

MHNG160001182022



Received on : 08.02.2022.

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Decided on : 12.03.2026.

Duration : Y. M. D.  
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**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MOUDA,**  
**AT MOUDA**

( Presided over by L.M.Pathan )

**Reg. Cri. Case. No. 16/2022**

(CNR No.MHNG160001182022)

**Exh. 48 /**

[FIR No.644/2021.

Mouda Police Station,

Dist. Nagpur]

COMPLAINANT	<b>STATE OF MAHARASHTRA THROUGH P.S.O. MOUDA POLICE STATION</b>
REPRESENTED BY	Shri. B.M. Bhagat Ld. A.PP
ACCUSED	<b>1. Dhiraj Baburao Chachane.</b> Age – 28 years, Occ. - Agri., <b>2. Dilip Tulshiram Chachane.</b> Age – 50 years, Occ. - Agri., both R/o. Bhugao, Tal. Kamthi, Dist. Nagpur
REPRESENTED BY	Learned Advocate Shri. S.S. Rao.

Date of Offence	22.10.2021.
Date of FIR	22.10.2021.

Date of Charge-sheet	08.02.2022.
Date of Framing of Charges	02.02.2023.
Date of commencement of evidence	16.01.2024.
Date on which judgment is reserved	12.03.2026.
Date of Judgment	12.03.2026.
Date of the Sentencing Order, if any	–

### Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.PC.
1.	<b>Dhiraj Bapurao Chachane</b>	23.10.21 on Suchanap atra	-	324 and 506 r/w sec. 34 of IPC	Acquitted of the offences punishable under section 324 and 506 r/w sec 34 of I.P.C.	–	0
2.	<b>Dilip Tulshiram Chachane</b>	23.10.21 on Suchanap atra	-	324 and 506 r/w sec. 34 of IPC	Acquitted of the offences punishable under section 324 and 506 r/w sec 34 of I.P.C.	–	0

### LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

**A. Prosecution :**

RANK	NAME	EXH. NO.	NATURE OF EVIDENCE
PW1	Devidas Fagoji Kumbhale	24	Complainant.
PW2	Sandip Ramaji Bhujbal	27	Seizure & Spot Panch
PW3	Dilip Kashinathji Palve	30	Eye Witness.
PW4	Mahesh Sopan Suryavanshi	31	Eye Witness.
PW5	Dr. Dnyaneshwar Shivdasji Sonsare	37	M.O.
PW6	Ravindra Yadavrao Bakal	41	I.O.

**B. Defence Witnesses, if any : Nil****C. Court Witnesses, if any : Nil****LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS****A. Prosecution :**

Sr. No.	Exhibit Number	Description
1.	P-25	Report.
2.	P-26	FIR
3.	P-28	Seizure & Spot Panchnama
4.	P-29	Notice
5.	38	Medico Legal Certificate
6.	42	Request Letter for Query Report.
7.	43	Underlined portion-A in statement of witness Dilip Kashinath Palve
8.	44	Underlined portion-A in statement of witness Mahesh Sopan Suryavanshi

**B. Defence : Nil**

**C. Court : Nil**

**D. Material Objects : G.P No. 8/2023** i.e. bricks pieces of dimension 8 x 16 cm and 11 x 11 cm.

## **JUDGMENT.**

( Delivered on 12<sup>th</sup> March of 2026. )

01. In the present trial both accused were booked of the offences punishable under section 324, 336 504 read with section 34 of IPC. After completion of investigation, I.O. submitted the charge-sheet against both the accused for the offences punishable under section 324, 336, 506 r/w sec. 34 of IPC. It is seen from the record that, on 02.02.2023 my Ld. Predecessor *su-moto* passed order below Exh.1 and discharged both accused from the offence punishable under section 336 of IPC. So, now both accused facing the trial for the offences punishable under section 324, 506 r/w section 34 of IPC.

### **Prosecution's case in nutshell is as under -**

02. It is the story of prosecution that, informant Devidas Fago Kumbhale, is resident of village Bhugao, Tq. Kamthi, Dist. Nagpur. Home of informant and accused persons home are adjacent to each other in Bhugao Village. At the time of incident construction of their homes was in progress. On 22.10.2021 at about 10.00 a.m. informant alongwith his nephew Sanjay Kisan Kumbhale was standing on a road in front to his home. By that time both accused were constructing the slab of their homes. Informant found that, half bricks of parapet wall

of accused persons home was in the area possessed by informant. So, informant asked the accused to construct the parapet wall of their home in their own area and do not commit any trace pass. By annoying the same both accused placed around 5 to 6 bricks on the informant. Out of 5 to 6 bricks two bricks placed on the head of informant. So, he sustained bleeding head injury. Accused threatened to the informant that, if in future he tried to intervene construction of their home, then, they will see to him i.e. to informant. Then after informant in injured condition went to Mouda Police Station to inform about the incident.

03. On the basis of the report lodged, crime bearing No.644/2021, came to be registered at Mouda Police Station against the accused of offences punishable under Sections 324 and 506 r/w section 34 of I.P.C. Investigation of the crime was handed over to Shri. Ravindra Bakal P.C. B.No.803. Investigating Officer during investigation, visited to the spot of incident, prepared the spot panchnama, recorded statements of witnesses, seized the muddemal in question and after completion of investigation submitted the charge-sheet against accused.

04. This Court framed charge against accused vide **Exh.18** of offences punishable under Sections 324 and 506 r/w section 34 of I.P.C. The contents of the said charge were read over and explained to the accused in his vernacular to which he pleaded not guilty and claimed for the trial.

05. Prosecution in order to bring home the guilt of accused, examined total five witnesses. Prosecution opened it's case by examining complainant – Devidas Fagoji Kumbhale (PW1) – at **Exh.24**, Spot and Seizure Panch Witness – Sandip Ramaji Bhujbal (PW2) at **Exh.27**, Eye Witness – Dilip Kashinathji Palve (PW3) at **Exh.30**, Eye Witness – Mahesh Sopan Suryavanshi (PW4) at **Exh.31**, M.O. – Dr. Dnyaneshwar Shivdasji Sonsare (PW5) at **Exh.37** and I.O. Ravindra Yadavrao Bakal (PW6) – at **Exh.41**. Prosecution also relied upon complaint at **Exh. P-25**, FIR at **Exh.P-26**, spot and seizure Panchnama at **Exh.P-28**, Notice at **Exh.P-29**, MLC at **Exh.38**, Underlined portion -A in statement of Witness Dilip Kashinath Palve and Mahesh Sopan Suryavanshi at **Exh.43 and 44** respectively.

06. After completion of prosecution evidence, prosecution filed evidence close pursis vide Exh.45/C. I recorded the statement of accused, as per Section 313 of Code of Criminal Procedure, 1973 (hereinafter it is referred in short as "Cr.P.C.") vide **Exh.46/C & 47/C**. Accused raised the plea of false implication.

07. Heard, Shri. B.M. Bhagat, learned A.PP for the State and Learned advocate Shri. S.S. Rao for the accused. Learned A.PP vehemently argued that, prosecution proved it's case beyond all reasonable doubts. Evidence of prosecution is cogent and reliable. On the contrary, learned advocate appearing on behalf of the accused has submitted that, the testimony of informant suffers from contradictions,

omissions and material infirmity and the same is not reliable. Learned advocate appearing on behalf of the accused submitted that, accused is being falsely implicated in the present crime. Finally, learned advocate for the accused prayed to acquit accused, of all offences raised against him.

08. Considering charges leveled against the accused, evidence on record, defense set up by the accused and argument advanced on behalf of both parties, following points arose for my discussion and determination and my findings against each of them along with it's reasons are as follows-

<u>Sr.No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Does the prosecution prove that, on 22.10.2021, at about 10.00 a.m., at Bhugao, in furtherance of their common intention accused voluntarily caused hurt to informant – Devidas Fagoji Kumbhale, hitting him by means of bricks, which is used as a weapon of offence is likely to cause death and thereby committed an offence punishable under section 324 r/w sec. 34 of IPC ?	<b>In the negative.</b>
2.	Does the prosecution prove that, on the aforesaid date, time and place, in furtherance of their common intention	<b>In the Negative.</b>

accused, committed criminal intimidation by threatening informant and thereby committed an offence punishable under section 506 r/w sec. 34 of IPC?

3. What order ?

**As per Final Order.**

### **REASONS.**

#### **AS TO POINT NO. 1 :**

09. As per the story of prosecution on 22.10.2021 at about 10.00 a.m. both accused in furtherance of their common intention plated bricks on the person of informant and thereby voluntarily caused hurt to the informant. In order to prove the said fact, prosecution opened its case by examining informant as PW1.

10. Informant (PW1) deposed in his oral testimony that, both accused known to him as they are residing adjacent to his home. The incident was took place on 22.10.2021 at about 10.00 a.m. in front of his home. On the day of incident both accused were constructing the slab of their home. Accused using bricks to construct the slab of their home. He asked to the accused not to exceed the construction of parapet wall of their home. Accused plated around five to six bricks on him. Two bricks hit on his head. So, he sustained bleeding head injury. After that, he went to police station and lodged FIR against accused. Police after taking his FIR referred him to Government Hospital Mouda for undergoing medical treatment. Informant (PW1) admitted

the contents of written complaint and FIR as true and correct. He also deposed that, the written complaint and FIR bears his signature. During the examine-chief two half bricks were shown to informant. Informant deposed that, those two half bricks were the bricks used by the accused to assault him. Bricks are at Article-3. Informant identified the accused before the Court.

11. Ld. Advocate Shri. S.S. Rao appearing for both the accused conducted the cross-examination of the informant at length. Informant admitted that, accused used bricks like as Article-3 to construct their homes. He also admitted the suggestion that, on the spot of incident there were a heap of bricks looking like Article-3. He also admitted the suggestion that, accused made a complaint against him with Grampanchayat. Informant voluntarily deposed that, he also made a complaint against accused with Gram Panchayat. Informant also admitted the suggestion that, accused made an application to concern department with the prayer to carry measurement of their home. It is also in the cross-examination of informant that, houses of Ramdas Kumbhale, Ganpat Kumbhale, Sampat Kumbhale, Santosh Jaishwal, Vinod Lanjewar and Sachin Uke are adjacent to the spot of incident. All these persons are their family members and he has friendly and cordial relationship with them. Informant also admitted that, if accused plated bricks on him from the height of 12 feet then, he could have sustained grievous injury on his head. He denied the suggestion that, accused did not assaulted to him with bricks.

12. Before coming to conclusion about the credibility and trustworthiness about the oral testimony of informant (PW1), it is necessary to consider evidence of other prosecution's witnesses to whom, prosecution examined as an eye witness to the present offence. Prosecution examine to Dilip Kashinathji Palwe as PW3 and Mahesh Sopan Suryavanshi as PW4.

13. As per the oral testimony of Dilip (PW3) both accused not known to him. He working in the home of informant. Incident was took place prior two to three years in the home of informant at Bhugao. At the time of incident, he was working inside the home, so he did not see anything. It is also in the evidence of Dilip that, it had not happen that, accused assaulted to the informant.

14. Mahesh (PW4) deposed in his oral testimony that, accused not known to him. Informant known to him because he was working in the home of informant. Incident was took place in afternoon at informant's home. At that time, he was working as a labor in the home of informant. He was doing the plaster work in a room so, he did not see anything. From the villagers he came to know about the dispute but he did not know between whom and due to what reason dispute was took place.

15. On perusing oral testimonies of Dilip (PW3) and Mahesh (PW4) it is seen that, both these witnesses turned hostile to the prosecution's case. With the leave of this Court Ld. APP appearing for

the state put leading question permissible in the cross-examination to these witnesses. However, Ld. APP did not bring on record any incriminating evidence against any accused, through the evidence of these witnesses. So, evidence of Dilip (PW3) and Mahesh (PW4) is not worthy to be considered.

16. As per the prosecution, corroboration by medical evidence is one of the strong mitigating and corroborative circumstance to believe the ocular evidence tendered on the record. In view to clarify the nature of injury and to prove the injury certificate produced on the record, prosecution examined to Dr.Dnyaneshwar Sonsare as (PW5). Dr. Dnyaneshwar deposed in his examination-in-chief that on 22.10.2021, he was working as Medical Officer at Rural Hospital Mouda. On that day at about 11.30 a.m. patient namely Devidas Fagoji Kumbhale i.e. informant brought to Rural Hospital Mouda. He examined to the informant and found following injury on his person -

- i)Abrasion on left temporal region of the head. Injury was fresh in nature. Cause of the injury was hard and blunt object. Injury was simple in nature.

17. Dr. Dnyaneshwar further deposed that, informant did not sustained any laceration or contusion injury. He gave antibiotics and T.T. injection to the informant. He issued Medico Legal Certificate (in short MLC) in the name of informant. Dr. Dnyaneshwar deposed that, the contents of MLC are true and correct and it bear his signature. MLC is at Exh.38.

18. During the cross-examination Dr. Dnyaneshwar admitted the suggestion that, in MLC vide Exh.38, he did not mention colour of injury. He also admitted the suggestion that, colour of injury is necessary to determine age of injury. He also admitted the suggestion that, informant Devidas Fagoji Kumbhale did not sustained any bleeding injury. He also admitted the suggestion that, if someone plated brick on a person from the height of 10 to 12 feet then, injury caused shall be more fatal than mentioned in MLC vide Exh.38. He denied the suggestion that, on 22.10.2021 he did not medically examine to the Devidas Fagoji Kumbhale.

19. On perusing the entire oral testimony of Dr. Dnyaneshwar, it is seen that, his oral testimony remained unshaken on all material points during his cross-examination. Ld. Defence advocate conducted a cross-examination of the Doctor at length. However, he did not bring on record anything to disbelieve the oral testimony of Dr. Dnyaneshwar. On the other hand, there is nothing on the record that, there was any criminal enmity between accused and Dr. Dnyaneshwar, which inspiring him to depose false against them to implicate them in the present offence. So, I do not find any reason not to accept and rely upon oral testimony of Dr. Dnyaneshwar (PW5).

20. On perusing the record it is seen that, prosecution examined to informant (PW1) as an eye witness as well as victim of the present offence. On the other hand, prosecution examined to Dilip

(PW3) and Mahesh (PW4) as an eye witness to the offence in question. However, Dilip (PW3) and Mahesh (PW4) turned hostile to the prosecution's case. Their oral testimony not corroborating to the oral testimony of informant (PW1) so, prosecution has evidence of only informant and Dr. Dnyaneshwar to prove the guilt of accused beyond reasonable doubt. Evidence of Dr. Dnyaneshwar is only to prove the nature and cause of the injury. But, Dr. Dnyaneshwar's evidence is not on the point of who assaulted to the informant. For that purpose we have to rely upon only on the sole testimony of informant (PW1). It means on the record there is only sole uncorroborated testimony of informant to bring home the guilt of accused.

21. On this point, Ld. Defence advocate argued that, sole uncorroborated testimony of informant is not sufficient to prove the guilt of accused beyond reasonable doubt. He also submitted that, informant's oral testimony is contrary to prosecution's story. So also, his evidence is not worthy to trust. Per contra Ld. APP appearing for the state vehemently argued that, it is not the rule of criminal jurisprudence that, a number of witness are required to prove any fact. Only sole evidence of informant or victim shall be base to convict the accused.

22. I accept the argument of Ld.APP appearing for the state that, as per section 134 of Indian evidence act, it is crystal clear that, no number of persons were required to prove a particular fact. It

means only sole uncorroborated testimony of a prosecution's witness shall be sufficient to prove the guilt of accused beyond reasonable doubt. But at the same time we must not lose sight that, the sole testimony must be free from any lacuna. If the sole testimony is suffering from any omission or lacuna then, it is necessary to corroborate his oral testimony by other prosecution's witnesses. By considering this legal aspect, now again search into informant's oral testimony to come to conclusion whether or not his sole evidence is sufficient to bring home the guilt of accused.

23. As per the story of the prosecution on 22.10.2021 at about 10.00 a.m. informant alongwith his nephew Sanjay Kisan Kumbhale was standing on a road in front to his home. By that time both accused started to plate bricks on him. Two bricks placed on his head and he sustained head injury. Informant (PW1) deposed the said fact in his oral testimony.

24. It is pertinent to note here that, it is a natural conduct on a prudent human being when anybody plating bricks on your person then, the said person could have raised his hand to save himself from the bricks. No prudent person will present his body to accept the hit of bricks or any other hard and blunt object. But in the present case in my hand as per the evidence of informant himself, it is seen that, informant very patiently received the blow of bricks on his person. He did not make any attempt to avoid the blow of bricks being plated on his person. Not raising the hands by the informant to save himself

from the blow of bricks is a very unnatural behavior on the part of a prudent person. On the other hand, it is not the submission of informant that, when he come to know that, both accused persons simultaneously plated bricks on him, then, he tried to run away from the spot of incident to save himself from more injuries. This conduct on the part of informant is also doubtful.

25. Ld. Defence advocate submitted that, informant himself dashed his head against a wall and sustained an injury. It is also his submission that, if really accused plated bricks on the informant from the height of 10 to 12 feet then, informant could have sustained more fatal injury on his head. But informant sustained a simple injury so it is doubtful that, accused plated bricks on him.

26. It is pertinent to note here that, to prove this fact Ld. Defence advocate put a suggestion to Dr. Dnyaneshwar (PW5). Dr. Dnyaneshwar (PW5) specifically admitted during his cross-examination that, if someone plated bricks on anybody from the height of 10 to 12 feet then, injury caused will be more fatal than injury mentioned in MLC vide Exh.38. By considering this evidence, it is crystal clear that, if really accused plated bricks on the informant's head from the height of 10 to 12 feet then, informant could have sustained a fatal as well as grievous injury on his head. But it is seen from the MLC that, informant sustained a abrasion injury only. Abrasion injury means a minor or light bleeding injury. It means the evidence of informant (PW1) is also not consonance with evidence of

Dr. Dnyaneshwar (PW5).

27. Dr. Dnyaneshwar (PW5) specifically admitted in his cross-examination that, he did not find any bleeding injury on the person of informant. If we accept the story of prosecution as well as evidence of informant that, accused plated bricks on the informant from 10 to 12 feet height. It means there would be more force on these bricks and the impact of those bricks would be more when the same was hit against the head. It means also the impact of the bricks was sufficient to cause bleeding injury but in the present case in my hand, informant not sustained any bleeding injury either on his head or any part of his body. This fact also creating the doubt about the oral testimony of informant to the extent that, really accused plated bricks on informant.

28. On perusing the contents of FIR it is seen that, at the time of incident Sanjay Kisan Kumbhale i.e. nephew of the informant was with the informant. It means Sanjay Kumbhale was the star eye witness to bring the truth on the record. But on perusing the witness list submitted by the I.O. alongwith the charge-sheet it is seen that, I.O. did not record the statement of Sanjay Kumbhale. On the other hand, Ld.APP appearing for the state also did not take any steps to record evidence of that star witness of the prosecution. Neither I.O. nor prosecution put forth any cogent reason for not examining to the star eye witness to the incident in question. This fact also creating the doubt about the entire story of the prosecution. The said fact also

giving the strength to the submission of the defence advocate that, prosecution story is concocted one, only with the ill intention to harass accused persons.

29. Informant (PW1) specifically admitted in his cross-examination that, accused made a complaint against him with the concern Gram Panchayat. This fact showing that, there was a civil dispute between the accused and informant. On the other hand, it is also seen from the record that, the present offence was took place on the count of construction of home of accused persons and informant. So, I am of the opinion that, the enmity is a double edge weapon which shall inspire to the informant to take revenge of the accused by lodging a crime against them. Considering the above discussion I am of the opinion that, sole uncorroborated evidence of the informant is not sufficient to prove the guilt of accused beyond reasonable doubt.

30. Prosecution, in order to bring record bricks alleged to be used at the hands of accused to commit the offence, relied upon evidence of informant and Panch witness Sandip (PW2). It is in the evidence of informant that, the bricks shown to him during his examination in chief where the bricks alleged to be used at the hands of accused. The bricks are at Article-A. It is in the evidence of Sandip (PW2) that on 23.10.2021 police seized brick from the heap of bricks lying on the spot of incidence. He also identified the bricks during his examination-in-chief.

31. It is pertinent to note here that, as per story of the prosecution and it is also in the evidence of informant (PW1) that, accused plated around 5 to 6 bricks on the person of informant. It means accused used 5 to 6 bricks to assault to the informant. But, I.O. seized only 2 broken bricks. On the record there is also two broken bricks which is at Article-A. It shows that, I.O. did not seize the all bricks alleged to be used at the hands of accused. I.O. did not explain why he could not seized all 5 to 6 bricks used at the hands of accused to commit the offence in question.

32. On the other hand, it is also necessary to consider here that, as per evidence of Sandip (PW2) I.O. seized bricks from the heap of bricks lying on the spot of incident. It means the bricks which is before the court were seized from number of bricks. Now the question is how I.O. come to conclusion that, the bricks being seized by him from the spot of incident, were the bricks alleged at the hands of accused to commit the crime. There is no any concrete evidence to explain this fact. It is also not in the evidence of informant or Panch witness that, the bricks seized from the spot of incident had any specific dimension, colour or size by relying upon which they identify the seized bricks as the weapon i.e. bricks alleged at the hands of accused to assault to the informant. I.O. Ravindra Bakal (PW6) also nowhere deposed the said fact in his oral testimony. Hence, considering above discussion, I am of the opinion that, prosecution's evidence fail short to prove that, the Article-A are the bricks alleged to be used at the hands of accused to assault to the informant. In result,

I am of the opinion that, prosecution failed to establish the exact identity of the weapon used in the present crime. In such situation it is hard to believe that, injury sustained to the informant was due to plating of bricks on his person and the said bricks were a dangerous weapon likely to cause death.

33. Considering above discussion, I come to conclusion that, prosecution failed to prove that, on 22.10.2021 at about 10.00 a.m both accused in furtherance of their common intention assaulted tot he informant on his head and thereby caused a voluntarily hurt to the informant. Hence, prosecution fail to prove beyond reasonable doubt that, either of the accused or both accused committed an offence punishable under section 324 r/w section 34 of IPC. Accordingly, I answer point no.1 in negative.

**AS TO POINT NO.2 :-**

34. So far as the offence punishable under Section 506 of the I.P.C. is concerned, neither the informant nor any other prosecution's witnesses have deposed that, accused has threatened to the life of informant PW1 or any other person in whom informant was interested. Merely on the basis of vague statement of informant PW1, it can not be held that, accused have committed an offence punishable under Section 506 r/w sec. 34 of the I.P.C. Hence, I answer point no.3 in negative.

**AS TO POINT NO.3 :-**

35. As prosecution failed to prove beyond reasonable doubt that accused committed an offence punishable under section 324 and 506 read with section 34 of IPC, so accused is entitled to be acquitted off the offences punishable under section 324 and 506 r/w sec. 34 of IPC. Hence, to answer point no.3, I proceed to pass following order :-

**ORDER.**

1. Accused **no.1 Dhiraj Baburao Chachane and accused no.2 Dilip Tulshiram Chachane**, are acquitted of offences punishable under Sections 324, 506 r/w sec. 34 of the Indian Penal Code, 1860 vide Section 248(1) of the Code of Criminal Procedure, 1973.
2. Bail bond of both accused shall stands canceled and sureties stand discharged.
3. Both accused shall furnish P. B. and S. B. of Rs. 15,000/- by each vide Section 437-A of the Code of Criminal Procedure, 1973.
4. Seized muddemal **G.P. No. 8/2023** i.e. bricks pieces, be disposed off after the appeal period.

**(Judgment dictated and pronounced in open Court.)**

Date :- 12.03.2026.

**( L.M.Pathan )**  
Judicial Magistrate First Class,  
Mouda

**ENDORSEMENT**

Case argued on	:	12.03.2026
Order dictated on	:	12.03.2026
Transcription ready on	:	12.03.2026
Order checked and signed on	:	12.03.2026

**CERTIFICATE**

I affirm that the contents of this P.D.F. File are same word to word as per original judgment.

Name of Steno :- Ms. R. S. Nale(Gr.III)