

MHPU200016062013



Presented on	:	27/12/2013		
Registered on	:	27/12/2013		
Decided on	:	03/07/2026		
Duration	:	YY	MM	DD
		12	06	12

	<u>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS AT GHODNADI SHIRUR, COURT NO. 4 DIST. PUNE</u>	
	Presided Over By Chandramohan Mohan Kharkar	
	Date of Judgment	03/07/2026
	Regular Criminal Case No.	453/2013 CNR No. MHPU200016062013
	Exhibit No.	79
	FIR No.	38/2012 Registered For the offence punishable U/sec. 420, 409 R/w. 34 of the Indian Penal Code, 1860.
	Police Station.	Shikhrapur Police Station, Tq. Shirur, Dist. Pune

Complainant		The State of Maharashtra. Through P.S.O. Shikhrapur Police Station, Tq. Shirur, District:- Pune
Represented By		Ld. A.P.P. Mr. Arane
Accused.	01.	Nilesh Balasaheb Dhamdhare Age:- 28 years, Occupation:- Agri., R/o. Katheali, Tq. Shirur, District:- Pune
	02.	Satyavir Ramaji Sharma Age:- 32 years, Occupation:- Agri., R/o. Near Janaki Hotel, Aanad Park, Koregaon Bima, Tq. Shirur, District:- Pune

	03. Radha Kanhayya Agarwal Age:- 60 years, Occupation:- Housewife, R/o. Flat No.1 A-1 Niranjan Classic Bhusar Colony, Kothrud, District:- Pune
Accused Represented By	Ld. Adv. G. E. Darekar for the accused no.1 & 2 Ld. Adv. V. B. Koshe for the accused no. 3

Part “B”	
Date of offence	29/04/2010 to 26/10/2010
Date of FIR	07/03/2012
Date of Charge-sheet	20/12/2013
Date of Framing Charge	28/04/2017
Date of Commencement of Evidence	01/07/2017
Date of which the Judgment is reserved	NIL
Date of Judgment	03/07/2026
Date of sentencing Order if any.	Nil

Accused Details.							
Ran k of the Accu sed.	Name of the 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.PC.
01.	Nilesh Balasaheb Dhamdhere	14/07/ 2013	14/07/ 2013	Section 420, 409 R/w. 34 of Indian Penal Code, 1860	Acquitted.	Nil.	Nil.

02.	Satyavir Ramji Sharma	14/07/ 2013	14/07/ 2013	Section 420, 409 R/w. 34 of Indian Penal Code, 1860	Acquitted.	Nil.	Nil.
03.	Radha Kanhayya Agarwal	13/07/ 2013	13/07/ 2013	Section 420, 409 R/w. 34 of Indian Penal Code, 1860	Acquitted.	Nil.	Nil.

:: J U D G M E N T ::

(Delivered on this day 03rd of July 2026)

The accused are facing trial for the offence punishable U/sec.420, 409 R/w. 34 of the Indian Penal Code, 1860.

The factual matrix of prosecution's case is recapitulated in brief as follows :

02. Informant namely, Sanjaykumar Wagh, the Branch Manager of Bank of Maharashtra, Branch at Talegaon Dhamdhere contended that, the accused no.1 & 2 had obtained the loan facility of for the purpose of opening the Hotel business. The loans were never repaid and the loan account were remained dormant. The concerned bank officials had requested to pay the outstanding to which the accused refused. Hence upon scrutinizing the loan papers it was revealed that, the accused no.1 & 2 had obtained the loan by furnishing the fraudulent papers with in consonance of the then Bank Manager i.e. the accused no. 3.

03. The informant lodged the FIR with Shikhrapur Police station and crime was registered as C.R.No. 38/2012, for the offence

punishable U/sec. 409, 420 R/w. 34 of the Indian Penal Code, 1860. Investigation was carried out by concerned police station. During investigation, investigating officer has carried out spot panchanama and recovered the documents which as been used in the commission of the crime. He also recorded the statement of witnesses. After, completion of investigation he has forwarded the charge sheet i.e. final report U/sec. 173 of Code of Criminal Procedure.

04. Cognizance for the offence punishable U/sec. 409, 420 R/w. 34 of the Indian Penal Code 1860 had been taken and process was issued. In response to summons the accused appeared before court and secured their presence by furnishing bail as per order. The charge for offence punishable U/sec. 409, 420 R/w. 34 of I.P.C. was framed at Exh. 40. The said charge was read over and explained to the accused in vernacular. The accused pleaded not guilty and claims to be tried. The defence of the accused is of total denial and false implication in the crime.

05. To bring home the guilt of the accused person, the prosecution has examined the following witnesses.

Part "C"			
LIST OF PROSECUTION/ DEFENCE / COURT WITNESSES.			
A. PROSECUTION			
Rank	Name	Nature of Evidence	Exh. No.
PW NO. 1	Kaluram Maroti Darekar	Panch Witness	45
PW NO. 2	Maroti Gulab Darekar	Panch Witness	46

B. DEFENCE			
Rank	Name	Nature of Evidence	Exh. No.
:: N I L ::			

C. Court Witness if any.			
Rank	Name	Nature of Evidence	Exh. No.
:: N I L ::			

Part “C”		
LIST OF PROSECUTION/ DEFENCE / COURT EXHIBITS		
A. PROSECUTION		
Sr. no.	Exhibit Number	Description
:: N I L ::		

Part “C”		
LIST OF PROSECUTION/ DEFENCE / COURT EXHIBITS		
B. Defence		
Sr. no.	Exhibit Number	Description
:: N I L ::		

Part “C”			
LIST OF PROSECUTION/ DEFENCE / COURT EXHIBITS			
C. Court Exhibits if any.			
Sr. no.	Exhibit Number	Description	
01.	40	Charge	
02.	41 to 43	Plea sheet of the accused.	

06. The prosecution had led the evidence of the two witnesses but thereafter even after the issuance of the witness summons to the informant, the informant and the other witnesses did not appeared and it had been marked the whereabouts of the informant are not known. It the cardinal principles of the Criminal Jurisprudence, the Speedy Trial is the right of the accused person. Hence, the prosecution evidence was closed by order below Exh. 1.

07. As the examined witnesses has not supported the prosecution, and no incriminating circumstances have been found on record, the statement of the accused U/sec. 313 of the Code of Criminal Procedure is dispensed by order below Exh. 1

08. Heard Both the counsels appearing for the parties.

09. After going through the prosecution case and defence of accused and documents produced on record the following points arise for my consideration, to which I have recorded my findings hereinafter as follows.

Sr. No	Points for determination	Findings
1	Whether prosecution proves beyond reasonable doubt that, in between the 29/04/2010 to 26/10/2010 the accused in furtherance of their common intention at bank Of Maharashtra Branch Talegaon Dhamdhere, the accused committed criminal breach of trust ?	No.
2	Whether the prosecution proves beyond reasonable doubt that, on the above mentioned time date and place, the accused committed forgery intending to use the same for the purpose of cheating ?	No.

3	What offences are made Out ?	No Offence is made Out.
4	What Order ?	As per final Order the accused are acquitted.

::REASONS::

AS TO POINT NO 1 TO 4.

10. As these points are interlinked with each other, I have discussed them together for avoidance of repetition of evidence. In order to prove the charge levelled against the accused the prosecution has first examined Kaluram Maroti darekar as PW-1(Exh. 45) who is a panch witness. He deposed that, police had never drawn any panchanama in his presence. He did not know the contents of the said panchnama. He was cross examined but nothing had been brought on record in order to inculcate the accused in the commission of the crime. Hence, his evidence is not reliable.

11. In order to prove the charge levelled against the accused the prosecution has first examined Maroti Gulabrao Darekar as PW-2 (Exh. 46) who is a panch witness. He deposed that, police had never drawn any panchnama in his presence. He did not know the contents of the said panchnama. He was cross examined but nothing had been brought on record in order to inculcate the accused in the commission of the crime. Hence, his evidence is not reliable.

12. Thereafter, on various occasion the witness summon were issued to the informant and the other witnesses but the prosecution failed to bring on record any substantial evidence to inculcate the accused in the commission of the crime.

13. I have gone through the entire oral evidence in background of documents placed on record. The witness has not supported the prosecution. Hence it creates a dark suspicion, whether the accused was the author of the crime and they have deliberately with fraudulent intention obtained loan in order to deceive the complainant.

14. In totality the evidence of P.W.No.1 to 2 is shrouded with grave suspicion and serious doubts. Prosecution have examined only interested witnesses and not examined any independent witness. Prosecution have failed to prove that accused had committed the crime. The evidence on record is creating clouds of suspicion around the story brought by the prosecution and the prosecution have failed to dispel the same. The story of prosecution is doubtful and the benefit of doubt goes in favour of the accused person. Also there is no iota of evidence, which will suggest any inference to the fact that, the accused had committed the crime and fraudulently deceived the complainant. Owing to which, I am of the view that prosecution have failed to saddle the accused with the criminal liability beyond all reasonable doubts. **Consequently, I answer points No. 1 & 2 in Negative.**

AS TO POINT NO. 3

15. The prosecution has not lead any cogent evidence to bring the accused within the ambit of offences punishable U/sec. 409, 420 R/w. 34 of the Indian Penal Code, 1860. Further more the informant has not also supported the prosecution to bring the accused person within the ambit of ingredients of sections levelled against them. Hence, as the essential ingredients of the offences are not satisfied ,no offence is made out against the accused . **Hence I answer the point no. 3 accordingly.**

AS TO POINT NO. 4

16. In view of my findings to point no. 1 to 3 the prosecution has failed to prove charge against the accused beyond all reasonable doubt, hence in answer to point no.4, I proceed to pass following order ,

<u>:: O R D E R ::</u>	
01.	The accused namely, 1) Nilesh Balasaheb Dhamdhere 2) Satyavir Ramaji Sharma 3) Radha Kanhayya Agarwal are found not guilty for the offences punishable U/sec. 409, 420 R/w. 34 of Indian Penal Code 1860 and are hereby acquitted vide section 248(1) of Code Of Criminal Procedure 1973.
02.	PR bond of the accused is cancelled and surety stands discharged.

03.	The accused are directed to furnish PR bond of Rs. 7,500/- and surety bond in like amount U/sec. 437(A) of Code of Criminal Procedure, to appear before the higher court as and when such court issues notice in respect of any appeal or petition against the present Judgment. The said bail bond shall be in force for six months.
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(Dictated and Pronounced in open court)

Date: 03/07/2026.

(C. M. Kharkar)
Judicial Magistrate F.C, (Court No.3)
Ghodnadi Shirur (MHPU20-3003)