

MHRG100010402018 	Received on :	24/10/2018		
	Registered on :	24/10/2018		
	Decided on :	10/06/2026		
	Duration :	Year	Month	Days
		07	07	17

<u>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MAHAD</u> [Presided over by : Smt. P S. Mali]		<u>R.C.C. No. 107/2018</u> Exh. No. 33
Prosecution, Police Station and Crime Register No.	State of Maharashtra through Mahad Town Police Station, Crime Register No. 100/2018	
Prosecution through Assistant Public Prosecutor	Shri. K. V. Kadam, Assistant Public Prosecutor	
Accused	Shivaji Ashok More, Age : 22 years, Occupation : --, R/at : Kinjloli Budruk, Tal. Mahad	
Advocate for the accused.	Shri. R. R. Jadhav	

Part – ‘B’
[Criminal Manual, Chapter 4, Paragraph No. 44(ii)]

Date of Incidence	24/08/2018
Date of First Information Report	25/08/2018
Date of filling of Charge-sheet	24/10/2018
Date of framing of Charge	12/06/2023
Commencement of evidence	18/07/2023
Date of reservation of judgment	Nil
Date of pronouncement of judgment	10/06/2026

Date, if sentenced	Nil
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[Hon'ble High Court of Judicature at Bombay Government Resolution no. 0801/2022 dated 14/07/2022]

Details of Accused

Accused no.	Name of Accused	Date of Arrest	Date of Release on bail	Sections for Offences	Acquittal or Conviction	Punishment	During trial period of Magistrate Custody of accused u/s. 428 of the Code of Criminal Procedure
1.	Shivaji Ashok More	25/08 / 2018	29/08/ 2018	Sections 457, 380, 511 of the Indian Penal Code	Acquittal	Nil	05

Part – 'C'
List of Witness

A. Prosecution -

Sr. No.	Witness no.	Name of witness	Exhibit no.	Role of witness
1.	Witness no. 1	Shri. Dattaram Sahdev Malusare	9	Informant
2.	Witness no. 2	Shri. Jaywant Sahdev Jadhav	13	Panch Witness
3.	Witness no. 3	Smt. Darshana Dattaram Malusare	17	Eye Witness
4.	Witness no. 4	Shri. Sunil Gajanan Kumthekar	20	Panch Witness
5.	Witness no. 5	Shri. Narayan Babaji Jagtap	21	Witness
6.	Witness no. 6	Shri. Sahdev Laxman Malusare	23	Eye Witness

B. Defense Witness (if any)-

Sr. No.	Witness no.	Name of witness	Exhibit no.	Role of witnesses
1.	Nil	Nil	Nil	Nil

C. Court witness (If any) -

Sr. No.	Witness no.	Name of witness	Exhibit no.	Role of witnesses
1.	Witness no. 7	Shri. Sushant Shamkant Pingale	29	Investigating Officer

List of exhibit given by the Prosecution/Accused/Court**A. Document Exhibited by the Prosecution -**

Sr. No.	Document	Exhibit number
1.	Police Report	10
2.	First Information Report	11
3.	Spot Panchanama	30

B. Document Exhibited by defense/accused -

Sr. No.	Document	Exhibit number
1.	Nil	Nil

C. Document Exhibited by Court -

Sr. No.	Document	Exhibit number
1.	Nil	Nil

D. Siezed Property/Muddemal -

Sr. No.	Number	Description
1.	Nil	Nil

J U D G M E N T**[Delivered on 10th day of June 2026]**

1. The accused is booked for offence punishable Under sections 457, 380, 511 of the Indian Penal Code.
2. **The case of prosecution in brief is as follows :-**

The informant named Shri. Dattaram Sahdev Malusare and the accused named Shivaji Ashok More are resident of same village. Incidence took place on 24/08/2018 at about 9.30 p.m. Spot of incidence is premises of house of the informant. Wife named Darshana of the informant after dinner on said time went to wash utensils in bathroom and came out to throw the waste. While that time she found that somebody has opened the back door. She saw the accused in toilet adjacent to the back door. Accused had hide himself in toilet. Wife of the informant called the informant. The informant and his father named Sahadev Laxman Malusare saw the accused inside the toilet, the accused jumped from the open window of the said toilet. While the accused was running from there, the informant and his father tried to stopped him, but he ran away. The informant and his father also ran behind the accused and shouted. Because of shouting the villagers named Narayan Babaji Jagtap, Kashinath Sakharam Malusare, Sudhir Shedge, Naresh Shedge came out of their house. The said villagers had also see the accused running. But the accused escaped in agricultural land by taking advantage of the dark at night. Hence, the informant reported in concerned police station.

3. On the basis of this report, Crime Register No. 100/2018 for offence punishable Under sections 457, 380, 511 of the Indian Penal Code registered against the accused. The papers in charge-sheet shows that, the Investigating Officer Shri. S. S. Pingale, Police Naik, Buckle no. 776, Mahad Town Police Station did investigation and presented charge-sheet

against the accused on completion of investigation. During investigation he has visited the spot of incidence in presence of Panchas and prepared Spot Panchanama. He prepared spot Panchanama. He has recorded the statement of witnesses and arrested the accused.

4. My Ld. Predecessor has framed charge at Exh. 7 against the accused for offence punishable Under sections 457, 380, 511 of the Indian Penal Code, which was read over and explained to the accused in vernacular. He pleaded not guilty and claimed to be tried vide plea at Exh. 8. I have recorded statement of the accused under Section 313 of the Code of Criminal Procedure vide Exh. 32. The defence of the accused is of false implication, however, he has not examined any defence witness.
5. Considering the prosecution case and defence of the accused following points arose for my determination to which I record my findings thereon for reasons as follows :

<u>Points.</u>		<u>Findings.</u>
1]	Does the prosecution prove that on 24/08/2018 at about 9.30 p.m. at toilet, premises behind the house of the informant the accused committed lurking house trespass by night in order to commit theft and thereby committed an offence punishable under section 457 of the Indian Penal Code ?	No.
2]	Does the prosecution prove that on the above mentioned place, date and time the accused committed theft in the dwelling house of the informant and thereby committed an offence punishable under section 380 of the Indian Penal Code ?	No.
3]	Does the prosecution prove that on the above mentioned place, date and time the accused attempted to commit theft in the house of the informant and thereby committed an offence punishable under section 511 of the Indian Penal Code ?	No.

4]	What order ?	As per final order.
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REASONS

6. Heard arguments of both sides. Assistant Public Prosecutor Shri. K. V. Kadam submitted in his argument that, Prosecution has examine in all 7 witnesses to prove the incidence and guilt thereof the accused. The incidence has took place on 24/08/2018 in the night time. The wife of the informant when she went to wash utensils in their bathroom at the behind premises adjacent to house. The bulb was broken by someone. She saw the accused in the toilet hiding himself and also saw running him from the back of the house. Panch are hostile. But there are Eye Witnesses present, therefore, these witnesses be consider by the Court. Defence failed to prove old enmity of the informant against the accused. There is no document and are only oral contentions. Prosecution Witness no. 4 admitted all the contents of Panchnama at Exh. 30. He is not Eye Witness and not even Panch but he is important witness. The accused has entered the house of the informant with intention to cause hurt to the informant. Therefore, Assistant Public Prosecutor prayed for conviction of the accused.
7. On the other hand Learned Advocate Shri. R. R. Jadhav, for the accused submitted in argument that, Prosecution story is false and false implication are made against the accused. Prosecution Witness no. 3 admitted that, she owed money from the accused. Therefore, they were not able to give back money to the accused and created this false story against him. The accused and husband of the Prosecution Witness no. 3 that is the informant does work in the same company. If the bulb was broken at the time of incidence, then why it is not a part of investigation and why Investigating Officer has not seized the parts of it. There is no

such seizure. Prosecution Witness no. 2, 5, 6 are hostile. Panchnama is not proved. First Information Report was given on suspicion. Contradictions are proved in the cross examination of the Investigating Officer. As per Prosecution story if people were present at the time of incidence due to shouting then why no independent witness is made available to the Investigating Officer. Prosecution failed to prove their case. Crime Register timing is also wrong. Therefore, Ld. Advocate for accused prayed for acquittal of the accused.

AS TO POINTS NO. 1 TO 3 :-

(In order to avoid repetition of facts I have clubbed reasoning for points no. 1 to 3 as follows :-)

8. Prosecution has examined in all 7 witnesses to prove the guilt of the accused. Prosecution Witness no. 2 is panch witness and he has become hostile by not supporting Prosecution side. Prosecution Witness no. 4 has also not supported prosecution during examination-in-chief. Prosecution Witness no. 5 is a eye witness as per prosecution story. But he had also not support the prosecution. Prosecution witness no. 6 is eye witness as well as father of the informant but not supported Prosecution.
9. Prosecution Witness no. 7 is a Investigating Officer. Defence Advocate has taken contradiction in respect of the informant. The informant deposed new additions in the case which are not part of investigation as well as not even part of panchnama. Prosecution Witness no. 1 had made contradiction in the form of admission namely bulb at spot of incidence was broken. Then, why did is not part of panchnama, Seizure and F. I. R. Though the F. I. R. is not an encyclopedia as obsessed by Hon'ble Apex Court in number of cases, some additions are new stories which diverts the investigation and case consequentially.

10. Nothing is seized by Investigating Officer in panchnama on the Spot of incidence. Investigating Officer being Prosecution Witness no. 7 has admitted that behind the spot of incidence, there exist some agricultural land and on some part houses. It is also admitted that at the time of incidence there being no lights there was dark and no one can see to identify someone. It is admitted by Prosecution Witness no. 1 the informant in his First Information Report at Exh. 11 that upon verification is disclosed that the accused has not committed theft in the house of the informant. Perusal of available record reveals that admittedly no theft has been committed. There is no eye witness. There is no circumstantial evidence in the present matter. Even the house trespass or attempt to commit theft has not been proved against accused. There are no criminal antecedents against the accused. Moreover, the First Information Report, examination-in-chief of Prosecution Witness no. 1 and 3 are not cogent. Prosecution Witness no. 3 had given admission of money help from the accused and that no statement recorded by Police of her. Hence, I answer point no. 1 to 3 in negative.

AS TO POINT NO. 3 :-

11. The prosecution has failed to bring evidence on record to prove guilt of the accused beyond reasonable doubt. Thus, being consistent with my above reasoning, the accused is entitle for acquittal. Hence, I proceed to pass order as follows :-

:: ORDER ::

1. The accused Shivaji Ashok More is acquitted for the offences punishable Under sections 457, 380, 511 of the Indian Penal Code vide section 248(1) of the Code of Criminal Procedure, 1973.
2. Bail bonds of accused stand cancelled.

3. The accused is directed to furnish P. B. & S. B. of Rs. 10,000/- in compliance of Section 437-A (1) of the Criminal Procedure Code.

Mahad
Date – 10/06/2026

(Smt. P. S. Mali)
Judicial Magistrate First Class,
Mahad

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment / Order :

(a)	Name of the Stenographer	:	Smt. P. B. Ringe
(b)	Presiding Officer	:	Smt. P. S. Mali Jt. Civil Judge J. D. & J.M.F.C.,Mahad.
(c)	Judgment /Order signed by P. O. on	:	10/06/2026
(d)	Judgment /Order uploaded on	:	10/06/2026