

 MHRG150001642021	Received on : 09.03.2021 Registered on : 09.03.2021 Decided on : 06.06.2026 Duration : YY/MM/DD 05 02 28 Exhibit No. : (87/A)
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Part "A"

	IN THE COURT OF SESSIONS, MANGAON, DIST RAIGAD Presided over by : M. K. Patil, Additional Sessions Judge, Mangaon (Date of Judgment: 06.06.2026) Sessions Case No.16/2021
	Crime No. : 28/2020 Police Station : Mahad Taluka.
PROSECUTION / COMPLAINANT	State of Maharashtra, Through Officer-in-charge of Mahad Taluka Police Station Tal. Mahad, Dist.Raigad
REPRESENTED BY	Shri. Mahakal, Addl. Public Prosecutor.
ACCUSED	1. Rohan Rajendra Padyal(A1), Age 22 years, 2. Shailesh Ramchandra Ukirde (Abated due to death) 3. Prashant Namdev Minde(A3), Age 31 years, 4. Abhijit Chandrakant Ukirde(A4), Age 29 years, 5. Dhirendra Ramchandra Ukirde(A5),

	Age 50 years, 6. Jitesh Gangaram Padyal(A6), Age 28 years, 7. Deepak Dagadu Padyal(A7), Age 48 years, All R/o. Dasgaon, Tal. Mahad, Dist.Raigad.
REPRESENTED BY	Shri. Satish Mhatre & Shri. Roshan Pandhare.

Part “B”

Date of Offence	09.06.2020.
Date of F.I.R.	11.06.2020.
Date of Charge-sheet	09.03.2021.
Date of framing of Charge	04.10.2024.
Date of commencement of evidence	08.12.2025.
Date of which Judgment is reserved	03.06.2026.
Date of the Judgment	06.06.2026.
Date of the Sentencing Order, if any	Nil

Accused Details

Rank of Accused	Name of accused	Date of arrest	Date of release on bail	Offence charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.PC.
1.	Rohan Rajendra Padyal	24.06.2020.	30.06.2020.	u/s.379 r/w.34 of IPC, & u/s.21 of Mines & Minerals (Development & Regulation) Act, 1957.	Acquitted.	---	---
2.	Shailesh Ramchandra Ukirde	24.06.2020.	30.06.2020.	u/s.379 r/w.34 of IPC, & u/s.21 of Mines & Minerals (Development & Regulation) Act, 1957.	Abated vide order passed below Exh.1 on 06.06.2026.	---	---

3.	Prashant Namdev Minde	24.06. 2020.	30.06. 2020.	u/s.379 r/w.34 of IPC, & u/s.21 of Mines & Minerals (Development & Regulation) Act, 1957.	Acquitted.	---	---
4.	Abhijit Chandrakant Ukirde	24.06. 2020.	30.06. 2020.	u/s.379 r/w.34 of IPC, & u/s.21 of Mines & Minerals (Development & Regulation) Act, 1957.	Acquitted.	---	---
5.	Dhirendra Ramchandra Ukirde	24.06. 2020.	30.06. 2020.	u/s.379 r/w.34 of IPC, & u/s.21 of Mines & Minerals (Development & Regulation) Act, 1957.	Acquitted.	---	---
6.	Jitesh Gangaram Padyal	24.06. 2020.	30.06. 2020.	u/s.379 r/w.34 of IPC, & u/s.21 of Mines & Minerals (Development & Regulation) Act, 1957.	Acquitted.	---	---
7.	Deepak Dagadu Padyal	24.06. 2020.	30.06. 2020.	u/s.379 r/w.34 of IPC, & u/s.21 of Mines & Minerals (Development & Regulation) Act, 1957.	Acquitted.	---	---

:: JUDGMENT ::

(Delivered on 06.06.2026)

Accused has been prosecuted for offences punishable u/s.379 r/w.34 of the Indian Penal Code 1860 (in short "IPC") & offence punishable U/s.21 of the Mines and Minerals (Development and Regulation) Act, 1957.

Prosecution Case in brief is as under :

2) Informant Umeshkumar Bhore(PW2), Talathi of Kemburle village, Dist.Raigad and in-charge Talathi of Dabhol Dist.Raigad in the year 2020. On 09.06.2020 Tahsildar Mahad Shri Chandrasen Pawar(PW6) had given letter(Exh.37) to take action against illegal excavation of sand at Sape Tarfe Govile on

bank of Savitri river. Accordingly, at around 12.15 hrs. he alongwith Sandesh Pansare(PW4) in-charge Talathi of Dasgaon, Dist.Raigad and Dinkar Wadkar, Kotwal of Dabhol, Dist.Raigad went at Shri Mangesh Sawant's land Gat no.295 situated at Sape Tarfe Govile river bank. Where they seen accused had brought boats filled with sand. A dumper was also standing there. There was approximately two brass sand each in dumper and boat. On inquiry accused told their name as Rohan Padyal, Ukirade, Minde, Padyal. Further, on inquiry about permission for excavation of sand, they told did not have said permission. Hence, informant and his colleague directed them to pay penalty about illegal excavation of sand. However, they did not pay penalty, hence offence was registered against them.

3) On inquiry with dumper driver Abrar Dangu, he told sale of sand to person namely Jalal. The sand and boats were seized in presence of Tol village Sarpanch Smt. Kharale, Inayat Vasagare(PW5) and Police Patil Sushma Gharatkar(PW3) by carrying out seizure panchnama(Exh.39). The sand and boats given into the custody of Sushma Gharatkar(PW3). Report(Exh.38) in respect of alleged seizure was forwarded to Tahsildar Mahad. Raiding team came to Tahsiladar Mahad, where dumper driver paid penalty Rs.37,000/- and receipt(Exh.40) was issued to him. Accused did not paid penalty, hence informant lodged report against accused persons in

respect of theft of sand u/s.379 r/w.34 of the IPC bearing Crime No.28/2020 at Mahad Taluka Police Station.

4) Investigation officer ASI Shri. Salvi, visited spot at Sape tarfe Govile alongwith two panch witnesses and carried out spot panchnama(Exh.34). He took muddemal receipt(Exh.66) in respect of twelve brass sand and boats seized on spot. He recorded statement of witnesses as per their say. He arrested accused under arrest panchanama(Exh.69 to 77). During course of investigation, it was transpired to him that accused in furtherance of their common intention committed theft of sand from Savitri river and there is sufficient material to proceed against them. Hence, Officer-in-charge of Mahad Taluka Police station filed charge-sheet against accused for offences punishable u/s.379 r/w. 34 of IPC & u/s.21 of the Mines and Minerals (Development and Regulation) Act, 1957, before Ld. JMFC, Mahad.

5) The offence u/s.21 of Mines and Minerals Act, is exclusively triable by the Sessions Court, hence Ld. JMFC, Mahad has committed case u/s.209 to this Court by complying with procedure u/s.207 of Cr. P. C.

6) After hearing Ld. APP and Ld. Advocate for accused my Ld. Predecessor framed Charges(Exh.19) for offences punishable u/s.379 r/w. 34 of IPC & u/s.21 of the Mines and Minerals (Development and Regulation) Act, 1957 against the

accused. The contents of charges were explained to the accused in their vernacular. Accused pleaded(Exh.20 to 26) not guilty and claimed to be tried. Prosecution filed evidence closing pursis(Exh.78). The statements(Exh.79 to 84) of accused u/s.313(1)(b) of Code of Criminal Procedure were recorded by explaining incriminating circumstances came in evidence against them. Accused denied those incriminating circumstances and claimed false implication in respect of unclaimed sand.

7) Ld. A.P.P. Shri. Mahakal submitted that, Rishikesh Bhosale(PW1) spot panch proved spot panchnama(Exh.34), wherein twelve brass sand and boats were seized. Informant Umeshkumar Bhore(PW2) deposed as per his statement and there is no material contradiction or omission in his deposition. The dumper driver Abrar Danu who was loading sand at spot, admitted his guilt and paid penalty. Tahsildar Mahad Shri Chandrasen Pawar(PW6) directed accused to pay penalty, but they did not paid. Talathi Dasgaon Pansare(PW4), informant and Sushma Gharatkar(PW3) identified accused as excavator of sand at spot. Though, Sushma Gharatkar(PW3) initially did not remember incident, however during suggestive questions she narrated whole incident, seizure of sand, boats and also identified accused as excavators. Two witnesses Inayat Wasgare(PW5) and Shital Kharale(PW7) even though did not support prosecution their testimony did not damaged prosecution case. Defence of accused that, they have been falsely

implicated in respect of unclaimed sand found at spot. However, defence not brought on record any reason such as previous enmity between accused and informant or colleague to falsely implicate accused. Thus, prosecution proved case against accused beyond reasonable doubt, hence prayed for conviction of accused.

8) Ld. Advocate Shri Roshan Pandhare for accused argued for accused. It is submitted that, Rishikesh Bhosale(PW1) admitted that, there is no evidence in respect of seizure of muddemal. Further, informant admitted he did not verified ownership(Kaul pass) of boat. All witnesses are from revenue department and independent witnesses though examined did not supported prosecution case. Prosecution witnesses admitted that they did not verified ownership of Gat no.295 and unclaimed sand usually found on bank of Savitri river. Admittedly no instrument used for excavation of sand were found on spot. Sandesh Pansare(PW4) admitted there was movement register maintained in revenue office to make entry prior movement from office for any work. However, he admitted that he did not make such entry. Order(Exh.58) allegedly issued by Chandrasen Pawar(PW6) does not bear inward-outward number, which creates doubt about it. Investigation officer was dead, hence SHO Sruti Manish Bhoir(PW8) examined to identify his signature, However, she admitted that, no record available about disposal of seized mudemal. Further, Abrar Dangu not examined

to prove accused were involved in illegal excavation of sand. Thus, there are several infirmities in the prosecution case, which create doubt about case. Thus, prosecution failed to prove beyond reasonable doubt charges against accused. Hence, prayed for acquittal of accused.

9) After considering evidence on record and hearing rival contention of both the sides, following points arise for determination and my findings thereon are as under;

Sr. No.	POINTS	FINDINGS
1.	Does the prosecution prove that on 09.06.2020 at 12.15 a.m. within the limits of village Sape tarfe Govile, Tal. Mahad, Dist. Raigad, accused in furtherance of their common intention committed theft of 12 brass sand from bank of Savitri-Kal river without permission of government and thereby committed an offence punishable u/s.379 r/w.34 of IPC?	In the Negative.
2.	Does the prosecution proved that on aforesaid date, time and place during the course of same incident accused were found in possession of 12 brass of sand excavated from the bed of Savitri-	In the Negative.

	Kal river in 7 boats, otherwise than in accordance with provisions of The Mines and Minerals (Development & Regulation) Act, 1957 and thereby committed breach of Section 4(1A) of the Act, committed offence punishable u/s.21 of the said Act ?	
3.	What order?	As per final Order.

REASONS FOR THE FINDINGS

10) Prosecution in order to prove charges against the accused examined total eight witnesses. Panch Rushikesh Mahadev Bhosale(PW1), informant Umeshkumar Sahebrao Bhore(PW2), Sushma Dagdu Gharatkar(PW3), Block Development Officer, Sandesh Mahadev Pansare(PW4), panch Inayat Mahmad Ali Vajgare(PW5), Talathi Chandrasen Ramkrushna Pawar(PW6), Shital Mahesh Kharale(PW7) & WPC/200 Sruti Manish Bhoir(PW8).

As to point no.1 & 2:

11) To prove charges of theft of sand Prosecution must prove that accused in furtherance of their common intention intending to take dishonestly sand out of possession of State Government without consent.

Seizure of sand and seven boats from spot:

12) Ld. APP submitted that, spot panch witness Rushikesh Mahadev Bhosale(PW1) has proved spot panchnama, wherein twelve brass sand and seven boats has been seized from spot Sape tarfe Govile on Kal river.

13) It is pertinent to note that, spot panchnama(Exh.34) was carried out on 12.06.20220 whereas, alleged incident occurred on 09.06.2020. Further, at the time of spot panchnama(Exh34) admittedly accused were not there on spot. Informant admitted that unclaimed sand usually found on bank of Savitri river. Further, instruments required for excavation of sand were not found on spot. Admittedly, neither informant nor investigation officer verified spot is Gat no.295 and belong Shri Mangesh Sawant. Similarly, ownership of alleged seized boats was not verified. It shows that, even though seizure of 12 brass sand and seven boats proved there is nothing in the spot panchnama to connect accused with the alleged theft of sand.

Payment of penalty by Abrar Dangu:

14) Ld. APP would submit that, Abrar Dangu who caught raid hand on spot while loading sand from spot, admitted his guilt and paid penalty. Accused were caught carrying sand loaded boats on spot and refused to pay penalty. Hence, offence was registered against them.

15) Payment of penalty by Abrar Dangu does not mean accused were caught carrying sand loaded boats. Prosecution failed to prove accused are owners of alleged seized boats or connected with Gat No.295. Prosecution witnesses specifically admitted notices were not given to accused in respect of illegal excavation of sand to pay penalty. Further, as per prosecution has not examined Abrar Dangu as their witness to fortify their case regarding involvement of accused.

Identification of accused before Court:

16) Ld. APP submitted that, informant(PW2), Sushma Gharatkar(PW3) and Sandesh Pansare(PW4) identified accused as excavator of sand and there is no need for these witnesses to depose falsely against accused.

17) Though it is well settled that identification of accused before the Court is substantive evidence. However, mere identification in absence of direct or circumstantial evidence is not sufficient to held accused guilty of committing offence. As discussed above, prosecution has not brought on record ownership of Gat no. 295 and boats, thereby failed to connect accused it. Further there is no independent eye witness who has seen accused excavating sand or brought sand filled boats on spot. Thus, mere identification of accused before Court is not enough to hold accused guilty.

No independent witness examined:

18) Informant(PW2) and Sandesh Pansare(PW4) are from revenue department and part of alleged raiding team. Spot is place where fisherman and other local residents are moving, however no independent witness had been found to investigation officer who would say accused are excavators of sand. Spot panch witnesses is from revenue department and interested witness. Police Patil Sushama Gharatkar(PW3) would be said to be independent witness by prosecution. However, initially she did not support prosecution case and Ld. APP were permitted to put suggestive question to her. During said suggestion name of accused were put to her and suggestion about accused confess excavation of sand before her. It is settled law that extra judicial confession is weak piece of evidence and shall not be relied upon unless corroborated by substantial evidence. Informant(PW2) and Sandesh Pansare(PW4) did not said accused confessed excavation of sand in their presence. However in cross-examination Sushma Gharatkar(PW3) admitted that, on say of informant she said that boats belongs to accused and they had used it for sand excavation. Further, she admitted that she had not seen accused unloading sand on bank of river. Thus, her evidence is not useful to prosecution.

No reason for false implication:

19) Ld. APP submitted that, there is no reason for prosecution witnesses to falsely implicate accused. It is well settled that defence may take number of defences and even

though failed to prove any defence, prosecution has to prove its case on its own evidence. Thus, even though no reason for false implication has been given by accused, it does not mean prosecution has proved its case beyond reasonable doubt.

No record about seized sand boats on record:

20) Defence specifically taken defence that there is no record in respect of seizure of sand and boats on record except spot panchnama(Exh.34).

21) Spot panch Rishikesh Bhosle admitted that, signature on spot panchnama(Exh.34) of Sushma Gharatkar(PW3) about taking possession of sand and boats. Further there is no possession receipt of taking possession of said boats and sand. Woman police Constable Smt. Shruti Bhoir(PW8) who was examined to identify signature of investigation officer Late Salvi on investigation papers admitted that she cannot say how alleged seized mudemmal was disposed of. It shows except spot panchnama there is nothing on record about sand and boats which raised serious doubt about spot panchnama. In addition, spot panch witness is from revenue department and not independent. Besides, spot panchnama was not carried immediately after apprehending alleged accused on spot with sand. All these infirmities raised serious doubt about seizure.

22) Thus, prosecution failed to prove accused illegally excavated sand on bank of river Savitri on Gat no.295. Thereby failed to prove accused in furtherance of their common intention committed theft of sand without permission of State Government and otherwise in accordance with provisions of section 4 of Mines and Minerals Act, thereby committed offence punishable u/s.21 of the Act. Hence, I answer point no. 1 and 2 in the negative.

As to point no.3:

23) Hence, accused entitled to be acquitted. By report(Exh.85) alongwith death certificate(Exh.86) filed by Mahad Taluka police station intimating this Court about death of accused No.02 Shailesh Ramchandra Ukirde, this Court passed abatement of proceeding order below Exh.1 about him. Though there is no record about alleged seized muddemal on record, at conclusion of trial it is necessary to passed disposal order about alleged seized things. The muddemal property alleged 12 brass be confiscated to State Government and alleged seven boats did not claimed by anybody till today. The said seven boats hold commercial value it is necessary to disposed of it through public auction sale to higher bidder and entire sale proceeds to be deposited in State Treasury, after appeal period is over. The existing bail bonds of the accused needs to be canceled and their sureties needs to be discharged. Accused shall be directed to comply with the provisions of section 437-A of Cr.P.C. by

executing bonds of Rs.25,000/- with one surety each in the like amount to appear before higher court in case appeal is preferred by Prosecution against this judgment. The said bonds would initially be valid for six months.

Hence, I proceed to pass the following order :

:: ORDER ::

1. The accused **Rohan Rajendra Padyal(A1), Prashant Namdev Minde(A3), Abhijit Chandrakant Ukirde(A4), Dhirendra Ramchandra Ukirde(A5), Jitesh Gangaram Padyal(A6) & Deepak Dagadu Padyal(A7)** are hereby acquitted under section 235(1) of the Code of Criminal Procedure, for the offence punishable u/s.379 r/w.34 of IPC & u/s.21 Mines and Minerals (Development and Regulation) Act, 1957.
2. Proceedings against accused No.02 Shailesh Ramchandra Ukirde stand abated.
3. The existing Bail bonds of accused stand cancelled and their sureties are discharged.
4. As per section 437-A of Code of Criminal Procedure the accused shall execute bail bond of Rs.25,000/- with one surety each of like amount to appear before the higher Court in case appeal is prefer by State against this judgment.

5. The muddemal property alleged 12 brass be confiscated to State Government and the said seven boats disposed of it through public auction sale to higher bidder and entire sale proceeds to be deposited in State Treasury, after appeal period is over.
6. The judgment be intimated to the District Magistrate as per provision of section 365 of Cr.P.C.

(Dictated and pronounced in open Court)

Sd/-

Mangaon.

(M. K. Patil)

Date: 06.06.2026.

Add. Sessions Judge, Mangaon.

APPENDIX**Part "C"****LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Rushikesh Mahadev Bhosale	Spot panch
PW-2	Umeshkumar Sahebrao Bhore	Informant
PW-3	Sushma Dagadu Gharatkar	Spot witness
PW-4	Sandesh Mahadev Pansare	Eye witness
PW-5	Inayat Mahmad Ali Vargare	Spot panch
PW-6	Chandrasen Ramkrushna Pawar	Eye witness
PW-7	Shital Mahadev Kharale	Spot panch
PW-8	Sruti Manish Bhoir	Investigation Officer

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW	-----NIL-----	-----

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW	-----NIL-----	-----

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. Prosecution:**

Sr. No.	Exhibit Number	Description
1]	Exh.P-34/PW-1	Spot panchanama
2]	Exh.P-37/PW-2	Letter dt.09.06.2020.
3]	Exh.P-38/PW-2	Report in respect of sand & boats
4]	Exh.P-39/PW-2	Panchanama in respect of sand & boats
5]	Exh.P-40/PW-2	Receipt of fine amount
6]	Exh.P-41/PW-2	Report
7]	Exh.P-42/PW-2	Printed F.I.R.
8]	Exh.P-58/PW-6	Order of Tahsildar
9]	Exh.P-59/PW-6	Order dt.10.06.2020 of fine.
10]	Exh.P-66/PW-8	Muddemal receipt
11]	Exh.P-67/PW-8	Portion Mark-A in statement of Inayat Mahad Ali Vargare
12]	Exh.P-68/PW-8	Portion Mark-A in statement of Sushma Dagdu Gharatkar
13]	Exh.P-69/PW-8	Portion Mark-A in statement of Shital Mahesh Kharale
14]	Exh.P-69 to 77/PW-8	Arrest panchanama of accused.

B. Defence:

Sr. No.	Exhibit Number	Description
1)	Nil	Nil

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1)	Nil	Nil

D. Material Objects :

Sr.No.	Material Object Number	Description
1)	Nil	Nil

Sd/-

Mangaon.

(M. K. Patil)

Date: 06.06.2026.

Add. Sessions Judge, Mangaon.

शेरा

मी शपथेवर सांगतो की, या पी.डी.एफ. आदेश फाईल मधील मजकूर हा मुळ आदेशातील मजकुराशी शब्द न शब्द सारखा आहे.

लघुलेखकाचे नाव :: श्री. प्रशांत अशोक रहाटे, (श्रेणी - ३)
न्यायालयाचे नाव :: जिल्हा न्यायाधीश-२ तथा अतिरीक्त सत्र
न्यायाधीश, माणगांव.
न्यायनिर्णयाचा मजकूर सांगितल्याचा दिनांक :: ०६.०६.२०२६.
न्यायनिर्णय टंकलिखित केल्याचा दिनांक :: ०६.०६.२०२६.
न्यायनिर्णय स्वाक्षरीत केल्याची दिनांक :: ०६.०६.२०२६.
न्यायनिर्णय अपलोड केल्याची दिनांक :: ०६.०६.२०२६.