

MHOS010007532020



Presented on : 18-03-2020

Registered on : 08-04-2020

Decided on : 16-07-2026

Duration : **06 Y. 03 M. 08 D.****Exh.51****Part 'A'****IN THE COURT OF SESSIONS, OSMANABAD AT OSMANABAD.**

Present: A. D. Deo, Sessions Judge

Date of Judgment: 16-07-2026

**Sessions Case No.47 of 2020****FIR No. 301/2018**

Naldurg Police Station, Tal. Tuljapur, Dist. Osmanabad.

|                    |                                                                                                                                                                                                                                         |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Prosecution</b> | <b>State of Maharashtra</b><br>Naldurg Police Station, Tal. Tuljapur, Dist. Osmanabad.<br><b>Through:</b> Satish Manik Shinde, Age 29 yrs., Occu. Jr. Engineer, M.S.D.C.L., Andoor, Tal. Tuljapur, Dist. Osmanabad.                     |
| Represented By     | Shri.J.V.Deshmukh, Addl. Public Prosecutor.                                                                                                                                                                                             |
| <b>Accused</b>     | 1. <b>Vishwanath @ Pintu Apparao Mule</b> , Age 36 years, Occu. Agri., R/o. Sarati, Tal. Tuljapur, Dist. Osmanabad.<br>2. <b>Dnyaneshwar Ambadas Asapure</b> , Age 39 years, Occu. Agri., R/o. Katgaon, Tal. Tuljapur, Dist. Osmanabad. |
| Represented by     | Shri. Y.D.Khaire, advocate for accused Nos.1 & 2.                                                                                                                                                                                       |

**Part-B**

|                                      |            |
|--------------------------------------|------------|
| Date of Offence                      | 02-11-2018 |
| Date of FIR                          | 03-11-2018 |
| Date of Charge-sheet                 | 06-03-2019 |
| Date of Framing of Charges           | 07-12-2022 |
| Date of commencement of evidence     | 23-12-2025 |
| Date on which judgment is reserved   | N.A.       |
| Date of the Judgment                 | 16-07-2026 |
| Date of the Sentencing Order, if any | N.A.       |

**Accused Details**

| Name & Rank of Accused             | Date of Arrest                 | Date of Release on Bail                                | Offences charged with  | Whether acquitted or convicted | Sentence Imposed | Benefit of Section 428, Cr.P.C. |
|------------------------------------|--------------------------------|--------------------------------------------------------|------------------------|--------------------------------|------------------|---------------------------------|
| 1. Vishwanath @ Pintu Apparao Mule | 24-01-2019<br>(nominal arrest) | 26-12-2018<br>H.C.Anticipatory bail<br>Appln.1445/2018 | 353, 504, 34 of I.P.C. | Acquitted                      | Not applicable.  | Not applicable.                 |
| 2. Dnyaneshwar Ambadas Asapure     | 02-12-2018                     | 08-12-2018                                             | --"--                  | --"--                          | --"--            | --"--                           |

**Part 'C'**

(List of Prosecution/Defence/Court Witnesses)'

**A. Prosecution:**

| Rank | Name                    | Nature of Evidence |
|------|-------------------------|--------------------|
| PW-1 | Mallappa Vinayak Kutade | Spot panch.        |

|      |                      |              |
|------|----------------------|--------------|
| PW-2 | Rahul Ruchand Koli   | Eye witness. |
| PW-3 | Satish Manik Shinde  | Informant    |
| PW-4 | Vitthal Trimbak Ware | I.O.         |

**B. Defence Witnesses, if any:**

| Rank | Name | Nature Of Evidence |
|------|------|--------------------|
| Nil  | 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       | P-1/PW-1       | Spot panchanama dated 03-11-2018. |
| 2       | P-1/PW-3       | F.I.R. dated 03-11-2018.          |
| 3       | P-2/PW-3       | Printed F.I.R.                    |

**B. Defence:**

| Sr. No. | Exhibit Number | Description                     |
|---------|----------------|---------------------------------|
| 1       | D-1/PW-3       | Extract of attendance register. |
| 2       | Exh.44         | Arrest form of accused No.2.    |
| 3       | Exh.45         | Arrest form of accused No.1.    |

**C. Court Exhibits:**

| Sr. | Exhibit Number | Description |
|-----|----------------|-------------|
|-----|----------------|-------------|

|            |     |     |
|------------|-----|-----|
| <b>No.</b> |     |     |
| Nil        | Nil | Nil |

**D. Material Objects/Articles:**

|                |                    |                                      |
|----------------|--------------------|--------------------------------------|
| <b>Sr. No.</b> | <b>M.O. Number</b> | <b>Description</b>                   |
| 1              | MO-1/PW-1          | Photograph of the spot of incidence. |

**:: J U D G M E N T ::**  
(Delivered on 16-07-2026)

Accused Nos.1 & 2 are facing trial for the offences punishable under Sections 353, 504 r.w. 34 of the Indian Penal Code, 1860 (hereinafter referred to as "I.P.C." for the sake of brevity).

**Factual Matrix:**

2. Shorn of unnecessary details the gravamen of indictment against the accused is as under:-

2a. It is the case of prosecution that, the informant Shri. Satish Manik Shinde is the Jr. Engineer, M.S.E.D.C.L. and on 02-11-2018 at 12.30 p.m. was working in his office at Andoor, Tal.Tuljapur, Dist. Osmanabad. At that time, Dnyaneshwar Asapure r/o Katgaon i.e. present accused No.2 had been to his office and asked the informant to correct his electricity bill as it was wrongly issued. Upon that, the informant verified the said electricity bill and told him that the bill is correct as per the record. Thereafter, said Dnyaneshwar made phone call to one Pintu Mule r/o Sarati and said Pintu i.e. present accused No.1 at about 1.00 p.m. came at the office of the informant and threatened him by saying that, "तु बिल मुद्दाम चुकविले आहेस, तुला मस्ती आली आहे, मादरचोर तुझा मर्डर करीन, तु खुप छोटा माणुस आहेस, तुला काम नीट

करायचे की नाही". Said Pintu Mule banged the chairs in the office and also threatened the informant that on his say one Sunil will suspend the informant and abused the informant. At that, technician Pandurang Thombare and Rahul Kole resolved the dispute. Hence, the informant reported about the incident to the police station.

**First Information Report :-**

3. At the instance of the informant crime No. 301/2018 came to be registered at Naldurg Police Station against the accused persons for the offence under Sections 353, 504, 506 r.w.34 of the I.P.C.

**Investigation :-**

4. The investigation of crime No. 301/2018 swung in motion. During the course of investigation, the Investigation Officer (hereinafter referred to as 'the I.O') visited the spot of incident, prepared the spot panchanama in presence of panch witnesses and snapped the photograph of the spot of incident, recorded the statements of the witnesses and arrested the accused No.2 following the due process of law. I.O. has collected the electricity bill and attendance extract of the attendance register of the informant and included in the charge-sheet. After thorough investigation, finding the complicity of the accused persons, charge-sheet came to be filed against the accused.

**Committal of case:-**

5. After securing presence of the accused persons the learned Judicial Magistrate First Class, Tuljapur vide order dated 12-3-2020 committed the case to the Court of Sessions as the offence punishable under section 353 of the IPC, is exclusively triable by the Court of Sessions.

**Charge and Defence:**

6. On appearance of the accused persons, my learned predecessor has framed charge against them vide Exh. 27 under Sections 353, 504 r.w.34 of the I.P.C. It was read over and explained to the accused in vernacular. Accused abjured the guilt and claimed to be tried. The plea of accused persons was recorded vide Exh.28 & 29.

**Prosecution Evidence :-**

7. At the trial, in order to prove the guilt of the accused, the prosecution examined in all four witnesses.

7.a. PW-3, the informant, deposed that on 02.11.2018 he was serving as Junior Engineer at the M.S.E.D.C.L. office, Andoor. At about 12.30 p.m., accused No.1 Dnyaneshwar Asapure visited the office and complained that his electricity bill was incorrect. Upon verification of the meter reading and office record, PW-3 found the bill to be correct and informed accused No.1 accordingly. PW-3 further deposed that accused No.1 telephoned accused No.2 Pintu Mule, who arrived at the office at about 1.00 p.m. and insisted that the bill was incorrect. According to PW-3, accused No.2 abused him in filthy language, banged the chairs in the office and threatened to kill him. PW-2 Rahul Koli and one Pandurang Thombare then intervened, pacified the accused and asked them to leave the office. PW-3 proved the First Information Report (Exh.P-1/PW-3) and the printed FIR (Exh.P-2/PW-3). He explained that the FIR was lodged on the next day as the accused had threatened him by claiming political influence, which caused him fear. He further stated that he had shown the place of occurrence to the Investigating Officer and supplied the muster-roll extract showing the attendance of the staff.

7.b. In cross-examination, PW-3 admitted that about eleven staff members were present in the office and that the electricity bill was not in the name of accused No.1. He admitted his prior acquaintance with accused No.2, that mother of accused No.2, was a member of the Panchayat Samiti, Tuljapur, and that he was acquainted with local politicians. He further admitted that no entry of accused No.1's complaint was made in the complaint register, though he volunteered that such entry was to be made by the complainant himself. He also admitted that the cause of delay in lodging the FIR was not mentioned therein, that the complete names of the accused were not stated in the FIR, and that the distance between the office and Naldurg Police Station was about 2.5 kilometres.

7.c. PW-3 further admitted that, apart from himself, PW-2 Rahul Koli and Pandurang Thombare, no other person had knowledge of the incident. He admitted that the office was situated in a busy market area and that the residence of the local MLA was nearby with regular police bandobast. Though he admitted that Exh.D-1/PW-3, the attendance extract, did not bear his signature, he denied that it was a procured document. He also denied the defence suggestions that he was absent from the office on the date of the incident, that no such incident had occurred, that accused No.2 had been falsely implicated under political pressure, or that he had lodged a false FIR and deposed falsely.

7.d. PW-1, a panch witness to the spot panchanama, deposed that on 03.11.2018, while working on a contract basis in the M.S.E.D.C.L. office at Andoor, he was called by the police to act as a panch. Along with another panch, Pandurang Buraje, he visited the M.S.E.D.C.L. office where the informant, Satish Shinde, pointed out the

place of occurrence. He stated that the police prepared the spot panchanama (Exh.P-1/PW-1) in his presence, took photographs (Article MO-1/PW-1) of the spot.

7.e. In cross-examination, PW-1 admitted that the M.S.E.D.C.L. office is situated in a crowded market area near the Post Office, Mangal Karyalaya and Hutatma Smarak. He further admitted that the co-panch was an M.S.E.D.C.L. employee and that he himself was working on a contract basis under the informant, who used to draw his salary. He also admitted that he was unaware of the purpose of the panchanama until he reached the spot, that all the furniture was found in order, and that he signed the panchanama at the instance of the informant after it had been prepared.

7.f. PW-2 deposed that on 02.11.2018 he was on duty in the M.S.E.D.C.L. office, Andoor, under Junior Engineer Satish Shinde. He stated that after marking his attendance at 9.00 a.m., he proceeded for field duty and returned to the office at about 1.00 p.m. On hearing the voice of Shri. Shinde, he and one Pandurang Thombare entered the latter's cabin, where they found both the accused quarrelling with Shri. Shinde over an electricity bill. According to PW-2, both the accused were abusing and threatening Shri. Shinde and banging the chairs. He and Pandurang Thombare intervened and asked the accused to leave the office. He further stated that the police had recorded his statement. The attendance extract was shown to him and marked for identification as Article 'X'.

7.g. In cross-examination, PW-2 admitted that about fifteen employees were working in the office and that the attendance extract



did not bear his signature. He admitted that he did not know the accused prior to the incident, though he volunteered that he came to know their names at the time of the incident. He also admitted that he did not know the fathers' names of the accused and that he had read his police statement before entering the witness box. He further admitted that the then MLA was Madhukar Chavan and that there was political influence in Andoor. He denied the suggestions that he was unaware of the cause of the quarrel, that no such incident had taken place in his presence, or that he was falsely deposing merely because Shri. Shinde was his superior officer.

7.h. PW-4 is the investigating officer who has deposed about the investigation carried by him.

**Statement of accused under section 313 of Cr. P.C.:-**

8. The defence of the accused persons is of *simpliciter* denial. In the statement under Section 313 of Cr.P.C., the accused persons claimed their innocence and stated that, false case is lodged against them on the say of informant and one Sunil Chavan.

9. Heard, learned P.P. Shri. J. V. Deshmukh for the State and learned advocate Shri. Y. D. Khaire for the accused Nos.1 & 2. Perused the record.

**Points for determination:-**

10. In the light of the charge against the accused, evidence on record and the submission made across the bar, following points arise for my determination to which, I have recorded my findings against each of them for the reasons to follow:

|    | <b>Points</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>Findings</b>           |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| 1. | Whether the prosecution prove that, on 02-11-2018 at around 12.30 p.m., in the office of M.S.E.D.C.L. branch Andoor, Tal.Tuljapur, Dist. Osmanabad, the accused Nos.1 & 2 in furtherance of their common intention, used criminal force to the informant- Satish Manik Shinde the public servant i.e. the Junior Engineer working in M.S.E.D.C.L. in execution of his duty as such public servant and prevented him from discharging his duty and committed an offence punishable under Section 353 r.w. 34 of the I.P.C.? | <b>In negative</b>        |
| 2. | Whether the prosecution prove that, on above date, time and place, the accused Nos.1 to 2 in furtherance of their common intention and in the course of same transaction, intentionally insulted the informant and thereby gave provocation intending him to break the public peace and committed an offence punishable under Section 504 r.w. 34 of the I.P.C.?                                                                                                                                                           | <b>In negative</b>        |
| 3. | What order?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>As per final Order</b> |

### :: R E A S O N S ::

#### **As to Point Nos.1 & 2 :**

11. At the outset, it may be noted that the prosecution case in respect of all the charges arises out of one and the same alleged incident. Therefore, it is neither possible nor desirable to appreciate the evidence in watertight compartments for each charge separately. Hence, Point Nos.1 & 2 are being decided by common discussion, with separate observations wherever necessary.

12. Before advertizing to the evidence on record, it would be appropriate to reproduce Section 353 of the Indian Penal Code, which reads thus:

“**353.** Assault or criminal force to deter public servant from discharge of his duty.— Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

A plain reading of Section 353 of the IPC shows that, in order to attract the said provision, the prosecution must establish that the accused assaulted or used criminal force against a public servant either:

- (a) while such public servant was acting in discharge of his official duty;
- (b) with intent to prevent or deter such public servant from discharging his duty; or
- (c) in consequence of any act done or attempted to be done by such public servant in lawful discharge of his duty.

13. At this juncture, it is also necessary to refer to Section 350 of the IPC, which defines “criminal force”:

“**350. Criminal force.**— *Whoever intentionally uses force to any person, without that person’s consent, in order to the*

*committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.”*

Thus, to constitute “criminal force”, there must be intentional use of force without consent with the requisite intention or knowledge contemplated under the provision.

14. Section 349 of the IPC defines “force”, and the same reads as under:

*“349. Force.— A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other’s body...”*

15. Likewise, Section 351 of the IPC defines “assault” to mean making any gesture or preparation intending or knowing it to be likely that such gesture or preparation would cause apprehension that criminal force is about to be used.

In the backdrop of the aforesaid legal provisions, the evidence led by the prosecution is required to be scrutinized carefully.

16. The prosecution mainly relies upon the testimony of PW-3, who is the informant and the star witness of the prosecution. According to PW-3, he was posted as Jt. Engineer at M.S.E.D.C.L. office at Andoor and therefore claims the status of a public servant. However, except for the bare oral assertion of PW-3, there is no documentary evidence on record to establish that he was serving with M.S.E.D.C.L.

on the date of incident. No appointment order, identity card, service certificate or any official record has been produced by the prosecution in support thereof. Though the defence has not seriously disputed this aspect, it is a settled principle of criminal jurisprudence that the prosecution must stand on its own legs and prove every foundational fact beyond reasonable doubt.

17. Coming to the core ingredients of Section 353 of IPC, the prosecution is further required to establish that criminal force or assault was used against PW-3 with intent to obstruct or deter him from discharging his official duty.

18. In a recent judgment of three-judge Bench the Hon'ble Supreme Court in **Mahendra Kumar Sonker Vs. The State of Madhya Pradesh** (CRIMINAL APPEAL NO. 520 OF 2012) has observed as follows:

*“28. Having considered the oral evidence and the medical evidence, we are constrained to conclude that the prosecution has not established that the appellant has assaulted or used criminal force against the trap party. In fact, what transpires is that when the appellant was apprehended there appears to have been an attempt by the appellant to wriggle out and jostling and pushing 16 appears to have happened, in the process of the appellant trying to extricate himself from the arrest. None of the ingredients of assault or criminal force have been attracted.*

*29. Further, there is absolutely no evidence to show that the accused used any hard and blunt object. PW-13 Dr. H.L. Bhuria had deposed that the injuries on PW-9 Niranjana Singh, PW-8 N.K. Parihar, Constable Raj Kumar and Constable Shivshankar might have been caused by hard and*

*blunt object. In view of the above, there is no evidence to indicate that the accused assaulted or used criminal force on the trap party in execution of their duties or for the purpose of preventing or deterring them in discharging their duties. In short, none of the ingredients of Section 353 are attracted. The jostling and pushing by the accused with an attempt to wriggle out, as is clear from the evidence, was not with any intention to assault or use criminal force.*

30. *In fact, it will be interesting here to contrast Section 17 353 of the IPC with Section 186 of the IPC under which Section the appellant has not been charged. Section 186 of the IPC reads as follows. “186. Obstructing public servant in discharge of public functions.- Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.” 31. To take cognizance of Section 186, the procedure under Section 195(1)(a)(i) of the Cr.P.C. ought to have been followed. There is not even a complaint by the officer against the appellant for any offence having been committed under Section 186 of the IPC.*

32. *In view of the above, we have no hesitation in setting aside the judgment of the High Court. The result would be that the appellant would stand acquitted for the offence under Section 353 of the IPC. The Conviction under Section 353 of the IPC and the sentence imposed are set aside. The appeal is allowed. The bail bonds shall stand discharged”*

19. Applying the aforesaid observations to the facts of the present case, it becomes evident that the prosecution has failed to establish the essential ingredients necessary to attract the offence alleged against the accused. A careful scrutiny of the evidence on record demonstrates that there is no reliable and independent proof of any

assault upon the informant (PW-3), except for the uncorroborated and self-serving version of the informant himself. Significantly, no convincing ocular or documentary evidence has been brought on record to substantiate the allegation that the accused had intentionally assaulted or used criminal force against the informant while he was discharging his official duties.

20. The Hon'ble Supreme Court in ***Mahendra Kumar Sonker Vs. The State of Madhya Pradesh (Criminal Appeal No. 520 of 2012)*** has categorically held that mere jostling, pushing, resistance, or an attempt to extricate oneself, without the requisite intention to assault or use criminal force, would not satisfy the ingredients of Section 353 IPC. The Court further held that where the evidence does not establish assault or use of criminal force against a public servant in the discharge of official duties, conviction under Section 353 IPC cannot be sustained.

21. In the present case, the prosecution evidence stands on an even weaker footing. Unlike the facts before the Hon'ble Supreme Court, where there was at least an allegation of physical interaction during apprehension, the present record does not furnish dependable evidence of any assault whatsoever. There is no cogent material demonstrating that the accused persons used criminal force, caused any injury, or acted with the intention of deterring the informant from discharging his official functions. The prosecution has also failed to establish the specific overt act attributable to the accused persons.

22. Therefore, the ratio laid down by the Hon'ble Supreme Court squarely governs the present case. Since the prosecution has

failed to prove either the identity of the accused persons as the offenders or the commission of any act amounting to assault or use of criminal force, the foundational ingredients of the alleged offence remain unproved. Consequently, applying the principles enunciated by the Hon'ble Supreme Court in *Mahendra Kumar Sonker* (supra), the accused is entitled to the benefit of doubt, and the prosecution case deserves to be rejected.

**Proof regarding assault:**

23. Meticulous perusal of the testimony of PW-3 who is the star witness of the prosecution would show that he has categorically deposed that both the accused persons abused, threatened and banged the chair in his office. There is no whisper in his version that the accused used any criminal force and assaulted him.

**Obstruction in discharge of official duty:**

24. Even assuming for the sake of argument that some altercation had taken place between PW-3 and the accused persons, the evidence on record does not establish that the accused persons used criminal force with intention to obstruct or deter PW-3 from discharging his official duties. The essential ingredients of Section 353 of IPC are therefore not established.

**Non-examination of independent witnesses:**

25. It is admitted by PW-1 to PW-3 that the spot of incidence is in a busy locality. However, the prosecution has failed to examine any independent witness. Non-examination of such material witnesses creates a serious dent in the prosecution case.



**Conclusion:**

26. Upon overall appreciation of the evidence, this Court finds that the testimony of PW-3 who is the star witness of the prosecution, does not make out the ingredients of the charge. The prosecution has failed to prove the guilt of the accused beyond reasonable doubt. Consequently, the accused persons are entitled to benefit of doubt. Hence, **point no. 1 & 2 are answered in negative.**

**As to point No.3:**

27. In view of the findings as to point Nos. 1 & 2 the accused persons deserve to be acquitted. Hence, the following order:

**:: O R D E R ::**

1. Accused Nos. 1 & 2 are hereby acquitted of the offences punishable under Sections 353, 504 r.w.34 of the Indian Penal Code, 1860, as per section 235(1) of the Cr.P.C.
2. Accused are on bail. Their bail bonds stand cancelled.
3. Accused Nos. 1 & 2 are directed to furnish P.B. & S.B. of Rs.50,000/- each, with one or more surety in the like amount, in compliance with Section 437-A of Cr.P.C., to appear before the Hon'ble High Court in case the Court issues notice to accused in respect of appeal against the acquittal of accused.
4. Record and proceeding of Sessions Case No. 47/2020 be consigned to record room.
5. Sessions Case No. 47/2020 stands disposed off.

Sd/-

(A.D. Deo)

Dated: 16-07-2026.

Sessions Judge, Osmanabad.

**CERTIFICATE**

I affirm that, the contents of this P.D.F. file Judgment/order are same, word to word, as per the original Judgment/order.

|                                          |    |                                   |
|------------------------------------------|----|-----------------------------------|
| Name of Stenographer                     | -- | A.S.Aghor, Stenographer (Grade-I) |
| Court                                    | -- | District Court, Osmanabad         |
| Date                                     | -- | 16-07-2026                        |
| Order signed by the Presiding Officer on | -- | 16-07-2026                        |
| Order uploaded on                        | -- | 17-07-2026                        |