

MHMM170083322019



Registered on	:	27.05.2019
Decided on	:	09.06.2026
Duration	:	07Y: 00M: 13D
Exh	:	<u>19</u>

IN THE COURT OF JUDICIAL MAGISTRATE (FIRST CLASS),
67 TH COURT, BORIVALI, MUMBAI.

(PRESIDED OVER BY ABHAY. D. GHUGE)

JUDGMENT U/S.355 OF THE CODE OF CRIMINAL PROCEDURE

- (a) The serial number of the case : C. C. No.2020/PW/2019
(CNR No.MHMM17-008332-2019)
- (b) The date of commission of the offence : From November 2013 to January 2017
- (c) The name of the complainant (if any) : The State of Maharashtra
(Through Dindoshi Police Station – C. R. No.26/2018)
- (d) The name of the accused person and their parentage and residence; : 1. Kamlakar Shriram Dubey, Age – 64 yrs., Occ- Architect,
2. Nishant Kamlakar Dubey, Age – 38 yrs., Occ- Doctor,
3. Saroj Kamlakar Dubey, Age – 62 yrs., Occ- Housewife,
All R/o. 504, C wing, Kshitij Apartment, Behind Wagheshwari temple, AK Vaidya Marg, Goregaon East, Mumbai.
- (e) The offence complained of or proved : U/sec.498-A, 323, 406 r/w Sec.34 of Indian Penal Code.
- (f) The plea of the accused and their examination(if any) : Accused pleaded not guilty.

- (g) The final order : Accused are acquitted.
(h) The date of such order : 09.06.2026

Appearances :

Mr. S. B. Agre, Ld.A.P.P. For State.
Mr. Dimple Joshi, Ld. Adv. for accused.

JUDGMENT
(Delivered on 09.06.2026)

1. Accused are facing trial for the offences punishable U/sec.498-A, 323 and 406 r/w Sec.34 of Indian Penal Code.
2. In short prosecution case is that during the period of November 2013 to January 2017 at flat no. 504, C wing, Kshitij Apt, Behind Wagheshwari temple, General AK Vaidya marg, Goregaon East, Mumbai, accused in furtherance of their common intention, subjected the informant to cruelty by demanding dowry. Accused also voluntarily caused hurt to the informant by hands and caused hurt to the informant. Accused also misappropriated the stridhan, clothes and cash of the informant. Therefore, the informant lodged the report at Dindoshi police station.
3. On the report lodged by informant, offence bearing C.R. No. 26/2018 came to be registered at Dindoshi police station. Investigating Officer has conducted investigation, recorded statements of witnesses and filed charge-sheet before the Court.
4. I have framed Charge against accused at Exh.3. Contents are read over to them in vernacular. They pleaded not guilty and claimed to be tried. There is no incriminating evidence against the accused, therefore, the statement of accused U/sec. 313 stands dispensed with.

5. Considering facts and circumstances of the case following points arises for determination. Finding and reason thereon are as under:-

<u>SR. NO.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1	Whether prosecution proves that from November 2013 to January 2017 at flat no. 504, C wing, Kshitij Apt, Behind Wagheshwari temple, General AK Vaidya marg, Goregaon East, Mumbai, accused in furtherance of their common intention, caused mental and physical harassment to the informant and demanded dowry and abused her in filthy language and thereby committed an offence punishable U/Sec. 498-A r/w Sec.34 of IPC ?	...In negative
2	Whether prosecution proves that on same date, place and time, accused in furtherance of their common intention, voluntarily caused simple hurt to the informant by hands and thereby committed an offence punishable U/Sec.323 r/w. 34 of IPC ?	..In negative
3	Whether prosecution proves that the on the same date, place and time, accused in furtherance of their common intention being entrusted with property i.e. Stridhan, clothes and cash of the informant and thereby committed an offence punishable U/Sec. 406 r/w Sec.34 of IPC ?	..In negative

4	What order ?	Accused are acquitted.
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REASONS

6. Heard Ld. A.P.P. for State and Ld. Adv. for accused at length. Perused documents filed on record.

AS TO POINT Nos. 1 TO 3 :

7. In order to bring home guilt of the accused, prosecution has examined only one witness i.e. P.W. No.1 informant Divya Nishant Dubey at Exh.14. However, she is not supporting to the prosecution. The complainant has filed an application at Exh.12 for compounding the case and settlement pursis at Exh.13 stating that matter is settled between the parties as per the consent terms filed before the Family Court, Bandra and do not want to examine further witnesses.

8. P.W.1 viz. Divya Nishant Dubey in her examination-in-chief has stated that her marriage was solemnized on 30/11/2013 with accused Nishant Dubey at Goregaon as per Hindu rites and rituals. After marriage she went to her matrimonial home for cohabitation at Goregaon. She was residing alongwith her husband, father in law and sister in law in the matrimonial home. She does not remember anything happened then. She have no idea that on the ground of harassment and annoyance, she lodged the complaint. She does not recollect the contents of the complaint.

9. During the cross examination, she has stated that the consent terms were filed in the Family Court, Bandra. She has admitted that her

stridhan was returned to her and matter is amicably settled between her and accused. She has no grievance against accused and does not want to proceed further with the case.

10. It is pertinent to note that as per prosecution case, the informant is not supporting the prosecution, hence, nothing incriminating came on record against the accused. Thus, the prosecution has failed to prove that accused have committed offence of cruelty, voluntarily caused hurt to the informant, abused her and misappropriated her stridhan, cash and clothes. Even the informant and the accused had jointly signed the consent terms i.e. divorce decree in the Family Court, Bandra. In such circumstances, involvement of the accused in the crime are not proved by the prosecution. Hence, for want of incriminating evidence against accused, I answer point Nos. 1 to 3 are in negative and as to point no.4, I proceed to pass following order :-

ORDER

1. Accused nos. 1. Kamlakar Shriram Dubey, 2. Nishant Kamlakar Dubey, and 3. Saroj Kamlakar Dubey are acquitted vide Section 248(1) of Criminal Procedure Code for the offences punishable U/sec.498-A, 323 and 406 r/w. Sec.34 of Indian Penal Code.

2. Bail bonds of accused stand cancelled. Sureties if any, be discharged.

3. Accused to furnish PR Bond of Rs.15,000/- each (Rupees Fifteen Thousand only) for appearance before the Hon'ble Appellate Court, in case appeal is filed against the judgment of this Court vide Section 437(A) of the Cr.P.C which will be valid for next six month.

6 Judgment in C. C. No.2020/PW/2019

4. If Seized muddemal property is returned to the original complainant, it be retained by the receiver of property.

(Judgment dictated and pronounced in open Court.)

Mumbai,
Dtd. : 09.06.2026
ppk

(ABHAY D. GHUGE),
Judicial Magistrate (First Class),
67th Court, Borivali, Mumbai.

Dictated &
Typed on : 09.06.2026
Signed on : 09.06.2026