



Presented on : 17/10/2016
Registered on : 17/10/2016
Decided on : 06/07/2026
Duration : 09 Y. 08 M. 20 D.

PART-A

[Para No.44(1), Chapter 6, Criminal Manual]

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
PANAHALA, TAL. PANHALA, DIST. KOLHAPUR.
(Presided over by S. V. Jangamswami)

Regular Criminal Case No. 49 of 2025
(Old S.C.C. 529/2016)

Exh. No.59

Decided on : 6 th of July, 2026.	
F.I.R./Crime No. 125 of 2016	Kodoli Police Station, Tal. Panhala, Dist. Kolhapur. Under Section 143, 147, 323, 504 and 506 read with Section 149 of the Indian Penal Code,1860 and Section135 of the Maharashtra Police Act. .
Prosecution	<i>State of Maharashtra</i> through Police Inspector, Kodoli Police Station, Tal. Panhala, Dist. Kolhapur.
Represented By	Adv.S.S.Garje, Assistant Public Prosecutor.
<i>Vs.</i>	

Accused	1. Mahesh Bhivaji Magdum Age- 30 years, Occu- Farming , 2. Bhivaji Vishnu Magdum, Age- 54 years, Occu- Farming, 3. Vinayak Bhivaji Magdum(Abate) 4. Rama @Rakesh Bhivaji Magdum (Juvenile-in -conflict with law) 5. Vaishali Mahesh Magdum Age - 26 years, Occu.-Farming All above R/o.- Jafale, Tal-Panhala, District- Kolhapur.
Represented By	Adv. B.S.Ambekar, for the Accused

PART - B

[PARA No.44(2), CHAPTER 6, CRIMINAL MANUAL]

Date of Offence	10.08.2016
Date of F.I.R.	11.08.2016
Date of Chargsheet	17.10.2016
Date of Framining of Charges	16.06.2017(Plea) 23.06.2025(Charge)
Date of Commencement of Evidence	25.02.2019
Date on which Judgment is reserved	
Date of Judgment	06.07.2026
Date of the sentencing order, if any	N.A.

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 of Cr.P.C.
	1.Mahesh Bhivaji Magdum, 2.Bhivaji Vishnu Magdum, 3.Vinayak Bhivaji Magdum (Abate) 4. Rama @Rakesh Bhivaji Magdum (Juvenile-in conflict with law) 5.Vaishali Mahesh Magdum	Notice was issued to accused nos.1 to 3 and 5 under Section 41-A of Code of Criminal Procedure. Accused no. 4 is Juvenile - in-conflict with law hence chargesheet has forwarded to Juvenile court, Kolhapur.		Under Section 143,147, 323, 504 and 506 read with Section 149 of the Indian Penal Code, 1860 and Section 135 of the Maharashtra Police Act.	Acquitted	--	----

PART-C
[PARA No.44(3), CHAPTER 6, CRIMINAL MANUAL]
List of Prosecution/ Defence/ Court Witnesses.

A. Prosecution Witness :

S.R.No.	Name	Nature of Evidence
P.W.1	Suresh Rangrao Magdum	Spot Panch
P.W.2	Sagar Madhu Patil	Informant
P.W.3	Santosh Krishnat Patil	Eye -Witness
P.W.4	Amar Balu Patil	Eye -Witness
P.W.5	Sub.Inspector V.H.Bahiram	Investigating Officer

B. Defence Witnesses, if any

Rank	Name	Nature of Evidence
D.W.1	Nil	Nil

C. Court Witnesses, if any :

Rank	Name	Nature of Evidence
Nil	Nil	Nil

List of Prosecution/ Defence/ Court Exhibits

A. Prosecution:

Sr. No.	Exhibit Number	Description
1.	Exh.26	Complaint
2.	Exh.27	F.I.R.
3.	Exh.36	Order
4.	Exh.37	Spot panchnama

B. Defence :

Sr. No.	Exhibit Number	Description
1.	Nil	Nil

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1.	Nil	Nil

D. Material Objects:

Sr. No.	Material Object	Description
1.	Nil	Nil

JUDGMENT

(Delivered on 6th of July, 2026)

1. Accused nos.1, 2 and 5 are prosecuted for the offence punishable under Section 143, 147, 323, 504 and 506 read with Section 149 of the Indian Penal Code, 1860 and Section 135 of the Maharashtra Police Act. (*here-in-after will be referred to as "**the I.P.C.**" for short.*)

2. Brief facts of the prosecution case stated as under -

A case of molestation has been registered against accused no.1 for having harassed the informant's wife approximately 5 to 6 months ago. On 10/08/2016 at about 10:30 a.m. accused no.1 blocked the informant's vehicle. Provoked by this incident, on the same day at around 20:00 p.m., while the informant was standing at the entrance of his home in Jafale village, Panhala, Accused nos. 1 to 3 and 5 along with a juvenile-in- conflict with the law conspired together. Despite the existence of prohibitory orders issued by the District Collector of Kolhapur, the accused formed an unlawful assembly. They verbally abused the informant and threatening him by saying , "We will show you; we won't let you live". Accused started assaulting to him by kicks and fists. The informant rushed to police station Kodoli and lodged report accordingly.

3 . On receipt of report crime no. 125/2016 under Sections 143, 147, 323, 504 and 506 read with Section 149 of the Indian Penal Code,1860 and Section 135 of the Maharashtra Police Act was registered against accused persons. Further investigation in crime was carried out by Assistant Sub-Inspector V.H. Bahiram. He visited the spot of occurrence. Panchnama of place of occurrence was drawn. Statement of witnesses were recorded. On completion of investigation accused were chargesheeted.

4. My learned predecessor recorded plea against accused nos.1 to 3 and 5 vide Exh.12. At the time hearing accused no.3 Vinyak Bhivaji Magdum was died as per death certificate(Article-A). Order passed below (Exh.1). Ordered to be abated. Present matter falls within the category of a Regular Criminal Trial hence order passed below Exh.1 and the said case be conducted as a Regular Criminal Trial. Thereafter i framed charge against accused nos.1, 2 and 5 vide Exh.50 for the offences punishable under Sections 143, 147, 323, 504 and 506 read with Section 149 of the Indian Penal Code, 1860 and Section 135 of the Maharashtra Police Act. Statements of accused nos.1, 2 and 5 were recorded under Exh.51 to 53. The same was read over to them, to which they did not plead guilty and claimed to be tried.

5. Prosecution examined five witness in order to prove the case.

6. The statements of accused nos.1, 2 and 5 under Section 313 of the Code of Criminal Procedure, 1973 were recorded at Exh. 54 to 56.

7. On the submission made by learned Asstt. Public Prosecutor Adv. S.S.Garje for the State and Adv.B.S.Ambekar for accused persons, following points arise for my determination and my findings are against each point for

the reason below indicate.

Sr. No.	Points	Findings
1.	Whether prosecution prove that, on 10/8/2016 , at about 20:00 hours, in the village of Jafale in front of the informant's house located in Tal-Panhala, Dist- Kolhapur accused nos.1, 2 and 5 alongwith juvenile-in-conflict with law formed an unlawful assembly, became it's member and thereby committed an offence punishable under Section 143 of the Indian Penal Code ?	...Negative.
2.	Whether prosecution prove that, on the same date, time and place accused nos.1, 2 and 5 alongwith juvenile-in-conflict with law assembled together, formed an unlawful assembly and committed rioting and thereby committing an offence punishable under Section 147 of the Indian Penal Code ?	...Negative.
3.	Whether prosecution prove that, on the same date,time and place accused nos.1, 2 and 5 alongwith juvenile-in-conflict with law assembled with a common object to form an unlawful assembly, assaulted the informant with kicks and fists, thereby voluntarily causing simple hurt and thereby committed an offence punishable under Section 323 read with Section 149 of the Indian Penal Code ?	...Negative.
4.	Whether prosecution prove that, on the same date, time and place accused nos.1, 2 and 5	

	alongwith juvenile-in-conflict with law assembled with a common object to form an unlawful assembly, intentionally insulted the informant thereby provoking him, and incited him to commit an act likely to disturb the public peace thereby committing an offence punishable under Section 504 read with Section 149 of the Indian Penal Code ?	...Negative.
5.	Whether prosecution prove that, on the same date, time and place accused nos.1, 2 and 5 alongwith juvenile-in-conflict with law assembled with a common object to form an unlawful assembly, threatened to kill the informant and committed criminal intimidation thereby committing an offence punishable under Section 506 read with Section 149 of the Indian Penal Code ?	...Negative.
6.	Whether prosecution prove that, on the same date,time and place accused nos.1, 2 and 5 alongwith juvenile-in-conflict with law disobeyed the preventive order issued and published by the District Magistrate, Kolhapur and thereby committed an offence punishable under Section 135 of the Maharashtra Police Act ?	...Negative.
7.	What order ?	... As per final order.

REASONS

8. To substantiate the charges, the prosecution examined a panch witness of Spot Panchnama Suresh Rangrao Magdum (P.W.1) at Exh.15, informant Sagar Madhu Patil (P.W.2) at Exh.25, witness Santosh Krishnat Patil (P.W.3) at (Exh.28), witness Amar Balu Patil (P.W.4) at (Exh.30) and the I.O. Sub.Inspector V. H. Bahiram (P.W.5) at (Exh.35).

9. Besides these prosecution also relied on documentary evidence such as complaint at Exh.26 and its F.I.R. at Exh.27 and Spot Panchnama at Exh.37.

As to Point nos. 1 to 5 :-

10. Points nos.1 to 5 are related to each other. All the above five alleged offences are alleged to be committed in single incident. Evidence in respect of all the five points is also common, thus to avoid the repetitions I would like to decide all the five points by common discussion.

11. The question that falls for determination is, whether evidence adduced by prosecution is sufficient to connect accused with crime or not. Prosecution heavily banks on oral evidence. Oral evidence needs to be assessed in the light of objective circumstances. Simple test is that, oral evidence should inspire confidence. Bearing in the mind above aspects, it is solemn duty to assess the oral evidence of prosecution witnesses.

12. Informant Sagar (P.W.2) being an injured one, he is a star witness of the prosecution. He deposed that the accused reside in his neighbourhood. Accused no. 1 had molested his wife. A case regarding this incident had been registered against accused no.1 at the Kodoli Police Station. Consequently,

Accused no. 1 harbored a grudge against him for having filed the case. The incident occurred on 10/08/2016 and on that day he had gone out of the village in the afternoon with his Tata sumo. While he was returning to the village, accused no.1 along with Mahdev Patil came towards him on a motorcycle near the Bhairoba temple. Accused no.1 positioned his vehicle across the path of the informant's vehicle. As accused no. 1 had blocked his path, the informant verbally abused him, leading to quarrel between them. Mahadev Patil intervened and resolved the dispute between them. Thereafter he left the spot and returned home. Later that evening at 7:00 p.m. accused no.1 came to his doorstep and began verbally abusing him. When he stepped outside, the accused threatened him, saying, "I will not spare you " and lunged at him with the intent to assault him. The accused then physically assaulted him with kicks and fists. Hearing the commotion, neighbours residing near his house namely Bhimrao Raghu Patil, Balu Bandu Patil, Amar Balu Patil, Ajit Balu Patil and Santosh Krishnat Patil arrived to intervene and separate them. This entire incident continued until 8:00 p.m. The following day, he went to the Kodoli Police Station and lodged a complaint (Exh.26) against the accused. He stated that First Information Report was in accordance Exh.27.

13. After facing elaborate cross-examination he stated that all the accused persons and his own family reside in the same lane and living directly opposite one another. The five individuals whose names he mentioned during his examination-in-chief are all his neighbours and belong to his extended kin group. A case filed against him by the Magdum family is currently pending and this case predates the present proceedings. In that case eight members of his own Patil family are listed as accused persons. Prior to the instant case, he had filed a complaint against the accused persons alleging that they had molested his wife. Mahadev Baburao Patil is a

resident of his own village, Jafale and he shares a good relationship with him. As he had stated during his examination-in-chief specifically that the accused persons had blocked his vehicle by parking their own vehicle across its path and had verbally abused him from within it, he had conveyed this information to the police while giving his statement. But said statement does not find in his statement recorded under Section 161 of Code of Criminal Procedure. He is unable to provide any reason as to why it was not recorded therein.

14. Prosecution further examined Santosh (PW.3) who is an eyewitness to the incident. He deposed that on 10/08/2016 between 7:30 p.m. and 8:00 p.m., an quarrel arose between the informant and accused no.1. When he arrived at the scene, he observed accused no.1 verbally abusing the informant and threatening to "not spare" him. He did not witness anything beyond this. He had gone there specifically to intervene and resolve the dispute between the informant and accused no.1. When he went there to intervene Ajit Patil, Amar Patil, Balu Patil, Bhimarao Patil, Parshuram Patil and Ankush Patil were also present at the spot. Apart from these individuals, no one else was present . As he did not fully support the prosecution during his examination-in-chief. He partially turned hostile. During the cross-examination conducted by the prosecution he stated that in addition to accused no.1, all the other accused individuals were also assaulting the informant with kicks and fists.

15. He was cross-examined at the hands of accused at length. During the cross-examination he stated that he had gone to Kolhapur for work on that day. Having traveled to Kolhapur for work that day in a vehicle along with Vinayak Magdum, he returned between 9:00 p.m to 9:30 p.m. He further stated that he had not gone to the police station to record his statement.

16. According to prosecution Amar (P. W. 4) is also an eye witness to the incident. He deposed that on 11/10/2016 at 8:00 p.m., while he was at home, quarrel arose between the informant and accused no.1. He intervened and separate them . Both they were assaulting each other with kicks and fists. However, neither sustained any injuries during this quarrel. The police had inquired him regarding the incident. As he did not fully support the prosecution during his examination-in-chief. He partially turned hostile.

17. During the cross-examination conducted by the prosecution he stated that on 10/08/2016 at 8:00 p.m while he was inside his house, he heard the sounds of a quarrel. He denied having observed from outside as previously alleged that all the accused were assaulting the informant with kicks and fists while threatening him, saying, "We won't let you live". He further denied the assertion that he had subsequently inquired with the informant as to the cause of the quarrel. He stated that the allegation that the accused persons namely Mahesh Magdum, Bhivaji Magdum, Vinayak Magdum, Rama Magdum and Vaishali Magdum were seen on the road in front of the informant's house verbally abusing him and physically assaulting him with kicks and fists while threatening, "I will show you; I won't let you live" was untrue.

18. He was cross-examined at the hands of accused at length. During the cross-examination he stated that he did not voluntarily provide any information regarding the incident to the police nor did the police ask him anything about the incident. The police merely inquired about his name and address. Consequently, he is unaware of what statement the police actually recorded from him.

19. In order to prove the spot panchnama prosecution relied on the

evidence of Suresh (PW.1). He has not supported the prosecution and denied of preparing spot panchnama in his presence. As the panch witness Suresh (PW.1) to the place of occurrence turned hostile. Prosecution cross-examined with the permission of court. However, nothing was elicited from his mouth which could support the prosecution. Thus, the evidence of panch witness Suresh (PW.1) is of no use to the prosecution.

20. The I.O. Assistant Sub-Inspector V.H. Bahiram (PW.5), though deposed that during investigating he visited the place of occurrence and drawn spot panchnama (Exh.37) thereof in the presence of two panchas. Since the scene of the incident was common to both cases, the original copy of the panchnama of place occurrence has been filed in the case registered under Crime no.124/2016; consequently, in the present case, a certified true copy of the panchnama of place occurrence has been filed. Thereafter, he recorded the statement of all witnesses as per their say. During the investigation, he found that all accused persons guilty and hence, he filed charge-sheet against them.

21. In his cross-examination, he stated that both offenses registered under Crime no. 124/2016 and Crime no. 125/2016 were assigned to him for investigation. He had perused the records of both these offenses. The offense registered under Crime no. 124/2016 was recorded under Section 324 of the Indian Penal Code. In that particular case, the wife of the informant in the present case had filed a complaint against the accused herein, alleging an offense under Section 354 of the Indian Penal Code.

22. Prosecution examined five witness in order to prove the case. It reveals from evidence of informant Sagar (PW.2) that he narrated all incident and proved complaint (Exh.26). He stated that on 10/08/2016 a dispute arose

between him and accused no.1 because the accused no.1 had parked his vehicle in a manner that obstructed his vehicle, leading him to verbally abuse the accused. Subsequently, when he returned home accused no. 1 arrived at his doorstep at 7:00 p.m., verbally abused him again and while threatening him with the words, "I will not spare you" lunged at him with the intent to assault him. He further deposed that the accused assaulted him with kicks and fists.

23. During his examination-in-chief he had stated specifically that the accused persons had blocked his vehicle by parking their own vehicle across its path and had verbally abused him from within it, he had conveyed this information to the police while giving his statement. But said statement does not find in his statement recorded under Section 161 of Code of Criminal Procedure. It is seen that informant Sagar (P.W.2) has deposed in improved version. During his cross-examination he further admitted that a case filed against him by the Magdum family is currently pending and that this case predates the present matter. In that particular case, eight members of his own family the Patil family are listed as accused. He also admitted that, prior to the instant case, he had filed a separate case against the accused alleging that they had molested his wife. Since he acknowledged these facts during his cross-examination, it becomes evident that both the informant and the accused have filed cases against one another in this Court.

24. On going through evidence of Santosh (P.W.3) which clearly shows he is an eyewitness to the incident. He stated that quarrel took place between the informant and accused no. 1 on 10/08/2016 between 7:30 p.m. to 8:00 p.m.. He stated that at that time accused no.1 was hurling abuses and threatening that he would not spare the informant. But he further stated that he did not witness anything beyond this. He is a partially hostile

witness. Moreover, during his cross-examination he stated that he had gone to Kolhapur for work on the day of the incident, thereby raising doubts as to whether or not he was actually present at the scene of the crime. Thus it seen from evidence of Santosh (PW.3) that he not supported to the version of informant.

25. Amar (PW.4) is an eyewitness to the occurrence. He stated that on 11/10/2016 at 8:00 p.m., while he was at home, an quarrel arose between the informant and accused no.1. He intervened and separate them. Both they were assaulting each other with kicks and fists. However, neither sustained any injuries during this quarrel. He is a partially hostile witness. Moreover, during his cross-examination he stated that he did not voluntarily provide any information regarding the incident to the police nor did the police ask him anything about the incident. The police merely inquired about his name and address. Consequently, he is unaware of what statement the police actually recorded from him. Thus it seen from evidence of Amar (PW.4) that he not supported to the version of informant.

26. Suresh (PW.1) is the panch witness to the spot panchnama. He denied about preparation of spot panchnama. Spot panchnama is proved by prosecution through version of I.O. Asst. Sub-Inspector V.H. Bahiram (PW.5) but spot panch turned hostile and not corroborated to the version of I.O.

27. Upon a comprehensive analysis of all the aforementioned aspects it reveals that the informant Sagar(PW.2) narrated all incident and proved complaint (Exh.26). He deposed that the accused had blocked his vehicle or verbally abused him from within it. But said statement does not find in his statement recorded under Section 161 of Code of Criminal Procedure. Thus, it is seen that informant Sagar (PW.2) has deposed in improved version.

Upon perusal of the evidence of the eyewitnesses to the incident i.e. Santosh (PW.3) and Amar (PW.4) it appears that they are partially hostile witnesses and their evidence is also of no use to the prosecution. Thus it is seen from the evidence of Santosh (PW.3) and Amar (PW.4) that they are not corroborated to the version of informant. The I.O. Assistant Sub-Inspector V. H. Bahiram (PW.5) though deposed that during investigating he visited the place of occurrence and drawn spot panchnama (Exh.37) on record. But panch to the spot panchnama Suresh (PW.1) turned hostile and not corroborated to the version of I.O. The prosecution failed to prove the spot panchnama on record through the testimony of an independent panch. Therefore, it cannot be said that the prosecution has proved the spot panchnama on record beyond reasonable doubt. Thus, the evidence provided by witnesses no. 1 to 5 examined by the prosecution appears to be insufficient to establish the ingredients of the offence alleged against the accused. The prosecution has miserably failed to prove the charges levelled against the accused under Sections 143, 147, 323, 504 and 506 read with Section 149 of the Indian Penal Code. Consequently , I record the finding of point nos.1 to 5 in negative.

As to Point no.6 :-

28. Section 135, Maharashtra Police Act provides inter alia penalty for contravention of orders lawfully made under Section 37 and abatement of the disobedience thereof. Section 37, Maharashtra Police Act confers powers upon the Commissioner of Police and the District Magistrate to prohibit certain acts for prevention of disorder. In order that the power reserved to the Commissioner and the District Magistrate under Section 37 may be regarded as lawfully exercised, the notification must be publicly promulgated or addressed to individuals.

29. In the present case, there was no evidence of publication and due publication thereof. Moreover, the Act has not merely provided that the Notification made by the District Magistrate must be duly published. What has been provided is that it must be 'publicly promulgated'. Section 155 does not raise any presumption of public promulgation by publication in the Official Gazette.

30. There is no evidence on record to show that, notification addressed to the public was issued by the District Magistrate and was duly published in the Government Gazette. Moreover, there is no evidence that the notification was publicly promulgated as required by Section 37(1), Maharashtra Police Act. Thus, accused had not infringed the notification lawfully made under Section 37 of the Act. With this I answer point no. 6 in the negative.

As to Point no. 7 :-

31. In light of the evidence adduced, arguments advanced and reasons discussed above, it is held that the prosecution has miserably failed to prove any offence against the accused and hence, accused nos. 1 ,2 and 5 are liable to be acquitted. Accordingly, I answer to Point no.7, I proceed to pass the following order:

ORDER

1. Accused no.1 Mahesh Bhivaji Magdum, Accused no.2 Bhivaji Vishnu Magdum and Accused no. 5 Vaishali Mahesh Magdum are hereby acquitted of the offences punishable under Sections 143, 147, 323, 504 and 506 read with Section 149 of the Indian Penal Code and Section 135 of the Maharashtra Police Act *vide* Section

248(1) of the Code of Criminal Procedure, 1973.

2. The bail bonds of the accused persons stands canceled.
3. They shall execute personal bond of Rs.07,500/- (Rupees Seven thousand and five hundred Only) each and furnish a surety of like amount in compliance of Section 437-A of Code of Criminal Procedure.

(Judgment delivered and pronounced in open court.)

Place :- Panhala.
Date : 06/07/2026

S. V. Jangamswami
Judicial Magistrate First Class,
Panhala, Dist-Kolhapur.