

 MHPU-07000046-2009	Received On	20/03/2009
	Registered On	20/03/2009
	Decided On	16/07/2026
	Duration	17Y 03M 26Ds

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
RAILWAY COURT PUNE, AT PUNE.
(Presided over by N. J. Chavan)

REG. CRIMINAL CASE NO. 28/2009.

Exh. No. 63

The State of Maharashtra, Through Police Inspector, Govt. Railway Police Station, Pune, Dist. Pune	PROSECUTION
V E R S U S	
Amit Dattatrya Karmalkar	ABSCONDING ACCUSED.

<u>OFFENCE :-</u>	<u>UNDER Sec. 170 & Sec. 384 OF THE INDIAN PENAL CODE, 1860.</u>
<u>APPEARANCE :-</u>	APP Smt. A. S. Kale, for the Prosecution.
	Nil

1	Date of offence	19/01/2009
2	Date of FIR	19/01/2009
3	Date of charge-sheet	20/03/2009
4	Date of Framing of Charges	08/04/2009
5	Date of commencement of evidence	28/01/2026
6	Date on which judgment is reserved	-
7	Date of the Judgment	16/07/2026
8	Date of the Sentencing Order, if any	-

2]

ACCUSED DETAILS

Rank of the Accused	Name of accused	Date of Arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed.	Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C.
1.	Amit Dattatrya Karmalkar	19/01/2009	20/01/2009	Sec. 170 & Sec. 384 OF I.P.C.	Acquitted	-	-

3]

LIST OF PROSECUTION WITNESSES

RANK	Name	Exh. Nos.	NATURE OF EVIDENCE
P.W.1	Sunil Pandurang Mane	55	Police Witness
P.W.2	Lata Babulal Deshmukh	56	Arrest Panch
P.W.3	Haribhau Bhagwan Markad	60	Investigating Officer

4]

LIST OF PROSECUTION EXHIBITS

Sr.No.	Exh. Nos.	Description
1.	57	Arrest Panchanama
2.	61	Ticket of Deccan Express Train
3.	62	Seizure Panchanama

Material Objects/ Muddemal :

Sr.No.	Material Object Number	Description
1	5/09	4 notes of Rs. 100/- Indian currency total amount Rs.400/-

J U D G M E N T

(Delivered On 16/07/2026)

Accused is charged for the offence punishable under **Sec. 170 & Sec. 384** of the Indian Penal Code.

The prosecution story is summarized as under:-

2. Complainant Prashant Ramesh Gade was working at mobile repairing shop. Incident has occurred on 19/01/2009 between 02.30 p.m. to 03.00 p.m. at Pune Railway Station. Complainant boarded the Deccan Express train on platform no. 4 of Pune Railway Station. Thereafter, the Complainant went to the General Bogie of the said train and sat down on his seat. At that time, accused came there and impersonated and pretended to be a public servant i.e. Railway Police knowing that he did not hold any such office and in such assumed character, intentionally put the complainant in fear of arresting him in a false case and dishonestly induced him to deliver cash amount Rs. 400/-. Thereafter, Complainant lodged report against said person. Accordingly, crime bearing Cr. No. 71/1993 is registered against the accused persons.

3. As per the complaint, Crime Bearing No. 10/2009 punishable under **Sec. 170 & Sec. 384** of the Indian Penal Code (“**In short I.P.C.**”) came to be registered. Investigating Officer **Prakash Sadhu Kadam** investigated the crime. He recorded the statements of witnesses and visited the spot. He arrested the accused and seized

muddemal and executed seizure panchanama. As the sufficient evidence was gathered against the accused, he submitted final report (charge-sheet) bearing no. 12/2009 in the Court for the offence punishable under **Sec. 170 & Sec. 384** of I.P.C against the accused.

4. My Ld. predecessor have framed charge against the accused at **Exh. 5**. The contents of it were read over and explained to accused in vernacular, but he pleaded not guilty and claimed to be tried. His statement is recorded below **Exh. 6**. After framing of charge accused did not turn up for the trial. My Ld. Predecessor issued non-bailable warrant time to time to secure his presence, but presence of accused could not be secure. Thereafter, proclamation was issued against the accused. Report of proclamation and panchanama is filed below **Exh. 51**. As the accused has absconded, case proceeded under Sec. 299 of Cr.P.C. In view of order passed below Exh. 1 on 21/01/2026.

5. Prosecution examined 3 witness as per **Sec. 299** of Cr.P.C. Sunil Pandurang Mane is examined below **Exh. 55**, Arrest Panch - Lata Babulal Deshmukh (PW-2) is examined below **Exh. 56** and Investigating Officer Haribhau Bhagwan Markad (PW-3) is examined below **Exh. 60**. Prosecution could not secure the presence of informant in the present case. Accused is absconded even today and persistently evaded the Court process and willfully failed to appear despite being given proper and reasonable opportunities. Hence, statement of accused under **Section 313** of Cr.P.C. is dispensed with to avoid further delay in the trial.

6. Heard Ld. APP Smt. A. S. Kale for Prosecution. As the accused is absconded, she has prayed to pass appropriate order. After considering allegations made in the F.I.R. and evidence adduced by the

Prosecution, following points arise for my determination upon which I have recorded my findings for the reasons given hereunder-

Sr. No.	POINTS FOR DETERMINATION	FINDINGS
1.	Does the prosecution prove that, on 19/01/2009 between 02.30 p.m. to 03.00 p.m. in General Bogie of Deccan Express train, accused pretended to hold office of Railway Police, Pune as public servant and in such assumed character committed the act of extortion and thereby committed an offence punishable under Sec. 170 of I.P.C., 1860?	In the Negative.
2.	Does the prosecution prove that, on above mentioned date, time and place accused pretending to be public servant, intentionally put the complainant in fear of arresting him in a false case and dishonestly induced him to deliver cash amount Rs. 400/- and thereby committed an offence of extortion punishable under Section 384 of the I.P.C., 1860?	In the Negative.
3	What order ?	As per final order

REASONS

7. Absconding accused is facing trial for the offence punishable under **Sec. 170 & Sec. 384 of I.P.C.** To prove said offences against the accused, prosecution has examined 3 witnesses and relied upon documentary evidence.

AS TO POINTS NOS. 1 and 2 :-

8. Both points are interconnected with each other hence answered together to avoid repetition. In order to prove the charge against accused, prosecution must prove beyond reasonable doubt that, on 19/01/2009 between 02.30 p.m. to 03.00 p.m. Complainant Prashant Ramesh Gade had arrived at Pune Railway Station to go to Thane. Thereafter, the Complainant went to the General Bogie of the said train and sat down on his seat. At that time, accused came there and impersonated and pretended to be a public servant i.e. Railway Police knowing that he did not hold any such office and in such assumed character accused intentionally put complainant in fear of arresting him in a false case and dishonestly induced him to deliver cash amount Rs. 400/-.

9. In order to appreciate the evidence on record, it is equally important to understand essential ingredients of offence of personating a public servant. Therefore, Sec. 170 is reproduced hereunder -

170. Personating a public servant.—

“Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

10. To prove the offence under Sec. 170 of I.P.C. the prosecution must establish that the accused falsely pretended to be a

public servant knowing that he did not hold any such office and in such assumed character he did or attempted to do an act under the color of that office.

11. It is also important to reproduce here Sec. 383 & Sec.384 of I.P.C. which defines extortion and provides punishment for extortion -

Sec. 383. Extortion.—

Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits “extortion”.

384. Punishment for extortion —

Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

12. In order to establish the offence of extortion, the prosecution must prove that the accused intentionally put the complainant in fear of injury. Such fear induced the complainant to deliver property or valuable security. In criminal jurisprudence the burden lies entirely upon the prosecution to prove the guilt of accused beyond reasonable doubt. The evidence adduced by the prosecution needs to be appreciated in view of aforesaid sections.

13. In the case in hand, prosecution could not secure the presence of accused as well as the complainant. Sunil (PW-1) who is a Police Witness has deposed that, in the year 2009 he was appointed as Constable at Local Crime Branch, Railways, Pune. On 19/01/2009 he saw two persons were forcefully taking another person with them.

When confronted they informed the third person as their brother. Later in the inquiry, he came to know that they were taking him intentionally and was demanding money. Victim had given 400/- rupees to them. Thereafter, he submitted his report to Inspector, Local Crime Branch, Railways, Pune.

14. Prosecution further examined Lata Deshmukh (PW-2) who is a panch on arrest panchanama. She deposed that, on 19/09/2009 she was called by Markad Saheb for the purpose of panchanama in the Police Station. She saw one person was apprehended by Police. They seized Rs. 400/- from his possession and arrested him as per arrest panchanama **Exh.57**.

15. Prosecution examined Investigating Officer Haribhau Markat (PW-3) to prove the procedure and manner of investigation. He deposed that, during investigation he obtained the ticket **Exh. 61** from the Complainant and seized cash amount of Rs. 400/- from the possession of accused in the presence of panch witnesses. He also executed seizure panchanama **Exh. 62** and arrested accused as per arrested panchanama **Exh. 57**. Thereafter he got transferred and investigation was handed over to Head Constable, Kadam. He identified the seized muddemal before the Court.

16. To bring home the guilt of accused it was necessary on the part of prosecution to prove that, on 19/01/2009 between 02.30 p.m. to 03.00 p.m. Complainant Prashant Ramesh Gade had arrived at Pune Railway Station to go to Thane. Thereafter, the Complainant went to the General Bogie of the said train and sat down on his seat. At that time, accused came there and impersonated and pretended to be a public servant i.e. Railway Police knowing that he did not hold any such office and in such assumed character accused intentionally put complainant in fear of arresting him in a false case and dishonestly

induced him to deliver cash amount Rs. 400/-.

17. In the case in hand, prosecution has failed to examine and bring on record the evidence of the Complainant Prashant Gade. There is no eye witness to the present incident. As per the story of prosecution, apart from Complainant none has seen the accused except Police Witnesses. Sec. 170 of Indian Penal Code contemplates punishment where a person falsely personates a public servant and in such assumed character does or attempt to do any such act under color of such office. Therefore, it was the duty of the prosecution to prove that accused falsely pretended to hold office of Railway Protection Force and he was conscious to know that he was not entitled to hold such office. Importantly, in that assumed character he performed such act under the color of such office. The evidence adduced by the prosecution, falls short of establishing these essential ingredients. In absence of testimony of the Complainant, it cannot be understood and proved that the alleged offence has been committed by present accused. There is no independent witness who would establish that, accused represented himself to be a public servant. Neither any forged identity card, uniform or appointment order nor any other incriminating article has been seized from the possession of accused except the cash amount of Rs. 400/-. The oral testimonies of prosecution witnesses are not sufficient to bring home the guilt of accused under Sec. 170 of I.P.C.

18. Importantly, even if it is assumed that the accused introduced himself in a particular manner, the prosecution has failed to establish that in the assumed character accused did any act under color of such office. Mere suspicion however strong, cannot substitute the proof. Likewise, to constitute the offence of extortion the prosecution should have proved that the accused intentionally put the

complainant in fear of injury and thereby dishonestly induced the complainant to deliver the property or valuable security. The existence of fear of injury and the consequential delivery of property constitute the offence of extortion.

19. After careful appreciation of prosecution evidence it is clear that, prosecution has miserably failed to prove the guilt of accused because of non examination of complainant himself. Complainant was the only witness who could depose before the Court regarding the alleged act of accused. There is no eye witness to the present case. There is no reliable evidence to demonstrate that, cash amount of Rs. 400/- was delivered by the complainant under the fear of injury. The recovery of alleged cash amount is proved in the evidence of Lata. However, mere recovery of money is not sufficient to prove the offence of extortion. Identification of the seized cash was only possible from the evidence of complainant. However, that has not happened in present case. The prosecution has failed to establish the nexus between the alleged threat and the alleged delivery of property. Therefore, the essential ingredients of offence of extortion are not proved beyond reasonable doubt.

20. It is the cardinal principle of Criminal Law that, every accused is presumed to be innocent unless his guilt is proved beyond reasonable doubt. In the present case, the prosecution has failed to discharge the burden cast upon it by the law to prove the charges against present accused. Consequently, the accused is entitled to the benefit of doubt and deserves to be acquitted from aforesaid charges. Thus, I answer point no. 1 and 2 in the negative and record my findings accordingly.

AS TO POINT NO. 3:-

21. The prosecution has failed to prove the case beyond reasonable doubt. There is no cogent, reliable, convincing and satisfactory evidence on record to believe the prosecution story to be true and probable. The accused is therefore entitled for benefit of doubt and deserves to be acquitted from all charges leveled against him. In the result, I pass following order :-

ORDER

1)	The absconding accused Amit Dattatrya Karmalkar is acquitted from the offence punishable under Sec. 170 & Sec. 384 of the Indian Penal Code, 1860 vide Section 248(1) of Cr.P.C.
2)	Bail bonds of accused if any, are canceled.
3)	Seized cash amount of Rs. 400/- be credited to the accounts of Government as per rules after appeal period is over. P.I. G.R.P., Pune to file its compliance on record.
4)	Non-bailable warrants issued against accused are canceled.

(Judgment is pronounced in open court.)

Date : 16/07/2026
Place : Pune.

(N. J. Chavan)
Judicial Magistrate, F. C.,
Railway Court, Pune

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same word for word as per Original Order.

Name of the Steno	:	R.R.Kshirsagar (Stenographer Grade III)
Name of the Court	:	N.J.Chavan Judicial Magistrate First Class Railway Court, Pune.
Date of Order	:	16/07/2026
Order Signed by P.O. on	:	16/07/2026
Order uploaded on	:	16/07/2026