



MHRG150003052023

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Exhibit No. : (37/A)

Part "A"

	<p>IN THE COURT OF SESSIONS, MANGAON, DIST RAIGAD</p> <p>Presided over by : M. K. Patil, Additional Sessions Judge, Mangaon</p> <p>(Date of Judgment: 17.03.2026) Sessions Case No.44/2023</p>
	<p>Crime No. : 74/2017 Police Station : Nagothane Police Station.</p>
PROSECUTION / COMPLAINANT	<p>State of Maharashtra, Through Officer-in-charge of Nagothane Police Station Tal. Roha, Dist.Raigad</p>
REPRESENTED BY	<p>Shri. Mahakal, Additional Public Prosecutor.</p>
ACCUSED	<p>1. Lajib Samad Khan (A1), Aged 25 years, 2. Tabish Ayub Pedekar (A2), Aged 31 years, 3. Vasim Ayub Pedekar (A3), Aged 27 years, All R/o. Near Narayan Saw Mill, Nagothane, Tal.Roha, Dist. Raigad.</p>
REPRESENTED BY	<p>Shri. M. D. Patil, Advocate for accused.</p>

Part "B"

Date of Offence	03.12.2017.
Date of F.I.R.	04.12.2017.
Date of Charge-sheet	25.01.2018.
Date of framing of Charge	14.10.2025.
Date of commencement of evidence	13.01.2026.
Date of which Judgment is reserved	10.03.2026.
Date of the Judgment	17.03.2026.
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.	Lajib Samad Khan	07.12.2017.	--	u/s. 353, 332 r/w.34 of IPC & u/s.146, 160 of the Indian Railway Act, 1989.	Acquitted.	--	--
2.	Tabish Ayub Pedekar	07.12.2017.	--	u/s. 353, 332 r/w.34 of IPC & u/s.146, 160 of the Indian Railway Act, 1989.	Acquitted.	--	--
3.	Vasim Ayub Pedekar	07.12.2017.	--	u/s. 353, 332 r/w.34 of IPC & u/s.146, 160 of the Indian Railway Act, 1989.	Acquitted.	--	--

:: JUDGMENT ::

(Delivered on 17.03.2026)

The accused has been prosecuted for offences punishable u/s.353, 332 r/w.34 of the Indian Penal Code 1860 (in short "IPC") & u/s.146 & 160 of the Indian Railway Act, 1989.

Prosecution Case in brief is as under :

2) On 03.12.2017, informant Ranjitkumar Prasad(PW1) a Railway employee discharging his public duty from 08.00 p.m. at Miranagar railway Gate no.43, Nagothane, Tal. Roha, Dist.Raigad. At around 08.00 p.m. he received a phone call from Nagothane Railway Station Master that railway train is coming and directed him to close the railway Gates on both the sides. At around 08.40 p.m. one truck came from Nagothane side and stop at said railway Gate no.43. One person came down from said truck and told informant to open the railway gate and let them go. Informant told him that he cannot open railway gate as railway train is coming. The said person started arguing with informant and as informant refused to open the gate, he assaulted him on face by fist and blow. At that time, two people came down from truck and they also assaulted informant by fist and blows. At that time, except informant nobody was present there. Thereafter, said person gone alongwith the said truck. Informant noted down truck number as MWT 6438. Thereafter, informant told said incident to the Station Master Nagothane Railway Station Shri. Ashwinikumar Dubey(PW4). He sent other person at said railway Gate no.43 and called informant to Nagothane railway station. Thereafter, send informant alongwith R.PF. employee Dhirendrakumar Yadav(PW3) to lodge report at Nagothane Police Station. Informant lodged report in respect of said incident at Nagothane police station. On the basis of said report, Crime No.74/2017 came to be registered against accused

for offences punishable u/s.353, 332 r/w.34 of IPC and u/s.146 & 160 of the Indian Railway Act, 1989.

3) The report (Exh.22) was taken down by SHO and he referred informant for medical examination with letter dt.04.12.2017(Exh.28). On instruction of superior officer investigation was carried out to API Shri. Govind Dinkar Kadam(PW7). Investigation officer(PW7) visited spot alongwith two panch and carried out spot panchanama(Exh.24). He recorded supplementary statement on 05.12.2017 of informant, wherein informant stated that accused came to his house on next day and apologized him for the act committed by them. At that time, informant came to know name of the accused persons. Accordingly, investigation officer arrested accused under arrest panchanamas(Exh.29 to 31). Investigation officer obtained medical certificate of informant and on duty certificate of informant. During investigation it was transpired to him that, accused committed alleged offence and there is sufficient material to proceed against them. Hence Officer-in-charge of Nagothane Police station filed charge-sheet against accused of offences punishable u/s.353, 332 r/w.34 of IPC and u/s.146 & 160 of the Indian Railway Act, 1989 before Ld. JMFC, Roha.

4) The trial was initially conducted before Ld. JMFC, Roha, where Prosecution has examined four witnesses. After offence u/s.353 of IPC was classified as triable by Sessions Court, Ld. JMFC, Roha committed case u/s.209 to this Court by

complying with procedure u/s.207 of Cr. P. C. alongwith entire evidence.

5) I framed Charges(Exh.11) against accused for offences punishable u/s.353, 332 r/w.34 of IPC and u/s.146 & 160 of the Indian Railway Act, 1989. Accused pleaded (Exh.12 to 14) not guilty and claimed to be tried. Ld. Advocate for accused filed pursis(Exh.15) and Ld. A.P.P. filed say overleaf of pursis(Exh.15) for continuing and reading evidence recorded before Ld. JMFC, Roha. Accordingly, passed order below Exh.1 for continuing and reading evidence recorded before Ld. JMFC, Roha. Prosecution had examined three witnesses before this Court. Thereafter, Prosecution closed its evidence by filing evidence closing pursis(Exh.32).

6) The statements (Exh.33 to 35) of accused u/s.313(1)(b) of Code of Criminal Procedure Code, was recorded. Wherein, accused denied incriminating circumstances and claimed false implication.

7) Ld. A.P.P. Shri. Mahakal submitted that, accused admitted informant was railway employee and discharging his duty as gatemen at Miranagar, Nagothane. Informant deposed about three persons assaulted him at railway gate, wherein he suffered injuries. Though, informant deposed three persons assaulted him on head, instead of face it cannot be term as contradiction as face and head is same. The injuries on person of informant were duly proved by examining Dr. Nitin Avinash Netake(PW6).

Immediately after the incident Informant narrated incident to station Master Nagothane railway station Ashwinikumar Dubey(PW4), who had sent Dharendra kumar Yadav(PW3) and other gatemen to the spot. Out of them prosecution examined Dharendra kumar Yadav(PW3), to whom informant narrated the incident. Hence, evidence Dharendra kumar Yadav(PW3) and Ashwinikumar Dubey(PW4), would not be termed as mere hearsay, but subsequent conduct of informant after incident as per section 8 of Indian Evidence Act. Further submitted that, accused met informant immediately next day of the incident and apologized for their act. Thus, informant has ample opportunity to saw faces of the accused. Hence, non-conducting of test identification parade is not fatal to the prosecution. Informant identified the accused before the Court. As per report(Exh.22) except informant no other persons were present at the spot. Hence, question of examining neutral witnesses does not arise. Thus, prosecution proved charges against accused beyond reasonable doubt. Hence, prayed for conviction of accused.

8) Ld. Advocate Shri. M. D. Patil argued for accused. He submitted that, prosecution has to prove its case beyond reasonable doubt and mere admitting informant was discharging duty at Miranagar railway gate does not mean incident was proved. The FIR was lodged against the unknown persons, without their description, even though test identification parade was not conducted. The contention of the informant that, accused visited his house is false. Further, the person who

allegedly accompanied accused to the house of informant was not examined in order to prove fact that accused visited his house. Besides, in the deposition informant stated that, he was discharging duty at gate no.17, whereas in the FIR he said that he was discharging duty at gate no.43. Further, in the deposition informant stated that one person assaulted and two person rescued him, then why three people have been made accused in the offence. Further submitted that, in the report(Exh.22) informant stated unknown persons came in the truck, whereas in the deposition he stated they were came on motorcycle. The duty chart produced by prosecution was prepared on the basis of information provided by contractor(Mukadam) and not on the basis of actual information which was admitted by Shashi Hans(PW4) by whom it was exhibited. Informant has not stated accused had prevented him from discharging his public duty. Hence, prayed that prosecution failed to prove charges beyond reasonable doubt. Thus, prayed for acquittal of the accused.

9) After considering evidence on record and rival contention following points arise for determination and my findings thereon are as under;

Sr. No.	POINTS	FINDINGS
1.	Does the prosecution proved that accused in furtherance of their common intention assaulted informant Ranjitkumar Brijnandan Prasad, a public	No.

	<p>servant in the execution of his duty as such public servant, with intent to prevent/deter him from discharging his duty as public servant and thereby proved charge of committing offence u/s.353 r/w.34 of IPC ?</p>	
2.	<p>Does the prosecution proved that during the course of same transaction accused in furtherance of their common intention voluntarily caused hurt to Ranjitekumar Brijnandan Prasad, public servant to deter him from discharging his duty as public servant and thereby proved charge of committing an offence punishable u/s.332 r/w.34 of IPC ?</p>	No.
3.	<p>Does the prosecution proved that during the course of same transaction accused in furtherance of their common intention willfully obstructs or prevents informant Ranjitekumar Brijnandan Prasad, a railway servant in the discharge of his duty and thereby proved charge of committing offence punishable u/s.146 of the Indian Railway Act, 1989 ?</p>	No.

4.	Does the prosecution proved that during the course of same transaction accused in furtherance of their common intention were tried to open or break a level crossing gate, set up on either side of a level crossing which is closed to road traffic and thereby proved charge of committing an offence punishable u/s.160 of the Indian Railway Act, 1989 ?	No.
5.	What order ?	As per final Order.

REASONS FOR THE FINDINGS

10) Prosecution in order to prove charges against the accused examined total seven witnesses. Informant Ranjitkumar Brijnandan Prasad(PW1) a railway employee and an injured eye witness. Railway employee Bipinkumar Bishweshwar Prasad(PW2) Panch witness of spot panchnama. R.P.F. Dhirendrakumar Hauslaprasad Yadav(PW3) who visited spot after incident. Railway Station Master of Nagothane railway station Shri. Ashwinikumar Ghansham Dubey(PW4). Senior section engineer Railway of Pen Central Railway, Shashi Bhushan Hans(PW5) was examined to prove attendance extract(Exh21) of informant. Dr. Nitin Avinash Netake(PW6)

medical officer. Investigation Officer Shri. Govind Dinkar Kadam(PW7).

As to point no.1 to 4:

All these points are co-related with each other, hence in order to avoid repetition they are discussed together.

11) The fact that informant(PW1) was railway employee at relevant time was not disputed by the accused, but accused strongly disputed place of incident, occurrence of incident and identity of the accused. Informant in the report(Exh.22) stated that he was discharging duty at Miranagar Railway Gate no. 43, however in his deposition he stated he was discharging duty at Miranagar Railway Gate no.17. This is major discrepancy in respect of spot of incident. It damages whole prosecution case, as spot of incident was change by informant himself in his examination-in-chief.

12) Further, informant change the vehicle during the examination-in-chief by which alleged unknown persons allegedly came to the spot. In the report(Exh.22) informant stated unknown person came in the truck bearing number MWT 6438 at the spot and told him to open the railway gate, but as informant was not ready to open the railway gate they assaulted him on the face by fist and blows. Thereafter, two persons came down from the truck and also assaulted informant. However, in the examination-in-chief informant deposed that unknown

persons came on motorcycle bearing number MWT 6438 at the spot. Out of them one person assaulted him on the head and two persons rescued him. The contradiction in respect of vehicle by which assailants allegedly were came at the spot, damages prosecution case. Further, no such vehicle has been seized during investigation by investigation officer.

13) There is also contradiction as regards body part where unknown person allegedly assaulted informant. In the report(Exh.22) informant stated unknown persons assaulted him on the face, whereas in the examination-in-chief he stated he was assaulted on head. Ld. APP tried to cover said discrepancy by arguing that both are part of body and also same. However, Dr. Nitin Netake(PW6) admitted during cross-examination admitted that if person had been assaulted on head, injuries would not be occurred on the face. Thus, face and head are two different parts of human body. Medical certificate(Exh.25) does not show any injuries on head of informant to corroborate testimony of informant. Thus, there is no medical evidence to support theory of assault on head as narrated by the informant.

14) There is contradiction in respect of sequence of incident narrated by the informant in FIR and examination-in-chief. In the report(Exh.22) informant stated he noted down number of vehicle while unknown persons turning the truck and thereafter he told incident to the Railway Station Master

Ashwinikumar(PW4). Whereas, in the examination-in-chief informant stated after assault he came into his cabin and informed incident to the Ashwinikumar(PW4), who had told him to note down vehicle number. Thereafter, he came outside of the cabin and noted down vehicle numbers. This contradiction in the sequence of narrating incident to Ashwinikumar(PW4) is fatal to the prosecution, because correct vehicle number and description of vehicle is necessary to trace out true assailants.

15) Admittedly, the assailants were unknown to the informant and he had not given their facial description in the report(Exh.22). The reason for non-conducting test identification parade given by the investigation officer(PW7) during deposition that as the truck owner Hamid Samar Khan brought assailants to the house of informant on next day of incident to apologized him. Further, informant came to know name of unknown assailants which was stated by informant in his supplementary statement recorded on .05.12.2017. The way of bringing identity of unknown assailants on record was not as per law. Further no other witness corroborated said fact that assailants visited house of informant. Besides, the said truck owner Hamid Samar Khan who brought assailants to the house of informant was not examined by prosecution. Accused denied they went to the house of informant to apologized him alongwith Hamid Samar Khan.

16) Thus, there is no evidence on record to connect the accused with the alleged offence. Due procedure was not followed by the investigation officer to connect accused with the offence. This is major loopholes in the prosecution case. Thus, prosecution fails to connect accused with the crime.

17) Panch witness Bipinkumar Prasad(PW2) was railway employee and has been working with informant. It is well settled that, spot panchanama was carried out in order to brought on record actual location and what has been observed on spot by panch witnesses. In the spot panchanama(Exh.24) and hand map alongwith it, there appears to be existence of Mirarnagar residential locality near spot. Thus, any person from locality would had been easily available for spot panchanama(Exh.24). Apart from that, people from locality should had seen incident as it was allegedly occurred at 08.40 pm. However, except informant nobody had been found to the investigation officer who had seen the incident. Hence, spot panchanama(Exh.24) also damages prosecution case.

18) In the evidence of Dhirendrakumar Yadav(PW3) it has come on record that he went to spot after incident and where informant told him about incident. Further, police told him about apprehending assailants. Thus, evidence of this witness is not useful to the prosecution to connect accused with offence. At the most his evidence could prove assault on informant by unknown person.

19) Evidence of Ashwinikumar Dubey(PW4) is also not useful to connect accused with the incident. He deposed that, informant told him the incident occurred at Miranagar Gate no.43 and he sent Alok Kumar Yadav to discharge duty at Miranagar Gate no.43. However, after incident Alok Kumar Yadav discharged further duty at Gate No.43 is not appearing from attendance extract(Exh.21).

20) Shashi Bhushan Hans(PW5) was examined to prove informant was discharging duty on 03.12.2017 at Miranagar Gate no.43. He proved attendance extract(Exh.21), wherein at sr. no.23 name of informant was mentioned and next to it "N" and "+" was mentioned and according to him "N" means night duty and "+" means present on duty. However, in the cross examination he admitted that he has no documents to show "N" means night duty and "+" means present on duty. He further admitted Mukadam(contractor) checked whether person present on duty or not and attendance register was prepared on the basis of information given by Mukadam. It means informant himself had not marked his presence or signed attendance register. Thus, attendance extract(Exh.21) is not sufficient to hold informant was on duty on relevant day. Further, it does not appear informant left duty after incident and in his place Alok Kumar Yadav discharge part duty.

21) Dr. Nitin Netake(PW6) deposed he has examined informant on 04.12.2017 at around 08.40 p.m. at PHC

Nagothane and found simple injuries such as blunt trauma over left facial region and swelling over left infra ocular region occurred within six hours caused in assault by unknown persons. He opined that injuries could be possible by fist and blows. Accordingly he issued medical certificate. However, during cross examination he admitted injuries could not be possible on face if person assaulted on head. Medical certificate(Exh.25) did not show informant suffered injuries on head, in order to corroborate informant testimony that he was assaulted on head.

22) Investigation officer(PW7) deposed how he has carried out investigation. However, in cross examination he admitted that he could not verify contents of report(Exh.22) as there was no eye witness to the incident. Further, he admitted information was against unknown person and description of face was not given by informant. Further, he did not conducted test identification parade as informant in his supplementary statement stated names of the assailants. He admitted there are two gates in Nagothane area and he had not collected any documents to show Gate no.43 is named as Miranagar. Thus, evidence of investigation officer is procedural in nature. However, he admitted non-conducting test identification parade and how he had brought on record identity of assailants. The way investigation officer had brought on record identity of unknown assailants is not as per law.

23) Therefore, prosecution failed to prove any charges against accused beyond reasonable doubt due to the discrepancy in place of incident, the discrepancy in deposition of vehicle by which alleged assailants came to the spot, discrepancy about part of body where alleged assault was caused, no support of medical evidence, non-proving identity of unknown assailants by conducting test identification parade, non-seizure of vehicle by which alleged assailants were came at the spot and non-examination of independent witnesses even though residential locality is nearby spot. Hence, I answer point No.1 to 4 in the negative.

24) Therefore, accused entitle to be acquitted. In the peculiar facts and circumstances of this case, I find that there is no need for grant of compensation to the victim. The existing bail bonds of the accused stand canceled and their sureties are discharged. Accused shall 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 initially valid for six months.

Hence, I proceed to pass the following order :

:: ORDER ::

1. The accused **Lajib Samad Khan(A1), Tabish Ayub Pedekar(A2) & Vasim Ayub Pedekar(A3)** are hereby acquitted under section 235(1) of the Code of Criminal

Procedure, for the offence punishable u/s. 353, 332 r/w.34 of IPC & u/s.146 & 160 of the Indian Railway Act, 1989.

2. The existing Bail bonds of accused stand cancelled and their sureties are discharged.
3. 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.
4. 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: 17.03.2026.

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	Ranjitkumar Brijnandan Prasad	Informant
PW-2	Bipinkumar Bishweshwar Prasad	Panch witness
PW-3	Dhirendrakumar Hauslaprasad Yadav	witness
PW-4	Ashwinikumar Ghansham Dubey	witness
PW-5	Shashi Bhushan Hans	witness
PW-6	Dr. Nitin Avinash Netake	Medical witness
PW-7	Govind Dinkar Kadam	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)
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CW	-----NIL-----	-----
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1]	Exh.P-22/PW-1	Report
2]	Exh.P-24/PW-2	Spot Panchnama
3]	Exh.P-21/PW-5	Muster Roll extract
4]	Exh.P-25/PW-6	Injury certificate
5]	Exh.P-28/PW-7	Medical list dt.04.12.2017.
6]	Exh.P-29 to 30/PW-7	Arrest panchanamas 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)	MO-A	Letter dt.27.01.2026.

Sd/-

Mangaon.

(M. K. Patil)

Date: 17.03.2026.

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	::	१७.०३.२०२६.
न्यायनिर्णय टंकलिखित केल्याचा दिनांक	::	१७.०३.२०२६.
न्यायनिर्णय स्वाक्षरीत केल्याची दिनांक	::	१७.०३.२०२६.
न्यायनिर्णय अपलोड केल्याची दिनांक	::	१७.०३.२०२६.