


MHNG170001042020 	Received on : 07/02/2020 Registered on : 07/02/2020 Decided on : 10/03/2026 Duration : Y M D 06 01 03
<u>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,</u> <u>BHIWAPUR</u> Before : Shri. Suraj J. Lad (Date of Judgment : 10th March, 2026) R.C.C.No.4/2020. Exh.No.29.	
Details of FIR Crime No. : 566/2019, dated 23.10.2019. Police Station : Bhiwapur, Taluka-Bhiwapur, District-Nagpur.	
Prosecution	State of Maharashtra, Through Police Station Officer, Police Station, Bhiwapur, Tah. Bhiwapur, Dist. Nagpur.
Represented by	Shri S. S. More learned A.P.P.
Accused	Rahemat Hasan Sheikh, Age 39 Yrs., Occu.: - Driver, R/o. Rajugandi Nagar, Nagpur.
Represented by	Shri. P. L. Nagoshe learned Advocate.

Date of Offence	23.10.2019
Date of FIR	23.10.2019
Date of Charge-sheet	07.02.2020
Date of Framing of charges	21.03.2022
Date of commencement of evidence	08.08.2022

Date on which judgment is reserved	10.03.2026
Date of the Judgment	10.03.2026
Date of the sentencing order, if any	-

Sr. No.	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.
1.	Rahemat Hasan Sheikh	23.10.2019	24.10.2019	Section 11(1)(a)(d)(e)(f)(c) of Prevention of Cruelty to Animals Act, 1976, Section 5(A)/9 of Maharashtra Animal Preservation Act, 1976.	Accused is acquitted	-	-

LIST OF PROSECUTION WITNESSES

Rank	Name	Nature of evidence
PW-1	Kishor Yashwant Bhaisare	Panch Witness
PW-2	Vinod Pandhari Bhoyar	Witness
PW-3	Shrichand Harichand Pawar	Informant
PW-4	Sharad Shyam Bhasme	Investigating Officer

LIST OF DEFENCE WITNESSES

Rank	Name	Nature of evidence
DW-1	N.A.	N.A.

LIST OF COURT WITNESSES

Rank	Name	Nature of evidence
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CW-1	N.A.	N.A.
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LIST OF PROSECUTION EXHIBITS

Sr.No.	Exhibit Number	Nature of evidence
1	Exh.19	Summons
2	Exh.20	Complaint
3	Exh.21	FIR
4	Exh.23	Spot and Seizure Panchanama
5	Exh.24	Letter
6	Exh.25	Letter

DOCUMENTS ADMITTED BY DEFENSE

Sr.No	Exhibit Number	Nature of evidence
1	Nil	Nil

LIST OF DEFENSE EXHIBITS

Sr.No.	Exhibit Number	Nature of evidence
1	Nil	Nil

LIST OF COURT EXHIBITS

Sr.No.	Exhibit Number	Nature of evidence
1	Nil	Nil

MATERIAL OBJECTS

Sr.No.	Material Object No.	Description
1	-	32 cattle
2	-	TATA Company Truck bearing no. MH-40-BG-6255

J U D G M E N T**(Delivered on this 10th March, 2026)**

The accused are facing trial for the offence punishable under Section 11(1)(a)(d)(e)(f)(c) of Prevention of Cruelty to Animals Act, 1976 and Section 5(A)/9 of Maharashtra Animal Preservation Act, 1976.

The prosecution story is in nutshell as under :-

2. In short, it is the case of prosecution that, Informant Police Constable namely Shrichand Harichand Pawar had received information that, the some unknown persons were carrying animals in their Truck vehicle bearing No.MH-40-BG-6255 for slaughtering purpose in cruel manner due which animals suffer unnecessary pain. Therefore, on 23.10.2019 informant and other police staff was put blocked at Parave Petrol Pump, Bhiwapur and also set a trap on the aforesaid place. At that time, when accused vehicle came near them, they gave signal to stop his vehicle. Therefore, accused stopped their vehicle and when they search their vehicle in presence of panchas, they found that accused covered their vehicle by tarpaulin and shut up 32 cattle by tiding them without supplying light, air, water and grass to them and caused dangerous to their life and brought them for slaughtering towards Nagpur. During search by police, they found 32 cattle in the vehicle of accused. Therefore, he seized the said animals along with the vehicle of accused. Thereafter, Police constable Shrichand Harichand Pawar lodged the report against the accused in police station, Bhiwapur.

3. On the report of informant, crime No.566/2019 has been registered against the accused persons. Thereafter, the investigating officer has seized the said vehicle along with animals under seizure panchanama. Thereafter, prepared spot cum seizure

panchnama then they arrest the accused and recorded the statement of witnesses and after completion of investigation, filed charge-sheet against the accused persons.

4. My learned predecessor framed charge against the accused persons vide Exh.3 for the offence punishable under Section 11(1)(a)(d)(e)(f)(c) of Prevention of Cruelty to Animals Act, 1976 and Section 5(a)/9 of Maharashtra Animal Preservation Act, 1976, to which they pleaded not guilty and claimed to be tried vide Exh.4. Thereafter, prosecution has examined witnesses. The statement of accused under Section 313 of Code of Criminal Procedure was recorded below Exh.27 on which their defence is of total denial.

5. Heard learned A.P.P. Shri S. S. More for the prosecution & learned advocate Shri P. L. Nagoshe for the accused.

6. Following points arise for my determination to which I recorded my findings accordingly for the reasons discussed below.

Sr.No.	POINTS	FINDINGS
1.	Whether the prosecution further prove that on the above said date, time and place, you both accused transport 32 cattle in your Truck vehicle bearing No. MH-40-BG-6255 for the purpose of its slaughter and thereby contravened the provisions of Section 5(A) punishable under Section 9 of the Maharashtra Animal Preservation Act?	NO.
2.	Whether prosecution proves that you both accused on 23.10.2019 at about 10.00 hours at Parave Petrol Pump, Bhiwapur, Taluka-Bhiwapur, conveys or carries 32 cattle in your vehicle bearing Truck No.MH-40-BG-6255 in such a manner or position as to subject to unnecessary pain or	

	suffering and thereby committed an offence punishable under Section 11(1)(a)(d)(e)(f)(c) of Prevention of Cruelty to Animals Act ?	NO.
3.	What order ?	As per final order.

REASONS

7. To bring the guilt of accused, the prosecution has examined total four witnesses as follows.

AS TO POINT NO. 1 AND 2 :

8. In order to prove the guilt of accused, prosecution has examined four witnesses only.

9. Panch witness Kishor Yashwant Bhaisare (PW-1) – He deposed that, he did not know the accused. Police had not called him to act as a panch. Police has not made any inquiry in his presence. He admitted his signature on spot cum seizure panchanama. He does not know its contents. It did not happen that, police had made inquiry in respect of seizure of animals. He did not support to the prosecution story, therefore, he was declared hostile. But during his cross-examination by learned APP nothing has been brought on record to support the prosecution story. Therefore, his evidence is not helpful to the prosecution story.

10. Witness Vinod Pandhari Bhoyar (PW-2) - He deposed that, he knows the accused. On 25.10.2019 he was attached to police station, Bhiwapur as a police constable. On that day, P.C. Shrichand Pawar informed him that they were going set a trap. At that time, as per the information of P.C. Shrichand Pawar he along with P.C. Zade set a trap at Parave Petrol Pump. Thereafter, at about 6.45 a.m. one

truck is came, when the vehicle came near them, they gave signal to stop his vehicle. Therefore, accused stopped their vehicle and when they search their vehicle in presence of panchas, they found that accused covered their vehicle by tarpaulin and shut up 32 cattle by tiding them without supplying light, air, water and grass to them and caused dangerous to their life and brought them for slaughtering towards Nagpur. During cross-examination by learned Advocate of defence counsel, he denied all adverse suggestions put by the defence counsel.

11. Informant Shrichand Harichand Pawar (PW-3) - He deposed about the investigation which he has carried out. He deposed that, had received information that, the some unknown persons were carrying animals in their Truck vehicle bearing No.MH-40-BG-6255 for slaughtering purpose in cruel manner due which animals suffer unnecessary pain. Therefore, on 23.10.2019 informant and other police staff was put blocked at Parave Petrol Pump, Bhiwapur and also set a trap on the aforesaid place. At that time, when accused vehicle came near them, they gave signal to stop his vehicle. Therefore, accused stopped their vehicle and when they search their vehicle in presence of panchas, they found that accused covered their vehicle by tarpaulin and shut up 32 cattle by tiding them without supplying light, air, water and grass to them and caused dangerous to their life and brought them for slaughtering towards Nagpur. During search by police, they found 32 cattle in the vehicle of accused. Therefore, he seized the said animals along with the vehicle of accused. Thereafter, Police constable Shrichand Harichand Pawar lodged the report against the accused in police station, Bhiwapur. During cross-examination by learned Advocate of defence counsel, he denied all adverse suggestions put by the

defence counsel.

12. Investigation Officer Sharad Shyam Bhasme (PW-4) - He deposed about the investigation which he has carried out. He deposed that, he knows the accused. On 23.10.2019 he was attached to police station, Bhiwapur as a PSI. On that day, Crime No.566/2019 was registered and investigation was handed over to him. During the investigation he arrested the accused collect the documents relating to the seized vehicle recorded, the statement of witnesses and filed the charge-sheet. During cross-examination by learned Advocate of defence counsel, he denied all adverse suggestions put by the defence counsel.

13. The learned A.P.P. Shri S.S.More argued that, testimony of Informant Shrichand Harichand Pawar (PW-3) is trustworthy reliable and credible. The evidence of informant is supported to the prosecution story. There are no major discrepancies in their evidence. Though, the approximate time of incident is not come in their evidence, but it does not affect the prosecution case. Therefore, prosecution established his case beyond reasonable doubt.

14. The Learned Advocate of accused Shri P. L. Nagoshe argued that, the panch witness has not supported to the prosecution case. The informant has stated about the investigation which he carried out. The evidence of informant has not supported by any witness. Therefore, his sole testimony cannot be relied upon. The prosecution has also failed to brought on record independent witness to prove their case. He further argued that, there are major discrepancies and contradiction in the evidence of informant. Therefore, the prosecution has miserably failed to prove its case beyond reasonable doubt. Hence, accused are entitled for acquittal.

15. As considering entire evidence of prosecution, as to point of incident, prosecution has examined only three witnesses i.e. Kishor Yashwant Bhaisare (PW-1), panch Witness Vinod Pandhari Bhoyar (PW-2) and informant Shrichand Harichand Pawar (PW-3). As considering the evidence of panch witness Kishor Yashwant Bhaisare (PW-1), it appears that, during his evidence he has not supported to the case of prosecution. However, during the cross-examination by prosecution he denied the contents of panchnama. In my view, the evidence of panch witness is not reliable and trustworthy. So also as considering the evidence of witness Vinod Pandhari Bhoyar (PW-2), it appears that, he was a police officer and he also present at the time of raid but though his evidence corroborate with evidence of informant however, it is pertinent to note that he is also a police officer therefore his evidence is only to corroborate with evidence of informant.

16. In my view, the evidence of panch witnesses are not reliable and trustworthy. Therefore, the spot panchnama was not proved in their evidence. Informant Shrichand Harichand Pawar (PW-3) has stated about the trap and investigation which he carried out. The panch witnesses are only independent witnesses examined by the prosecution but they were not supported to the evidence of informant Shrichand Harichand Pawar (PW-3). Likewise, the informant is police staff Therefore, in absence of evidence independent witness it not proper to relied on the sole testimony informant to establish the guilt of the accused. Except the informant evidence, there is no any material evidence available on record. There is no reliable and trustworthy evidence available on record to support the evidence of informant Shrichand Harichand Pawar

(PW-3) to connect the accused with the alleged offence.

17. Therefore, as considering the entire evidence of prosecution, it appears that, except the informant Shrichand Harichand Pawar (PW-3) and investigation officer Sharad Bhasme (PW-4) evidence there is no any material evidence available on record. Therefore, as to point of incident, the sole testimony of informant is not sufficient to prove the alleged offence against the accused. More so, as according to the evidence of investigation officer Sharad Bhasme (PW-4) except statement recording of witnesses there is no any evidence on record to connect the accused with the present crime. Therefore, in my view, as considering the entire evidence of prosecution, there is reasonable doubt is created on the prosecution case. In the light of above discussion, it can safely be said that, the evidence led by the prosecution falls short to establish guilt of accused beyond all reasonable doubts. In the case in hand, the prosecution ought to have establish that the accused persons were carrying 32 cattle by shut-up in their vehicle in a manner or position as to subject them unnecessary paid and also for slaughtering purpose. But the prosecution failed to establish these facts. Therefore, I have answered Point No.1 to 4 in the negative.

AS TO POINT NO.5 :-

18. As discussed earlier, the prosecution has failed to prove its case beyond reasonable doubt. Therefore, the accused is entitled to be acquitted. However, as per the record it appears that interim custody of seized 32 cattle were handed over to Bhagirath Gau-anusandan Bahuudeshiya Sanstha, Chandori. Till that period no one claim the seized animals. So, it proper that the custody of seized cattle is kept in Goshala. Hence, in view of negative findings to Point

Nos.1 to 4, and in answer to Point No.5, I pass the following order.

ORDER

1. The accused **Rahemat Hasan Sheikh** is hereby acquitted of the offences punishable under Section 11(1)(a)(d) (e)(f)(c) of the Prevention of Cruelty to Animals Act, 1976 and Section 5(A)/9 of the Maharashtra Animal Preservation Act, 1976, vide Section 248(1) of the Code of Criminal Procedure 1973.
2. Bail bonds of accused stand cancelled.
3. Accused to furnish PR.bond of Rs.15000/- (Fifteen thousand rupees) along with surety bond of like amount as per compliance of Section 437(A) of the Code of Criminal Procedure, 1973.
4. The seized 32 cattle are already handed over to Bhagirath Gau-anusandan Bahuudeshiya Sanstha, Chandori on suprutnama. Hence Suprutnama bond stand cancel.
5. The seized vehicle i.e. One Red Colour TATA Company's Truck bearing no. MH-40-BG-6255 is already released on suprutnama. Hence, suprutnama bond stands cancelled.

(Judgment dictated and pronounced in open court.)

Bhiwapur,
Dated:10.03.2026

(S. J. Lad)
Judicial Magistrate First Class,
Bhiwapur.

Judgment

(1)

RCC No.4/2020

State vs. Rahemat Sheikh

CERTIFICATE

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

Name of Stenographer : K. S. Kathane
to C.J.J.D. & J.M.F.C., Bhiwapur.