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Decided on : 13/07/2026
Duration : Y M D
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Exhibit No.26

IN THE SESSIONS COURT, PUNE.

(Presided over by S.S. Kanthale, Addl. Sessions Judge, Pune)

Criminal Appeal No.144/2017

1 Sandeep Dadabhau Dasgude,
Age – 35 years, Occ. Agri. .. **Appellants**

2. Ankush Karbhari Raskar.
Age – 25 years, Occ. Agri.

Both R/at Annapur, Tal. Shirur,
Dist. Pune.

Versus

State of Maharashtra .. **Respondent**

Shri Sinalkar, advocate for the Appellant.
Shri Wadekar, APP for the respondent

JUDGMENT

(Delivered on 13/07/2026)

1. The challenge in the present appeal is to the conviction of the appellants/accused in RCC No.3960/2008 by judgment dated 02/03/2017 passed by the learned 19th JMFC, Pune, whereby the appellants/accused were held guilty of committing an offence under Section 392 read with Section 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.5000, in default to suffer

further rigorous imprisonment for one month.

2. The facts relevant for the present appeal are as follows:

The informant, Uday Badve, was working as a site supervisor with Vijay Construction, Indapur. On 04/04/2008, after having dinner at about 8.00 pm with two of his colleagues at Kiran Hotel, Sanaswadi, he was waiting on Nagar Road for a lift to Pune station. A Sumo jeep coming from the Nagar side stopped and offered him a lift, and he sat in the middle seat. There was a driver and a co-passenger in front, another passenger beside the informant, and one on the rear seat. On reaching Perne toll booth at about 11.00 pm, the driver asked the informant to bend down and pretend to be asleep so as to save toll, which he did. As the jeep passed the toll booth, the person on the rear seat suddenly put a belt around the informant's neck tried to strangle him, while the person beside him caught both his hands and pressed his head down, and the passenger from the front came over to the middle seat, sat upon him and threatened him to hand over his money and valuables. One of the assailants threatened to remove his kidney with a Kukri. The informant thus parted with his mobile phone of PDA make, cash of Rs.1560 and a gold chain of 13 grams. The assailants then pushed him out of the jeep and sped away. The informant went to the gate of one Constrick company and, with the help of a security guard, telephoned his master Sunil Argade and informed him of the incident. Sunil Argade in turn informed the informant's colleague Shashikant Salgude, who came immediately with two others and took the informant on motorcycle to Lonikalbhor Police Station, where a report was

lodged. On that basis, Crime No.124/2008 came to be registered. During the investigation, the police visited the crime scene, conducted a panchnama and recorded statements of witnesses. Accused no.2 Ankush came to be arrested and confessed his involvement along with the co-accused, stating that he had sold the robbed gold chain to a jeweller. The gold chain was accordingly recovered pursuant to his disclosure in custody, and certain cash was also seized. The vehicle used in the commission of the crime was seized as well. The informant's mobile phone of PDA make was produced before the police by the father of accused no.4 Santosh Raskar, and was duly identified by the informant and seized. Finding sufficient evidence, the police charge-sheeted the accused for the above offence.

3. The trial court framed a charge under Section 392 read with Section 34 of the Indian Penal Code against the accused persons and recorded the evidence of six witnesses examined by the prosecution. These included, among others, the victim/informant, his master Sunil Argade (who also acted as a panch witness), the jeweller, the acquaintance who took accused Ankush to the jeweller, and a panch witness to the seizure of the mobile. The accused denied their involvement and alleged false implication. By the impugned judgment dated 02/03/2017, the trial court acquitted accused no.3 Rajendra and accused no.4 Santosh Gitaram Raskar, and convicted accused no.1 Sandeep Dasgude and accused no.2 Ankush Raskar of the offence under Section 392 read with Section 34 of the Indian Penal Code, sentencing them to suffer rigorous

imprisonment for one year and to pay a fine of Rs.5000, in default to suffer further rigorous imprisonment for one month. Being aggrieved, the appellants have preferred the present appeal.

4. It was submitted on behalf of the appellants/accused that the impugned verdict holding them guilty is erroneous and that the evidence on record does not warrant a conviction. The FIR (Exh.61) was registered belatedly, after about 20 hours, and only after the accused were arrested. Complete recovery of the articles from the accused was improbable. Accused no.2 Ankush Raskar is alleged to have sold the robbed gold chain to the jeweller, yet the jeweller failed to identify him before the court, and no test identification parade was conducted. The conviction rested only on the two accused produced by the police. There was no record of the vehicle passing the toll plaza. The accused were wrongly implicated in a fabricated case. The learned advocate for the appellants accordingly urged that the conviction be set aside and the accused acquitted.
5. The learned APP for the respondent State defended the verdict and justified the conviction. He submitted that the robbed gold chain was recovered from the jeweller in the same condition, at the instance of the accused, and that the informant's mobile phone, bearing a distinctive PDA identification, was received from the father of another accused. The accused had failed to explain the recovery of the robbed articles at their instance. He submitted that the trial court had correctly appreciated the evidence and rightly held accused no.1 Sandeep Dasgude and

accused no.2 Ankush Raskar guilty, and thus urged to dismiss the appeal.

6. Having gone through the impugned judgment, the record of evidence before the trial court and the contentions raised in the appeal, the following points arise for my determination, and I record my findings thereon for the reasons that follow.

	POINTS		FINDINGS
1.	Does the finding of the trial court holding accused no.1 Sandeep Dasgude and accused no.2 Ankush Raskar guilty of the offence under Section 392 read with Section 34 of the Indian Penal Code emerge, on the evidence on record, to be incorrect, erroneous or vitiated by material legal infirmity, and does it require interference in the present appeal?	..	In the negative.
2.	Does the sentence of rigorous imprisonment for one year and fine of Rs.5000 awarded by the trial court requires interference?	..	In the negative.
3.	What order?	..	As per final order.

R E A S O N S

As to Point Nos.1 & 2 :-

7. I have heard the learned advocate for the appellants at length and the learned APP, and I have gone through the evidence and the impugned judgment of the trial court.
8. As regards the testimony of the informant/original complainant Uday Badve (PW-1), he appears to have deposed in complete

consonance with the incident that took place with him and with the facts he reported to the police while lodging his report. The learned trial court has duly appreciated his evidence in paras 9 and 10 of the impugned judgment. His deposition reflects that after having dinner with his colleagues at Kiran Hotel, Sanaswadi, he was waiting for a lift to Pune station when the driver of a Sumo jeep offered him one and asked him to sit in the middle row, there being three other passengers apart from the driver. PW-1 Uday deposed that as the jeep reached the toll plaza at about 11.00 to 11.30 pm, the driver asked him to pretend to be asleep to avoid toll, whereupon the person seated behind suddenly put around a belt around his neck and tried to strangle him. The person beside him pressed his head down, and the person from the co-driver's seat came over and sat upon him. They robbed him of Rs.1560 in cash, a gold chain of 13 grams bearing the word 'Om' on a heart-shaped pendant and a mobile phone of PDA make, and one of them threatened to remove his kidney with a Kukri. After robbing him, the assailants then threw him out of the jeep and drove back towards the toll post. Before the trial court, PW-1 Uday duly identified all the accused persons as the assailants at the time of his evidence.

9. I have gone through the informant's evidence, its appreciation by the trial court and his cross-examination. Nothing has come in the cross-examination to contradict his version or to question his identification of the accused as the assailants, nor was anything put to him to suggest that he bore any personal animosity against the accused or was naming them for any

vested interest or other reason. The trial court rightly observed that there was no material exaggeration, contradiction or omission in his testimony to cast doubt on its authenticity. In the appeal too, the learned advocate for the appellants has not pointed out any material infirmity or inconsistency affecting the credibility of PW-1 Uday Badve. His testimony thus emerges as probable, believable and reliable, and the trial court rightly relied upon it as truthful in recording the finding of guilt.

10. PW-2 Sunil Argade, the master of the informant, deposed that on 04/04/2008 at about 11.15 to 11.30 pm the informant telephoned him and informed him of the incident, upon which he informed his partner Shashikant and asked him to visit the informant at once. This part of his evidence, regarding the informant's call and his instruction to Shashikant, is undisputed and unchallenged.
11. PW-2 Sunil Argade was also a witness to the seizure of the Sumo jeep bearing registration MH-12/CR-3798 from accused no.1 Sandeep Dasgude and accused no.2 Ankush Raskar, and to the seizure of the robbed chain from Navkar Jewellers, Shirur. He testified to both seizures and was extensively cross-examined on each.
12. The trial court then considered the evidence of PW-5 Ganesh Shinde, who deposed that his old acquaintance Gitaram Raskar came to his shop along with Ankush Raskar and said that Ankush wished to sell a gold chain as he needed money but had no receipt for it, the chain having been received from his in-laws. At Gitaram's request, PW-5 Ganesh Shinde took him and

Ankush Raskar to PW-4 Ratilal Kothari of Navkar Jewellers at Subhash Chowk, Shirur. PW-4 Ratilal also asked for a receipt and was given the same explanation for its absence. Relying on PW-5 Ganesh Shinde, PW-4 Ratilal accepted the gold chain, which weighed 13.3 grams, and paid Ankush Rs.8300 for it.

13. The panch witness PW-3 Chandrakant Kand, who was a witness to the seizure of the gold chain from Navkar Jewellers, however, turned hostile.
14. The trial court nevertheless relied on the evidence of PW-5 Ganesh Shinde and PW-4 Ratilal Kothari, both of whom confirmed that Gitaram Raskar had visited the shop with Ankush Raskar to sell the gold chain and that Ankush Raskar had received Rs.8300/-from PW-4 Ratilal Kothari. In the trial court's view, this was sufficient to link accused Ankush Raskar to the crime, since the informant Uday had later identified the recovered gold chain as the one robbed in the incident.
15. The learned advocate for the appellants submitted that the trial court erred on these aspects. First, PW-5 Ganesh Shinde categorically deposed that he could not identify the Ankush Raskar who had allegedly accompanied Gitaram Raskar to him. Secondly, though PW-4 Ratilal Kothari claimed he could readily identify the person who had come to his shop with PW-5 Ganesh Shinde and Gitaram Raskar to sell the gold chain, he failed to identify accused Ankush Raskar before the court on the day of evidence.
16. The record shows that on the day of this evidence three accused, namely, accused no.1 Sandeep Dasgude, accused no.3

Rajendra Rasal and accused no.4 Santosh Raskar, were in jail custody and produced by video conference, while accused no.2 Ankush Karbhari Raskar was on bail and present in court. Even so, PW-4 Ratilal Kothari did not identify accused no.2 Ankush Raskar as the person who came with Gitaram Raskar to sell the gold chain, nor did he confirm any of the three accused in custody as that person. He pointed only to accused no.1 Sandeep Dasgude, as the person who had visited his shop later, with the police, at the time of the recovery. The learned advocate for the appellants therefore argued that, on these facts, the conviction of accused no.2 Ankush Raskar was erroneous.

17. The learned APP, on the other hand, pointed to the reasons recorded by the trial court for this lapse of the witness. In para 23 of the impugned judgment, the trial court referred to Simon & Ors. v. State of Karnataka, 2004 ALL MR (Cri.) 1171 (SC), and Deepak Kanhayyalal Sarwaiyya v. State of Maharashtra, 2005 ALL MR (Cri.) 2462, and held that a mere wrong identification by one witness cannot by itself be fatal to the prosecution, since it may arise from loss of memory or some other reason, and that the case had to be decided on an appreciation of the evidence of all the witnesses.
18. I find no flaw in this reasoning of the trial court in not treating the wrong identification by PW-4 Ratilal Kothari as decisive. One thing is clear from the prosecution evidence: the chain robbed in the incident had reached the shop of PW-4 Ratilal Kothari of Navkar Jewellers and was seized from that shop,

albeit at the instance of the other convicted accused.

19. In the present case, the testimony of the informant Uday Badve has remained unshaken. He precisely identified all the accused before the court as the persons who gave him the lift and then robbed him after crossing the toll plaza. Relying on the two decisions noted above, the trial court held that identification of an accused for the first time in court, even in the absence of a test identification parade, can form the basis of a conviction, and it thereby answered the appellants' argument that no test identification parade had been held during the investigation.
20. It is settled law that defects or lapses in the investigation do not by themselves warrant an acquittal, particularly where the evidence of the victim or of the witnesses to the crime is credible, reliable and believable. The non-examination of the Investigating Officer in this case therefore cannot render the trial court's verdict perverse. The trial court recorded due reasons to hold accused nos.1 and 2 guilty, relying primarily on the reliable testimony of the informant, supported by the recovery of the gold chain from PW-4 Ratilal Kothari of Navkar Jewellers and the production of the mobile phone before the police by the father of accused no.4 Santosh Raskar. The appellants have offered no explanation as to how the informant's mobile phone came into the hands of the father of an accused, or why he produced it before the police.
21. The learned advocate for the appellants further sought to point out various flaws in the investigation and in the factum of identification of the seized property by the witnesses. He

submitted that if the gold chain produced by the jeweller had been sealed after seizure, it could not have been identified by the informant, and that the wrappers and seals were not produced before the court. He also questioned why only part of the cash was seized and what had happened to the remaining amount, and argued that there was no evidence of the vehicle crossing the toll plaza at the relevant time.

22. All these are essentially procedural aspects of the investigation. Even assuming some procedural defect, the accused can draw no undue benefit from it, particularly when the informant's testimony before the court is unimpeached, and no reason for false implication has been attributed to him, and his distinct property, namely the gold chain and the mobile phone, was recovered at the instance of the convicted accused. The trial court recorded cogent reasons for believing the informant and for taking due account of the recovery of the gold chain and the mobile phone as deposed to by the witnesses.
23. Sitting in appeal, I find no perversity or wrong appreciation of fact in its conclusions, and cannot take a different view merely on the strength of certain defects pointed out in the investigation. The finding of guilt recorded by the trial court against the appellants is correct, proper and legally sound, and cannot be interfered with in appeal. Point No.1 is accordingly answered in the negative.
24. As regards the sentence, the trial court has imposed an adequate sentence upon robbers who waylaid an innocent person and robbed him of his belongings under the guise of

offering a lift. The sentence does not appear harsh or excessive, and in the absence of any cogent ground, it would not be proper for this court to interfere with or reduce it. Point No.2 is accordingly answered in the negative.

25. Having answered the points as above, I pass the following order.

ORDER

1.	The appeal is dismissed under Section 386 of the Code of Criminal Procedure.
2.	The judgment dated 02/03/2017 of the learned 19th JMFC, Pune, convicting the appellants for the offence under Section 392 read with Section 34 of the Indian Penal Code is confirmed.
3.	The sentence awarded by the trial court is maintained.
4.	The appellants/accused Sandeep Dadabhau Dasgude and Ankush Karbhari Raskar are in jail custody. They shall serve the remaining part of the sentence awarded by the trial court.
5.	R & P be sent back to the trial court with the copy of this judgment.
6.	The trial court and the Superintendent of Prison, Pune, be informed of the dismissal of the appeal and confirmation of sentence accordingly.

Place : Pune.

Date : 13/07/2026

(S.S. Kanthale)

Additional Sessions Judge,
Pune.

CERTIFICATE

I affirm that the contents of the PDF file Judgment are same word for word as per original Judgment.

Name of Steno	PS. More, Grade-3
Name of Court	Shri. S.S. Kanthale District Judge 1 and ASJ, Pune.
Date of Order	13/07/2026
Order signed by PO	15/07/2026
on	
Order uploaded on	15/07/2026