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|--------------------------------------------------------------------------------------------------------------|---------------|------------------------------------------|
| <u>MHNS130012502018</u><br> | Presented on  | 22/11/2018                               |
|                                                                                                              | Registered on | 22/11/2018                               |
|                                                                                                              | Decided on    | 07/05/2026                               |
|                                                                                                              | Duration      | Y.      M.      D.<br>07      05      16 |

**IN THE COURT OF THE JUDICIAL MAGISTRATE F.C.,  
PIMPALGAON(B.), TAL- NIPHAD, DISTRICT – NASHIK**

**(PRESIDED OVER BY P. D. Kolekar)**

**REGULAR CRIMINAL CASE NO. 145/2018**

**Exhibit No.51**

**Part A**

|                |                                                                                                                            |                                                                                                            |
|----------------|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| Prosecution    | <b>State of Maharashtra,</b><br>Through Police Station Officer, Pimalgaon B.<br>Police Station, Tal. Niphad, Dist. Nashik. |                                                                                                            |
| Represented by | Learned A.P.P. Shri. S.L.Jorwar                                                                                            |                                                                                                            |
|                | <b>.. Vs ..</b>                                                                                                            |                                                                                                            |
| Accused        | <b>1</b>                                                                                                                   | <b>Madhukar Sampat Gangurde, Age- 63 Yrs.,</b>                                                             |
|                | <b>2</b>                                                                                                                   | <b>Nana Sampat Gangurde, (Deceased) (Abated)</b>                                                           |
|                | <b>3.</b>                                                                                                                  | <b>Daulat Sampat Gangurde, Age – 38 Yrs.</b><br>All are R/o. Umbarkehd Shiwar,<br>Tal.Niphad, Dist.Nashik. |
| Represented by | Adv. Shri. R.R.Mundada                                                                                                     |                                                                                                            |

**Part – B**

|                                    |                         |
|------------------------------------|-------------------------|
| Date of offence                    | 28/06/2018              |
| Date of F.I.R.                     | 12/07/2018              |
| Date of Charge-sheet               | 22/11/2018              |
| Date of framing charge             | 16/01/2024 & 07/03/2019 |
| Date of commencement of evidence   | 11/07/2025              |
| Date on which judgment is reserved | 07/05/2026              |
| Date of Judgment                   | 07/05/2026              |
| Date of Sentencing order, if any.  | -                       |

**Accused Details**

| Sr. No. | Name of Accused                        | Date of arrest | Date of release on bail | Offence charged with                        | Whether acquitted or Convicted | Sentence imposed | Period of detention undergone during the trial for the purpose of section 427 of Cr.P.C. |
|---------|----------------------------------------|----------------|-------------------------|---------------------------------------------|--------------------------------|------------------|------------------------------------------------------------------------------------------|
| 1.      | <b>Madhukar Sampat Gangurde</b>        | 13/07/2018     | 22/10/2018              | Section 326, 323, 504, 506 read with 34 IPC | Acquitted                      | -                | -                                                                                        |
| 2.      | <b>Nana Sampat Gangurde (Deceased)</b> | 13/07/2018     | 22/10/2018              | Section 326, 323, 504, 506 read with 34 IPC | Acquitted                      | -                | -                                                                                        |
| 3.      | <b>Daulat Samapt Gangurde</b>          | 13/07/2018     | 22/10/2018              | Section 326, 323, 504, 506 read             | Acquitted                      | -                | -                                                                                        |

|  |  |  |  |             |  |  |  |
|--|--|--|--|-------------|--|--|--|
|  |  |  |  | with 34 IPC |  |  |  |
|--|--|--|--|-------------|--|--|--|

**Part C****LIST OF PROSECUTION/DEFENCE/COURT WITNESS****A. Prosecution :-**

| Sr. No. | Name                                | Nature of evidence |
|---------|-------------------------------------|--------------------|
| 01      | Ashok Manohar Gangurde (Exh.31)     | Complainant        |
| 02      | Dattu Kacharu Nakode (Exh.34)       | Witness            |
| 03      | Chandrakala Sunil Gangurde (Exh.35) | Witness            |
| 04      | Gorakh Chabu Pansare (Exh.37)       | Spot Panch         |
| 05      | Ashok Sampat Kadam (Exh.39)         | Police Witness     |
| 06      | Dr. Yogesh Dhanwate (Exh.45)        | Medical Officer    |

**B. Defence :-**

| Rank | Name | Nature of evidence |
|------|------|--------------------|
| NIL  |      |                    |

**C. Court :-**

| Rank | Name | Nature of evidence |
|------|------|--------------------|
| NIL  |      |                    |

**LIST OF PROSECUTION/DEFENSE/COURT EVIDENCE****A. Prosecution :-**

| Exh. No. | Type of Evidence |
|----------|------------------|
|----------|------------------|

|    |                          |
|----|--------------------------|
| 32 | Complaint                |
| 40 | Spot Panchanama          |
| 41 | Muddemal Receipt         |
| 46 | Medico Legal Certificate |

**B. Defence :-**

| Exh. No. | Type of Evidence |
|----------|------------------|
|          | NIL              |

**C. Court :-**

| Exh. No. | Type of Evidence |
|----------|------------------|
|          | NIL              |

**D. Material objects :-**

| Sr. No. | Material Number | Description              |
|---------|-----------------|--------------------------|
| 1.      | 49/2022         | Wooden stick (Article-A) |

**:: J U D G M E N T ::**  
( Delivered on dated : 07/05/2026 )

Accused no.1 to 3 stand prosecuted for committing an offence punishable under **Section 326, 323, 504, 506 r/w 34 of the Indian Penal Code** (for short the 'I.P.C.').

**The facts constituting the prosecution story in short, are as under :-**

2. The informant lodged the complaint on 11/07/2018 at

Pimpalgaon Police Station, Tal. Niphad, Dist. Nashik. He stated that on 28/06/2018 at about 2.00 pm in the afternoon his wife sunita, Chandrakala Gangurde and informant were cutting grass in their farm Gat no.558/2 accused no. 1 to 3 came and said “ this farm is ours, you don’t have right to do anything here”. When informant told them that farm Gat no.558/2 is registered on his name and they can do farming there. Thereafter, accused no. 1 to 3 got angry and started abusing the informant. Accused no. 1 Madhukar Gangurde hit informant’s left shoulder with a wooden stick in his hand and accused no.2 and 3 were started beating him with fists. So his wife and Chandrakala Gangurde helped him. Even after that accused no.1 to 3 were abusing him and threatening him. After hearing the sound of fight Dattu Nakude and Sanjay Namdeo Pansare who were working in the field nearby also came there and tried to resolve the matter. As informant got injured his wife had took him to the police station and gave a detailed complaint about the incident. Thereafter, he took medicine at Government Hospital Pimpalgaon B. and took further treatment at the Nashik Civil Hospital.

3. On the basis of the complaint, Crime number 93/2018 came to be registered against accused no. 1 to 3 for the offence punishable under section 326, 323, 504, 506 r/w 34 of the Indian Penal Code. The investigation was referred to Police Inspector Shri. A.S.Kadam. In the course of investigation, he arrested accused no.1 to 3 on 13/07/2018. He recorded the statements of witnesses. He

obtained medico legal certificate of informant where he took treatment. After usual investigation, he submitted charge-sheet against accused no. 1 to 3 for the offence punishable under section 325, 323, 504, 506 r/w 34 of Indian Penal Code. Statement of accused no. 1 to 3 under section 313 of Cr.P.C. is recorded at Exh.47 and 48.

**CHARGE :-**

4. My learned predecessor framed the charge vide Exh.13 and 27. It was read over and explained to the accused in vernacular. The accused pleaded not guilty and claimed to be tried.

5. From the evidence on record and arguments of both the sides, following points arise for my determination and I have recorded my findings thereon as under :

| S.No. | POINTS                                                                                                                                                                                                                                                                                                                              | FINDINGS |
|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 1.    | Does prosecution prove that on 28/06/2018 at Umberkehd Shivar, Taluka Niphad, accused no.1 to 3 in furtherance of their common intention, voluntarily caused grievous hurt to the informant by means of wooden stick and thereby committed an offence punishable under <b><u>section 326 r.w. 34 of the Indian Penal Code ?</u></b> | No.      |
| 2.    | Does prosecution prove that on 28/06/2018 at 2.00 p.m. at Umberkhed Shivar, Tal.Niphad, Dist.Nashik accused no.1 to 3 in furtherance of their common intention, voluntarily caused                                                                                                                                                  | No.      |

|    |                                                                                                                                                                                                                                                                                                                                                                                               |                    |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
|    | hurt to the informant namely Ashok Manohar Gangurde by means of fist blows and thereby committed an offence <b><u>section 323 r.w. 34 of the Indian Penal Code ?</u></b>                                                                                                                                                                                                                      |                    |
| 3. | Does prosecution prove that on the aforementioned date, time and place accused no.1 to 3 in furtherance of their common intention intentionally insulted the informant and thereby gave provocation to him intending that such provocation would cause him to commit the breach of public peace and thereby committed an offence <b><u>section 504 r.w. 34 of the Indian Penal Code ?</u></b> | No.                |
| 4. | Does prosecution prove that on the aforementioned date, time and place accused no.1 to 3 in furtherance of their common intention committed criminal intimidation by threatening the informant with dire consequences with injury to him and thereby committed an offence <b><u>section 506 r.w. 34 of the Indian Penal Code ?</u></b>                                                        | No.                |
| 5. | What order ?                                                                                                                                                                                                                                                                                                                                                                                  | As per final order |

### **REASONS**

#### **AS TO POINT NO. 01 :-**

6. Heard learned A.P.P. Shri. S.L.Jorwar for the State and Shri. R.R.Mundada, learned advocate for accused no. 1 to 3 at considerable length.

#### **ARGUMENTS :-**

7. Learned A.P.P. would submit that the prosecution has

examined in all six material witnesses. The delay is justified and explained in complaint Exh.32. He submitted that PW-1 Ashok Gangurde (Exh.21) has categorically proved the complaint (Exh. 32) and identified the weapon i.e. wooden stick Article-A. PW.1 informant, PW-3 Chandrakala Gangurde have deposed in consonance with the FIR , complaint and their statements. Informant deposed that accused no.1 to 3 assaulted him with wooden stick and inflicted grievous injuries on the person of PW-1 Ashok. Accused no.1 to 3 hurled abuses to the informant and witnesses and threatened them.

8. It is further submitted by learned A.P.P. that, there is no satisfactory explanation by the accused in respect of grievous injuries on the person of PW-1 Ashok. On the basis of the evidence on record, the prosecution has proved the charge punishable under Section 326, 323, 504, 506 r/w Section 34 of the Indian Penal Code against the accused beyond reasonable doubt.

9. Per contra, learned advocate for accused no. 1 to 3 has vehemently submitted that there is long standing civil dispute regarding cultivation and possession over agricultural lands. False case is filed due to enmity. Accused further contended that independent witnesses have not supported prosecution and evidence of interested witnesses is unreliable.

10. Learned advocate for the accused further submitted that the prosecution has failed to prove the charge against the accused beyond all reasonable doubt. He has pointed out the omission in the evidence of P. W. 1 informant and P. W. 3. P.W. No.1 to 4 are interested witnesses. Further, all other witnesses turned hostile. PW-2 Dattu and PW-4 Gorakh are claimed to be an eye witnesses, turned hostile. The spot was shown by informant to the investigation officer after 15 days of the alleged incident. The investigation officer has not collected blood stained clothes of the injured, which create reasonable doubt on the prosecution's case. The spot and recovery panchnama are not proved by independent witnesses. It is not natural to collect the alleged weapon after 15 days of the incident at the spot. Learned advocate for the accused raised the defence that the injured PW-1 Ashok had fallen on the road from the motorcycle and sustained multiple injuries. Informant and witnesses made vague allegations that all the 3 accused together assaulted PW-1 Ashok. Therefore, it is not probable that all the 3 accused had assaulted on the face of PW-1 Ashok. In view of this possibility and nature of evidence, he prayed that, the accused may kindly be acquitted.

**APPRECIATION OF EVIDENCE :-**

11. PW-1 Ashok Gangurde deposed in consonance with the F.I.R.. He stated that on date of incident accused came to field and objected to cultivation. According to him, accused no.1 Madhukar assaulted him by wooden stick on left shoulder whereas accused no.2

and 3 assaulted by kicks and blows. He further deposed that due to assault he sustained fracture injury and took treatment at P.H.C. Pimpalgaon Baswant, Civil Hospital, Nashik and thereafter Gurudatta Hospital, Pimpalgaon Baswant. He identified Article-A wooden stick.

**12.** In cross-examination, PW-1 Ashok admitted that there was dispute regarding cultivation between parties since long period. He admitted that accused persons were cultivating Gat no.558/2 since earlier period. He also admitted existence of civil dispute between parties.

**13.** The evidence of PW-1 Ashok shows that admittedly parties are closely related cousins and dispute regarding agricultural land was continuing since several years. Therefore, possibility of exaggeration and false implication cannot be ruled out unless corroborated by independent evidence.

**14.** Though PW-1 Ashok stated that many persons gathered at spot, prosecution failed to examine any independent person supporting assault. Evidence of PW-1 Ashok therefore requires careful scrutiny.

**15.** PW-3 Chandrakala supported prosecution version and stated that accused assaulted PW-1 Ashok. However, admittedly she is close relative of informant being his sister-in-law. Her evidence

reveals omnibus allegations against all accused. She did not clearly specify overt acts of accused no.2 and 3 except general statement regarding kicks and fist blows.

16. In cross-examination of PW-3 Chandrakala omissions were brought on record regarding exact abuses and threats allegedly given by accused. Her evidence therefore requires independent corroboration.

17. PW-2 Dattu Nakode did not support prosecution. He was declared hostile. He denied witnessing assault by accused. Nothing useful to prosecution could be elicited in cross-examination by learned A.P.P.

18. PW-4 Gorakh Pansare also did not support prosecution version and denied prosecution case. He specifically denied that accused assaulted informant in his presence. Thus, both independent witnesses PW-2 Dattu and PW-4 Gorakh cited as eye witnesses have not supported prosecution at all.

19. PW-5 Ashok Kadam, investigating officer, deposed regarding investigation carried out by him. He proved registration of crime, preparation of spot panchnama (Exh.40), muddemal receipt (Exh.41) and seizure of wooden stick Article-A. However, the investigating officer admitted that no blood stains were found on

Article – A. He further admitted that no forensic examination report is produced on record connecting weapon with alleged offence. Mere seizure of ordinary wooden stick from open spot without scientific evidence does not conclusively connect accused with alleged assault.

20. PW-6 Dr. Yogesh Dhanwate is medical officer at P.H.C. Pimpalgaon Baswant. Dr. Dhanwate proved medical certificate at Exh.46. According to him, injured sustained fracture shaft of left humerus and blunt trauma over body.

21. The medical evidence establishes that injured PW-1 Ashok sustained grievous injury. However, medical evidence alone cannot establish identity of assailants. The doctor did not specifically opine that injury was necessarily possible only by Article-A wooden stick. Thus, medical evidence is merely corroborative in nature.

**WHETHER OFFENCE UNDER SECTION 326 OF I.P.C. IS PROVED ?**

To constitute an offence under Section 326 of the I. P. C. the following ingredients must be proved;

- I) Voluntarily causing grievous hurt;
- II) Hurt caused by dangerous weapon or means;
- III) Intention or knowledge attributable to accused.

22. In present matter, prosecution relied upon Article-A wooden stick. A simple wooden stick ordinarily used in agricultural

field cannot automatically be treated as dangerous weapon within the meaning of Section 326 of I.P.C. unless prosecution proves manner of use and deadly nature thereof.

**23.** The prosecution failed to establish dimensions, weight or dangerous character of alleged stick. No blood stains or scientific evidence connects Article-A with offence. In my considered opinion, where weapon is ordinary stick and prosecution fails to prove dangerous nature thereof, conviction under Section 326 of I.P.C. becomes doubtful.

**24.** Further, independent witnesses have not supported the version of prosecution. Conviction under Section 326 of I.P.C. solely on interested testimony requires strong corroboration. In present case, such corroboration is absent.

**25.** Admittedly, there is long standing land dispute between parties. Hence, possibility of false implication due to civil dispute cannot be completely ruled out. Though injury is grievous in nature, prosecution is required to prove beyond reasonable doubt that accused persons caused said injury in furtherance of common intention. Suspicion, however strong, cannot substitute proof. Therefore, prosecution failed to prove ingredients of Section 326 of I.P.C. beyond reasonable doubt.

**WHETHER OFFENCE UNDER SECTION 323 OF I.P.C. IS PROVED ?**

26. To constitute offence under Section 323 of I.P.C., prosecution must establish voluntary causing hurt.

27. In present case, except interested testimony of PW-1 Ashok and PW-3 Chandrakala, there is no reliable independent evidence regarding assault. Independent witnesses PW-2 Dattu and PW-4 Gorakh turned hostile. Evidence of PW-1 Ashok and PW-3 Chandrakala suffers from exaggeration and material omissions. There are improvements regarding exact role of accused persons.

28. Prosecution failed to explain why no independent witness from nearby agricultural lands was examined though incident allegedly occurred broad day light. Testimony of interested witnesses is not to be discarded merely due to relationship; however such evidence must inspire confidence and should receive corroboration from surrounding circumstances.

29. In present case, absence of corroboration coupled with admitted land dispute creates reasonable doubt regarding prosecution version. Consequently, prosecution failed to prove offence under Section 323 of I.P.C. beyond reasonable doubt.

**WHETHER OFFENCE UNDER SECTION 504 OF I.P.C. IS PROVED ?**

Essential ingredients of Section 504 of I.P.C. are :

I) Intentional insult;

II) Provocation intended or known to cause breach of peace.

**30.** Mere use of abusive language is insufficient unless prosecution proves intentional provocation likely to cause breach of peace. In present matter, prosecution witnesses made only general allegations that accused abused informant. Exact abusive words are not consistently stated. Mere omissions regarding abuses are proved in cross-examination of PW-1 Ashok and PW-3 Chandrakala. There is no convincing evidence showing intention of accused to provoke breach of peace. Therefore, ingredients of Section 504 of I.P.C. are not established.

**WHETHER OFFENCE UNDER SECTION 506 OF I.P.C. IS PROVED ?**

To prove criminal intimidation under Section 506 of I.P.C., prosecution must establish:

I) Threat to cause injury;

II) Intention to cause alarm to complaint.

**31.** Evidence regarding alleged threat is vague and omnibus. No specific words of threat are consistently proved. Prosecution has not established that informant was put under alarm due to alleged threats. Hence, offence under Section 506 of I.P.C. is also not proved.

**COMMON INTENTION UNDER SECTION 34 OF I.P.C.-**

**32.** To attract Section 34 of I.P.C., prosecution must establish

prior meeting of minds and participation of accused in furtherance of common intention.

**33.** In present matter, evidence regarding individual overt acts is inconsistent and doubtful. There is no convincing evidence regarding pre-arranged plan or common intention. Therefore, Section 34 of I.P.C. is also not attracted.

**DELAY IN LODGING FIR AND SEIZURE FROM THE SPOT AFTER 15 DAYS**

**34.** The incident allegedly occurred on 26/06/2018 whereas the report (Exh.32) came to be lodged on 11/07/2018. There is inordinate and unexplained delay of 15 days in lodging the F.I.R. Though delay in itself is not always fatal, the prosecution is under obligation to satisfactorily explain such delay. In the present matter, no convincing explanation is forthcoming on record. The delayed F.I.R. creates serious doubt regarding truthfulness of the prosecution story and raises possibility of deliberation, consultation and embellishment before setting criminal law into motion. Such unexplained delay adversely affects the credibility of the prosecution case.

**35.** It is further material to note that the alleged weapon came to be seized from the spot after lapse of about 15 days while preparing spot panchnama (Exh.40). This circumstance appears

highly unnatural and improbable. If the weapon was in fact used in commission of offence and lying at the spot, ordinarily it would have noticed and seized immediately during initial investigation. The prosecution has failed to explain as to how the weapon remained at the spot for such a long period without being removed, disturbed or noticed by anybody. This creates serious doubt regarding genuineness of the seizure and the possibility of subsequent planting of the article cannot be ruled out.

**36.** Moreover, the seizure loses evidentiary value when the recovery is not immediate and when the chain of custody is not properly established. The prosecution has not produced convincing evidence showing that the alleged weapon remained in the same condition and at the same place till the date of seizure. Hence, the alleged recovery cannot be safely relied upon as corroborative piece of evidence against the accused.

**37.** Therefore, the delayed F.I.R. coupled with doubtful seizure of weapon materially affects the credibility of the prosecution case and creates reasonable doubt regarding involvement of accused persons. Benefit of such doubt is required to be extended to the accused.

**38.** It is cardinal principle of criminal law that prosecution must prove guilt beyond reasonable doubt. Accused is presumed

innocent unless contrary is proved by reliable evidence. In present case, benefit of doubt arising from unreliable evidence, hostile witnesses and admitted enmity must necessarily go to accused.

39. In view of aforesaid discussion, I hold that prosecution failed to establish offences punishable under Sections 326, 323, 504, 506 read with Section 34 of I.P.C. beyond reasonable doubt. Hence, accused are entitled for acquittal.

40. In all, the evidence of the informant is found in the clutches of improbabilities and multiple doubts. It is indeed a law that evidence of an injured witness is always on a higher footing. However, the same does not mean that it should be believed in every case particularly in presence of the material discrepancies. Further, the evidence of the other eye witnesses is in variance with the evidence of the informant.

41. Therefore, in the light of reasons mentioned above I have no hesitation to hold that the prosecution has miserably failed in proving the guilt of the accused beyond all the reasonable doubts. The essential ingredients to prove the alleged offences are not spelled out. **Hence, I answer points nos. 1 to 4 in the negative.**

42. Having held that, the prosecution has failed to prove the alleged offences against accused no.1 to 3. In answer to point no.5, I

hold that accused no.1 to 3 deserve to be acquitted by giving them benefit of doubt. The muddemal Article-A depicts a wooden stick which needs to be destroyed. With this, the following order is passed ;

**ORDER**

|    |                                                                                                                                                                                           |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Accused no. 1 to 3 are acquitted of the offence punishable under Section 326, 323, 504, 506,r/w 34 of the Indian Penal Code, 1860 vide Section 248 (1) of the Code of Criminal Procedure. |
| 2. | Their bail bonds stand canceled.                                                                                                                                                          |
| 3. | The accused shall furnish P.B. and S.B. of Rs.20,000/ each in compliance of the provisions of section 437-A of the Code of Criminal Procedure.                                            |
| 4. | The seized muddemal Article 'A' Wooden stick being worthless be destroyed after appeal period is over.                                                                                    |
|    | <i>(Pronounced and dictated in the open Court.)</i>                                                                                                                                       |

Date: 07/05/2026

( P D. Kolekar )  
Judicial Magistrate First Class,  
Pimpalgaon(B.)