assaulted, have either been dropped at best of injured and/or not put on trial by I.O - Accused, appellants acquitted of offences. (Paras 26 to 29)

(B) Precedents - Law of precedent can hardly be applicable in criminal case since no two criminal cases could be identical on facts. (Para 10)”.

iv] *Rustam Gulab Patel & Ors Vs. State of Maharashtra [2007 (2) Mh.L.J. (Cri.) 770, Wherein Hon’ble Supreme Court has held that,*

“ Criminal trial - A concocted version of the incident cannot be accepted merely for the absence of major contradictions or omissions”.

“Merely because there are no major inconsistencies in the evidence of the eye witnesses their evidence cannot be accepted as truthful. What has to be ascertained is whether the version of the incident given by these witnesses is reliable or not. If a witness concocts a story he is bound to stick to it. In that case also there would not be major contradictions in his evidence. A concocted version of the incident cannot be accepted merely for the absence of major contradictions or omissions. (Para 23)” .

v] *Hallu & Ors Vs. State of Madhya Pradesh [1974 Supreme Court Cases (Cri) 462], Wherein Hon’ble Supreme Court has held that,*

“Whether use of axe or spear implies that blunt side of the weapon is used”.

“Normally, when the witness says that an axe or a spear is used there is no warrant for supposing that what the witness means is that the blunt

side of the weapon was used. used. If that be the implication it is the duty of the prosecution to obtain a clarification from the witness as to whether a sharp-edged or a piercing instrument was used as a blunt weapon”.

VI] Rattan Lal Vs. State of Jammu & Kashmir [2007 (3) Criminal Court Cases 290 (S. C.) Supreme Court of India] Wherein Hon’ble Supreme Court has held that,

“Medical evidence- X-ray taken but not produced on record – Court deprived of an opportunity from considering a part of medical evidence – Adverse inference rightly drawn by trial judge”.

Sudhkar Murlidhar Patil & Ors. Vs. The State of Maharashtra & Anr; Wherein Hon’ble Bombay High Court, has held that,

“Allegation of abuses in chorus by several accused inherently improbable”.

Vii] Vijay Laxman Patil & Anr. vs. The State of Maharashtra & Anr. [2025 ALL MR (Cri) 4712] Wherein Hon’ble Bombay High Court, Bench at Aurangabad has held that,

“Outraging modesty of women-allegations that during quarrel, deceased’s blouse was torn – Nothing to indicate any criminal force with intent outrage or act was accompanied by intention or knowledge- offence U/sec 354 of IPC not made out”.

11] I have perused the case laws, cited on behalf of defence, the ratio facts of the case laws and guidelines of Hon’ble Supreme Court and Hon’ble Bombay High Court are considered by the during my discussion as under:

As to point Nos. 1 to 6 & 9 :-

12] I am deciding all these points together as their findings are inter-se linked with each other and deciding them together will avoid repetition of the facts and reasons.

13] It is the case of the prosecution that accused formed unlawful assembly and in prosecution of common object, it assaulted informant and her wife by means of sticks & axe and thereby, attempted to cause murder of Bhimrao and also committed the offence of rioting and under Atrocity Act by abusing informant on his caste. It is also prosecution case that, accused outraged modesty of wife of informant. In order to prove said offence, the evidence of PW-1 informant Bhimrao and PW-2 Chhayabai is the material evidence.

14] Now, I look into the evidence of PW-1 Bhimrao s/o. Haribhau Rakshe has deposed that, he belonging to “Chambhar” community. Accused belonging to “Muslim” community. His agricultural land is located in Bori Shivaar, in Gat No. 146, it consists of 7 acres of land. The accused have agricultural land adjacent to his land in the same Gut number. On 09.08.2020 in the afternoon, he had gone to his field where his wife, Chhayabai, was weeding (खुरपणी). While he was spraying pesticide adjacent the bund, the accused Nyajukha, his two sons Naser and Munna, his two brother-in-law Salman and Taufiq a total of five persons came near him, all the accused abused him on his caste by saying that, "का रे चांबारा येथे फवारणी का करतो, तुला येथे राहू देणार नाही, तुला जिवे मारून टाकू". When he asked them, why they were saying this, accused Naser hit him on the right hand with an axe, accused Munna hit him

on the head in two places with an axe. Accused Nyajukha and his two brother-in-law beat him with sticks. Blood was oozing from the blows on his hand and head.

15] While his wife was solving dispute, accused Nyajukha and his two sons beat his wife and torn her blouse. His wife was injured. Two cattle herders nearby, Viju Rathod and Digu Rathod, came there and they resolved the dispute. The accused had fled from there. Digu Rathod, on the say of his wife, called his son Akshay on mobile and gave it to his wife. His wife told his son about the incident on mobile. His son Akshay came to the spot. Three handkerchiefs were tied on his wounds. After that, they came to Ambad police station by rickshaw, when he told the police about the incident, the police initially sent him to the government hospital, Ambad for treatment. At the government hospital, he told the doctor about the incident. The concerned doctor treated him. While he was being treated, Ambad police recorded his statement at the Government hospital. He had given a caste certificate (xerox) to the police to show that, he belong to the Chambar community, Caste certificate is at Exh.39.

16] PW-2 Chhayabai w/o. Bhimrao Rakshe has deposed that, The informant/complainant is her husband. She know all the accused present in the court. On 09.08.2020 in the afternoon, she went with her husband to their land in Gut No. 146 of Bori Shivar. The land of accused Nyajukha is adjacent to their field. She was weeding in the field, while her husband was spraying, accused Nyajukha and his two sons and two brothers-in-law Salman and Taufik came there with sticks in their hands and abused her husband, saying, "का रे चांबारा येथे फवारणी का करतो, तुला येथे राहू देणार नाही, तुला जिवे मारून टाकू". Her husband asked to them, "why you are abusing", on that, all the accused beat

her husband with sticks and axes, accused Munna hit him on the head in two places with axes. Accused Nyajukha and his two brothers-in-law beat her husband with sticks. The accused assaulted on her hand with a stick. She sustained invisible injuries on her hand and finger. Accused Naser caught her and threw away, her blouse was torn. Some people grazing cattle nearby, they came there and the accused ran away. Digu Rathod tied a handkerchief on her husband's wounds. She gave her phone to Digu Rathod and asked to call her son. Digu called her son Akshay, and gave phone to her, She informed Akshay about the incident. Her son Akshay came to the spot of the incident and then they came to the police station, Ambad. Her husband informed the police about the incident, the police initially sent them to the Government hospital, Ambad for treatment. The concern doctor got admitted them and treated. During treatment, Ambad police recorded statement of herself & her husband at the government hospital.

17] PW-3 Dr. Ashwini Gudade has deposed that, on 09.08.2020, she was posted Sub-District Hospital, Ambad as a Medical Officer. She has examined patient namely Bhimrao s/o. Haribhau Rakshe. He had sustained injury CLW- to right hand dorsal aspect, size 6 X 2 bone leg, CLW - to occipital area, size 3 X 2 X 1 cm, CLW to Parietal area, size 5 X 2 X 1 cm, Blunt trauma to back, patient was referred to Civil Hospital, Jalna for X-ray. Age of above mentioned all injuries were less than 24 hrs., cause of injury was hard and blunt object, nature of injury was grievous.

18] She has also examined patient namely Chhayabai w/o. Bhimrao Rakshe. No injury was found. She had sustained only blunt trauma to left hand and back. Police demanded injury certificates by issuing letter dt.

30.09.2020. Accordingly, she had issued injury certificates. It is at Exh.52 & 53 respectively.

19] PW-4 Sunil Bhasmare has deposed that, on 19.08.2020, Ambad Police called him to the Sub-Divisional Office, Ambad with a letter to their superiors. Five accused were in the custody of the police. Accused Naser, Nazer, Nyajukha, Salman, Taufiq Chand gave a statement in front of them that they would give up the weapon used in the crime. The police wrote down that statement (Exh.55 to 60 respectively).

20] After that, they both Panch, police and accused went to the accused's farm in Bhalgaon Shivarat near the stone crusher machine in police vehicle as instructed by the accused. As instructed by the accused, police stopped the vehicle. They followed the accused on foot, accused Naser took out an axe hidden in the field hut to police, accused Nazer took out the other axe from the grass next to the water tank. The three accused took out three sticks from where the drip irrigation pipe was stored. The police took out a seizure panchnama (Exh.61 to 63) in their presence and seized those sticks and axes.

21] PW-5 Rajendra Masuji Dhone has deposed that, since 2013, he working as driver at ST department Ambad. On 10-08-2020, police called him for spot panchnama at police station. Thereafter, he went to Bori shivar with police. Police collected broken bangles, blood stains, frame of spectacles, cloths and chappal. Police prepared panchnama of above articles (Exh.66). Thereafter, they came back to police station, police prepared seizure panchnama of one saree and also prepared separate seizure panchnama of

handkerchief and torn shirt (Exh.67 & 68).

22] PW-6 Shevgan (I.O.), has deposed that, on 09-08-2020, he was appointed as SDPO at Ambad. On that day, crime under Atrocity was registered and it was handed over to him for investigation. He prepared spot panchnama (Exh.66), seizure panchnama (Exh-67 & 68), recorded supplementary statements of complainant and further investigation was handed over to SDPO Deshpande after his retirement. Further investigation was handed over to SDPO Sunil Patil because DYSP Deshpande was also retired. After collecting evidence, Sunil Patil submitted charge sheet against accused in the Court.

23] PW-1 in his cross-examination has deposed that, he told police as accused Nyajukha & his two sons beat up his wife, torn her blouse and his wife got injured. He also told police that, all accused abused him on his caste, accused Munna hit him on the head with an axe at two places and Viju Rathod was also among those who resolved the dispute. However, the above statement is missing from the statement of PW-1 recorded by Police.

24] He told police about the incident, the police initially sent him to the Govt. hospital, Ambad for treatment. He told the doctor about the incident. The concern doctor started treating him. While he was being treating, Ambad police recorded his statement at Govt. hospital, Ambad. It is to be noted that, the concern doctor has given endorsement on the statement Exh.38 of PW-1 Bhimrao. The statement of Bhimrao also corroborates his testimony.

25] Now, I look into the cross-examination of PW-2 Chhayabai, in her cross-examination, she has denied that, accused did not assault, abuse on caste to her husband. She also denied that, unknown persons assaulted them. It is to be noted that, mere denial on behalf of defence to PW-1 & PW-2 is not sufficient to discard their evidence on the point of assault by accused to them. No doubt, the evidence of PW-1 & PW-2 is not convincing, reliable and trustworthy to the extent of abuse by accused to Bhimrao on his caste. It is impossible that, all accused simultaneously utter the word of abuses in chorus on caste. PW-1 Bhimrao & his wife deposed in their evidence that, all accused abused Bhimrao on his caste together. It is further material to note that, the evidence of PW-1 & PW-2 is not convincing, reliable and trustworthy to the extent that, accused used criminal force with PW-2 Chhayabai with intent to outrage her modesty. The evidence of PW-1 & PW-2 did not indicate any criminal force on behalf of accused persons with intent to outraged the modesty of Chhayabai by intention or knowledge. The evidence of PW-2 as well as her husband is not reliable to come to conclusion that, accused had intention to outraged the modesty of Chhayabai during the course of quarrel.

26] The foregoing discussion leads to conclude that the evidence of PW-1 Bhimrao and PW-2 Chhayabai is convincing, reliable and trustworthy to the extent of that, accused were members of unlawful assembly & in prosecution of the common object of such assembly, committed an offence of rioting, thereby assaulted PW-1 Bhimrao by sticks & axe on his head and attempted to commit his murder. Accused also assaulted his wife PW-2 Chhayabai on her hand & caused simple injury to her. Nothing is brought in their respective cross-examination to make out, a case of false implication. Merely because, minor omissions and contradictions in the evidence of PW-1

and PW-2 as well as non-examination of independent witnesses from the village by the prosecution will not be sufficient to discard the evidence of PW-1 Bhimrao and PW-2 Chhayabai which is convincing, reliable and trustworthy.

27] By examining the PW-5 Rajendra Dhone, the prosecution has proved the spot of incident, seizure of cloths of injured from the spot. This PW-5 has deposed that on 10-08-2020 police called him for panchnama at Bori Shivar, where police prepared spot panchnama as per Exh.66 & seized broken bangles frame of spectacles, cloths & chapal under seizure panchnama Exh.67 & 68.

28] Here, I would like to state that PW-1 injured Bhimrao was taken to Civil Hospital, Ambad for medical treatment. Said fact is also deposed by PW-3 Dr. Ashwini that, she has examined patient namely Bhimrao & her wife Chhayabai. Bhimrao had sustained injury CLW – to right hand dorsal aspect, size 6 X 2 bone leg, CLW – to occipital area, size 3 X 2 X 1 cm, CLW – to Parietal area, size 5 X 2 X 1 cm, Blunt trauma to back, patient was referred to Civil Hospital, Jalna for X-ray. Age of above mentioned all injuries were less than 24 hrs., cause of injury was hard and blunt object, nature of one injury was grievous. Accordingly, she had issued injury certificates as per Exh.52 & 53.

29] In the cross-examination the learned advocate for accused has brought on record that doctor has not brought MLC register with her & she has falsely mentioned the nature of injury in the injury certificate Exh.52 & 53 respectively. However, because of mere suggestions to concern Doctor is

not sufficient to discard her evidence. Thus, the evidence of PW-3 Dr. Ashwini clearly makes out injured Bhimrao sustained grievous injury to his head and said injury caused to the head is caused by the blows of the sticks & axe i.e., hard & blunt object.

30] The medical evidence of PW-3 Dr. Ashwini and injury certificates Exh.52 & 53 corroborates the ocular evidence of PW-1 informant cum injured Bhimrao and PW-2 Chhayabai. The minor inconsistency between ocular evidence and medical evidence will not be sufficient to discard the ocular evidence which is clinching and trustworthy. Hence, there is no glaring inconsistency between the ocular evidence and medical evidence in order to throw away the ocular evidence of PW-1 informant cum injured Bhimrao and PW-2 Chhayabai.

31] Now, I look into the recovery of sticks & axe at the instances of accused No.1 to 5. It is the case of the prosecution that said accused during their custodial interrogation gave disclosure statements in presence of panchas and thereafter, produced the sticks & axe from their agricultural land. It is pertinent to note that PW-4 Sunil Bhasmare who is panch witness of the disclosure statements and recovery panchnamas of the sticks & axe have supported the prosecution. Thus, the prosecution has proved the disclosure statements of the accused and recovery panchnamas of the sticks & axe through the evidence of PW-4 Sunil, Investigation Officer PW-6 Shevgan who has also carried out investigation. The evidence of police officers or the investigating officer cannot be thrown away merely because they are the police officers. Nothing is brought on record in favor of accused in the cross-examination PW-4 Sunil and PW-6 Shevgan (I.O.) by the learned advocate for

the accused creating doubt regarding the disclosure statements of the accused and recovery of the sticks & axe at their instances.

32] Thus, I don't find any reason to disbelieve the evidence of PW-4 Sunil and PW-6 Shevgan. The disclosure statements and the recovery panchnamas of the sticks & axe are at Exh-55 to 60 respectively. PW-4 Sunil has clearly deposed that accused No. 1 to 5 gave their disclosure statements in his presence to police and thereafter, by taking them to their agricultural land, they produced the sticks & axe from the different parts of their agricultural land. PW-1 injured Bhimrao in his evidences has deposed that accused assaulted him by sticks & axe. The recovery of sticks & axe from the accused corroborates the substantive and direct evidence of eye witnesses cum injured i.e. PW-1 injured Bhimrao.

33] Here I would like to state that in criminal cases, it is the quality of witnesses which matters and not the quantity. It is commonly seen that the independent witnesses are reluctant to give their statements to police. Herein this case in hand, the evidence of PW-1 informant cum injured Bhimrao & PW-2 Chhayabai is clinching, trustworthy and reliable one. Same is corroborated by medical evidence as well as recovery sticks & axe at the instances of accused. Their evidence clearly makes out that all accused formed unlawful assembly armed with sticks & axe and in prosecution of its common object assaulted injured Bhimrao and his wife.

34] The evidence of PW-1 informant cum injured Bhimrao makes out that accused came towards him and on the reason of agricultural land, started assaulting him by sticks & axe on his head. Thus, the common object

of the accused were to assault Bhimrao and his wife Chhayabai. Injured Bhimrao has sustained grievous injuries. As far as injured Chhayabai is concerned, she has suffered simple injuries to her hand only. As same is cleared from the evidence of PW-3 Dr. Ashwini.

35] The prosecution by the trustworthy evidence of PW-1 Bhimrao and PW-2 Chhayabai has proved beyond all reasonable doubts that, all accused assaulted injured Bhimrao with an intention of causing his death but luckily, injured Bhimrao survived. Thus, prosecution has proved that the accused attempted to cause murder of injured Bhimrao punishable u/sec 307 r/w 149 of IPC. As far as, the case of injured Chhayabai is concerned it will come u/sec 323 r/w 149 of IPC. Thus, the prosecution has proved beyond all reasonable doubt that the accused have committed the offence of attempt of murder punishable u/sec 307 r/w 149 of IPC in respect of injured Bhimrao and offence punishable u/sec 323 r/w 149 of IPC in respect of PW-2 Chhayabai. The prosecution has also proved that all accused formed unlawful assembly, armed with sticks & axe with a common object of causing assault on Bhimrao. Thus, the prosecution has also proved the offence punishable U/sec 143 of IPC. The prosecution has also proved the that accused committed the offence of rioting punishable u/sec 148 of IPC. Hence, I answer as to point No. 1 to 6 & 9 accordingly.

As to point No.7 & 8 :-

36] It is pertinent to note that, the prosecution has not adduced any evidence to prove that, accused in prosecution of their common object being member of unlawful assembly, intentionally insulted informant & witness. The prosecution has not adduced any evidence to prove that, accused in

prosecution of their common object being member of unlawful assembly, intentionally committed criminal intimidation by threatening informant & witness. Accordingly, I answer as to point No.7 & 8 in the negative.

37] In view of my findings, to point Nos. 1 to 5, the prosecution has proved the guilt of the accused u/sec 307, 323, r/w 149, 148 & 143 of IPC. Hence, I stop here to hear the accused on the point of sentence.

38] On the point of sentence, accused submitted that they have not done anything and they should not be punished. The learned advocate for the accused submitted that the accused are the bread winners of the family and minimum punishment be awarded to them. As against this, learned App for the State submitted that the accused have assaulted Bhimrao in a such bad manner. He further submitted that maximum punishment be awarded to the accused.

39] Considering the submissions of both the parties as well as considering the nature of the offence, I am of the opinion that, accused are entitled for leniency to some extent. As such, following sentence will meet the ends of justice.

-: ORDER :-

(1)	Accused No.1 Nyajukha Yasimkha Pathan, No.2 Naserkha Nyajukha Pathan, No.3 Najerkha @ Munnakha Nyajukha Pathan, No.4 Sayyad Salman Chand, & No.5 Taufik Chand Sayyad are hereby convicted U/sec 235 (2) of Cr.P.C. of the offence punishable under Section 307 r/w 149 of Indian
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	Penal Code each of them is sentenced to undergo rigorous imprisonment for Five years and pay fine of Rs.5,000/- each in default each to suffer rigorous imprisonment of one year.
(2)	Accused No.1 Nyajukha Yasimkha Pathan, no.2 Naserkha Nyajukha Pathan, no.3 Najerkha @ Munnakha Nyajukha Pathan, No.4 Sayyad Salman Chand, & no.5 Taufik Chand Sayyad are hereby convicted U/sec 235 (2) of Cr.P.C. of the offence punishable under Section 323 r/w 149 of Indian Penal Code and each of them is sentenced to undergo rigorous imprisonment for six months and pay fine of Rs.500/- each in default each to suffer rigorous imprisonment of 15 days.
(3)	Accused No. no.1 Nyajukha Yasimkha Pathan, no.2 Naserkha Nyajukha Pathan, no.3 Najerkha @ Munnakha Nyajukha Pathan, no.4 Sayyad Salman Chand, & no.5 Taufik Chand Sayyad are hereby convicted U/sec 235 (2) of Cr.P.C. of the offence punishable under Section 143 of Indian Penal Code and each of them is sentenced to undergo rigorous imprisonment for six months and pay fine of Rs.1000/- each in default each to suffer rigorous imprisonment of 15 days.
(4)	Accused No. no.1 Nyajukha Yasimkha Pathan, no.2 Naserkha Nyajukha Pathan, no.3 Najerkha @ Munnakha Nyajukha Pathan, no.4 Sayyad Salman Chand, & no.5 Taufik Chand Sayyad are hereby convicted U/sec 235 (2) of Cr.P.C. of the offence punishable under Section 147 of Indian Penal Code and each of them is sentenced to undergo rigorous imprisonment for six months and pay fine of Rs.500/- each in default each to suffer simple imprisonment of 15 days.

(5)	<p>Accused No. no.1 Nyajukha Yasimkha Pathan, no.2 Naserkha Nyajukha Pathan, no.3 Najerkha @ Munnakha Nyajukha Pathan, no.4 Sayyad Salman Chand, & no.5 Taufik Chand Sayyad are hereby convicted U/sec 235 (2) of Cr.P.C. of the offence punishable under Section 148 of Indian Penal Code and each of them is sentenced to undergo rigorous imprisonment for six months and pay fine of Rs.1,000/- each in default each to suffer simple imprisonment of 15 days.</p>
(6)	<p>Accused are entitled for set off as per section 428 of Cr.P.C.</p>
(7)	<p>All the substantive sentences imposed upon the accused shall run concurrently.</p>
(8)	<p>Accused no.1 Nyajukha Yasimkha Pathan, no.2 Naserkha Nyajukha Pathan, no.3 Najerkha @ Munnakha Nyajukha Pathan, no.4 Sayyad Salman Chand, & no.5 Taufik Chand Sayyad are hereby acquitted under Section 235(1) of Cr.P.C. of the offence punishable under Section 354, 504, 506 r/w 149 & offence punishable under Sec. 3(1)(R) 3(1) (s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocity) Act.</p>
(9)	<p>Accused to surrender to their bail bonds.</p>
(10)	<p>On depositing of fine amount and after expiry of period of appeal the amount of Rs.30,000/- (Thirty Thousand Only) out of fine be paid to injured Bhimrao Haribhau Rakshe as compensation as per section 357 of Cr.P.C.</p>

(11)	Muddemal property i.e. three sticks, two axe, Blood Mix Soil, Simple Soil, Broken Bangles, Spectacle, Chappal & cloths being worthless, be destroyed after appeal period is over.
(12)	The copy of this judgment be given to accused free of costs.
(13)	Copy of this judgment and order be forwarded to the District Magistrate, Jalna as contemplated under Section 365 of the Code of Criminal Procedure.
(Dictated on PC directly, delivered and pronounced in open Court)	

Date : 04.04.2026

(M. J. J. Baig)
Additional Sessions Judge,
Ambad

Certificate

“ I affirm that the contents of this P.D.F file Judgment / order is same, word to word, as per the original Judgment ”.

Name of the Typist	:	Abhishek Agnihotri
Name of the Court	:	District Judge-2 and Addl. Sessions Court, Ambad (M. J. J. Baig)
Date of Judgment /Order	:	04.04.2026
Judgment signed by the presiding officer on	:	04.04.2026
Judgment uploaded on	:	04.04.2026

sd/-
Signature of Stenographer