

 MHRG150003682019	Received on : 15.04.2019 Registered on : 15.04.2019 Decided on : 15.04.2026 Duration : YY/MM/DD 07 00 00 <b>Exhibit No. : (80/A)</b>
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**Part "A"-**

	<b>IN THE COURT OF SESSIONS, MANGAON,  DIST RAIGAD</b>  <b>Presided over by : M. K. Patil, Additional  Sessions Judge, Mangaon</b>  (Date of Judgment: 15.04.2026) <b>Sessions Case No.24/2019</b>
	Crime No. : 72/2018 Police Station : Roha Police Station.
<b>PROSECUTION  /  COMPLAINANT</b>	State of Maharashtra, Through Officer-in-charge of Roha Police Station Tal. Roha, Dist.Raigad
<b>REPRESENTED  BY</b>	Shri. Yogesh Tendulkar, Addl. Public Prosecutor.
<b>ACCUSED</b>	<b>1. Ramij Rajjak Dange (A1),</b> Aged 27 years, Occ. Driver, R/o. Dhavir Road, Khalcha Mohalla, Roha, Tal. Roha, Dist.Raigad.  <b>2. Shashikant Ganpat Kadu (A2),</b> Aged 36 years, Occ. Agriculturists, R/o. Gofan, Post Shedsai, Tal. Roha, Dist.Raigad.
<b>REPRESENTED  BY</b>	Shri. Roshan Pandhare, Advocate for accused.

**Part "B"**

Date of Offence	13.06.2018.
Date of F.I.R.	13.06.2018.
Date of Charge-sheet	15.04.2019.
Date of framing of Charge	12.07.2022.
Date of commencement of evidence	25.11.2025.
Date of which Judgment is reserved	17.03.2026.
Date of the Judgment	15.04.2026.
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.P.C.
1.	Ramij Rajjak Dange	26.06.2018.	--	U/s.379, 353 r/w.34 of IPC & U/s.21 of Mines & Minerals (Development & Regulation) Act, 1957.	Acquitted.	--	---
2.	Shashikant Ganpat Kadu	Anticipatory Bail on 10.08.2018.	--	U/s.379, 353 r/w.34 of IPC & U/s.21 of Mines & Minerals (Development & Regulation) Act, 1957.	Acquitted.	--	---

**:: JUDGMENT ::**

(Delivered on 15.04.2026)

The accused has been prosecuted for offences punishable u/s.379, 353 r/w.34 of the Indian Penal Code 1860 (in short "IPC") & offences punishable U/s.21 of the Mines and Minerals (Development and Regulation) Act, 1957.

**Prosecution Case in brief is as under :**

2) On 13.06.2018 informant Pravin Lokare(PW1) Resident Naib Tahsildar of Roha Tahsil Office on instruction of Tahsildar Roha, doing patrolling on illegal transport of sand alongwith Talathi Ravindra Bait(PW2), they intercepted a dumper bearing registration No.MH-06/BD-41 within area of Kharigaon village. On inquiry they found that dumper carrying sand without royalty and name of driver is Ramij Dange(A1). Hence, informant boarded into the dumper and instructed driver to proceed to Tahsil Office Roha, but he did not listened and took dumper at Mhada colony and dumped sand there. The sand was approximately 04 brass. Informant called Talathi Dilip Somvanshi(PW3) and Talathi Sachin Sambari at that place and proceeded towards Gofan area. They kept Ravindra Bait(PW2) at Mhada colony to keep watch on sand. At Gofan they found fresh excavated 02 brass sand. Informant instructed Talathi Dilip Somvanshi(PW3) to carry out panchnama. When they came at Tahsil Office Roha they found said dumper was parked in the compound of Roha Tahsil office. In respect of aforesaid incident informant(PW1) lodged report on 13.06.2018 against the accused for offences punishable u/s.353, 379 r/w.34 of the IPC and u/s.21 of the Mines and Minerals (Development and Regulation) Act, 1957.

3) ASI, Shri. Prashant Tayde(PW7) carried out investigation by direction of his Superior Officer. He received

report(Exh.43), statement of informant, two spot panchanamas etc. He visited spot alongwith two panch witnesses and drawn hand map(Exh.68) and took two photographs(MO-C) at the spot. He took muddemal receipt(Exh.69) in respect of seized muddemal i.e. four brass sand. He also obtained 7/12 extract(Exh.70) of spot. Further, he visited spot at Gofan alongwith panch witnesses and drawn handmap(Exh.71) there and also took photographs(MO-B). In respect of seized sand at Gofan area he took muddemal receipt(Exh.72). The receipt (MO-E) of printout of photographs was also taken. He arrested accused Ramij Dange(A1). The said accused during his police custody remand gave memorandum statement(Exh.63) in presence of two panch witnesses. Accordingly, Investigation officer proceeded as per direction of accused alongwith two panch witnesses and discovered JCB bearing No.MH04/BT-3408 and seized it in presence of two panch witness under seizure panchanama(Exh.64). Accused Ramij Dange(A1) also gave memorandum statement and as per his memorandum statement said Gofan spot was discovered in presence of two panch witnesses. Informant had recorded video shooting in his mobile phone about incident. The said video shooting converted into DVD and hash value certificate(Exh.59) was obtained. Investigation officer deposited DVD into muddemal room Police Station and taken muddemal receipt(Exh.57). Further, he recorded statement of witnesses as per their say. He also took logbook entry(Exh.74) about taking accused Ramij Dange(A1)

out of police station for recording memorandum statement and log book entry(Exh.75) for using vehicle for discovery. He forwarded letter to Tahsildar Roha on 21.06.2018(Exh.76) for drawing handmap of spot. He obtained ownership documents of dumper and JCB. He also took CDR report in respect of mobile communication between accused No.1 and 2. 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 Roha Police station filed charge-sheet against accused for offences punishable u/s.379, 353 r/w. 34 of IPC & u/.21 of the Mines and Minerals (Development and Regulation) Act, 1957, before Ld. JMFC, Roha.

4) The offence is exclusively triable by the Sessions Court, hence Ld. JMFC, Roha has committed case u/s.209 to this Court by complying with procedure u/s.207 of Cr. P. C.

5) After hearing Ld. APP and Ld. Advocate for accused my Ld. Predecessor framed Charges(Exh.12) for offences punishable u/s.379, 353 r/w.34 of the IPC & for offence punishable U/s.21 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 (Exh13 and 14) not guilty and claimed to be tried. Prosecution filed evidence closing pursis(Exh77). The statements(Exh.78 & 79) of accused u/s.313(1)(b) of Code of

Criminal Procedure Code were recorded by explaining incriminating circumstances came in evidence against them. Accused denied those incriminating circumstances and claimed false implication.

6) Ld. A.P.P. Shri. Yogesh Tendulkar submitted that, prosecution examined total seven witnesses to prove guilt of the accused. PW2 to PW6 are panch witnesses. Informant(PW1) and Ravindra Bait(PW2) are eye witnesses, who had intercepted accused Ramij Dange(A1), while transporting sand without royalty, which was dumped at Mhada Colony in their presence. The sand, JCB and dumper were seized under seizure panchnamas. Further, as per memorandum statement of accused Ramij Dange, JCB was recovered and place from where accused took sand has been discovered. Informant is revenue officer authorized to take action against illegal excavation of sand. Incident occurred in the mid night, hence no independent witnesses to the incident. Accused committed offence of theft of sand and also violated provisions of The Environment Protection Act 1986. Prosecution witnesses deposed as per their statement and defence failed to elicit anything material to discredit their testimony. Thus, prosecution proved its case beyond reasonable doubt. Hence, prayed for conviction of the accused.

7) Ld. Advocate Shri. Roshan Pandhare for accused Ramij Dange(A1) submitted that, there is nothing in the FIR about obstruction of public servant in discharging public duties.

Hence, ingredients of section 353 IPC not complied. Police Station is five minutes away from alleged spot of incident i.e. Mhada Colony, though there was delay of six hours in lodging FIR which was not sufficiently explained. All witnesses are from revenue department and are interested. Panch witnesses were not examined to prove spot panchnama. The alleged spot i.e. Mhada colony, where number of constructions were going on at the relevant time, sand would naturally be found there. Accused has been falsely implicated in respect of unclaimed sand found there. The mobile number by which informant received phone call from Tahsildar and number of motorcycle by which they went for patrolling was not mentioned in FIR and statement of witnesses. It raised doubt about actual receipt of information and witnesses went for patrolling duty and intercepted dumper with sand. No entry was made in the register of Tahsildar office prior to leaving for patrolling duty. There is no corroboration from independent witnesses. Thus, prosecution failed to prove charges beyond reasonable doubt. Therefore, prayed for acquittal of the accused.

8) Ld. Advocate Shri. M. N. Shinde for accused Shashikant(A2) submitted that, neither incriminating material in the charge-sheet, nor in the evidence came on record against this accused. Hence, prayed for acquittal of the 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 proved that accused in furtherance of their common intention committed theft of 6 brass of sand without permission of Government and thereby committed an offence punishable u/s.379 r/w.34 of IPC?	<b>No.</b>
2.	Does the prosecution proved that during the course of same transaction accused in furtherance of their common intention used criminal force to informant, while discharging his duty, with intent to prevent him from discharging his duty as public servant and thereby committed offence punishable u/s.353 r/w.34 of the IPC ?	<b>No.</b>
3.	Does the prosecution proved that during the course of same transaction accused in furtherance of their common intention found transporting 4 brass of sand through dumper bearing No.MH-	<b>No.</b>

	06/BD-41, otherwise than in accordance with provisions of The Mines and Minerals (Development & Regulation) Act, 1957 and contravened provision of Section 21 of the said Act?	
4.	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(PW1) and Ravindra Bait(PW2) are alleged eye witnesses who allegedly intercepted dumper with sand. Dilip Somvanshi(PW3) who allegedly carried out spot panchnama(Exh50) at Shedsai. Santosh Pingle(PW4) is a Panch witness to the spot panchnama(Exh53) at Gofan. Fanindra Madavi(PW5) panch witness for seizure of DVD & Hash Value certificate(Exh.59). Shirish Tambadkar(PW6) panch witness to memorandum panchnama and JCB seizure panchnama(Exh63) and discovery of Gofan spot panchnama(Exh64). API Prashant Tayde(PW7) is an Investigation Officer.

#### **As to point no.1:**

11) To prove theft of sand Prosecution must prove that accused intending to take dishonestly sand out of possession of State Government without its consent.

12) Informant(PW1) deposed that on 13.06.2018 he alongwith Talathi Ravindra Bait(PW2) both serving as revenue officer went on patrolling duty on motorcycle after receiving call on mobile from Tahsildar Roha. During such patrolling at Kharigaon village at around 00.50 hrs. they intercepted a dumper bearing No.MH-06/BD-41 illegally transporting sand. Upon inquiry with driver of dumper accused Ramij Dange(A1) it was revealed that he loaded sand from Gofan area and he did not have royalty for transportation of the sand. Hence, informant boarded the dumper and directed the driver accused Ramij Dange(A1) to proceed towards the Tahsil office. Ravindra Bait(PW2) was coming behind dumper on motorcycle. However, accused Ramij Dange(A1) did not listening his instruction, hence informant did video shooting in his mobile phone. Accused Ramij Dange(A1) took dumper at Mhada colony and dumped the sand at Mhada Colony. Informant called Dilip Somvanshi(PW3) and Talathi Sachin Sambari there and then moved alongwith them towards Gofan area. At Gofan area they found fresh excavated sand. Dilip Somvanshi(PW3) did panchnama at Gofan in presence of three panch witnesses. Ravindra Bait(PW2) did panchnama at Mhada Colony in presence of three panch witnesses.

13) It is pertinent to note that though name of three panch witnesses were mentioned in the spot panchnama(Exh.48) at Mhada Colony, none of them was examined to prove panchnama. The panchnama(Exh.48) and panchnama(Exh.50) at Gofan proved by Ravindra Bait(PW2) and Dilip Somvanshi(PW3) who has drawn it. It is well settled that examination of independent panch witnesses add transparency and credibility to the panchnama. The panchnama(Exh.48) at Mhada colony is important piece of evidence considering involvement of accused Ramij Dange(A1), because in the panchnama(Exh.48) alleged dumper was standing near sand stock. However, in report(Exh.43) and in deposition of informant it has come on record that when informant came back from Gofan, he had seen dumper parked in the compound of Tahsildar office Roha. Ravindra bait(PW2) who was guarding sand pile at Mhada Colony did not stated accused Ramij Dange(A1) took said dumper from Mhada Colony. Hence, no explanation came from prosecution, how said dumper came into compound of Tahsildar Roha. Further, time was not mentioned in the panchnama(Exh.48). All these things create serious doubt about involvement of said dumper in the alleged offence.

14) In deposition informant stated that he did video shooting after accused did not proceeded dumber as per his direction. However, in the report(Exh.43) video shooting done by informant was not mentioned. The said video shooting would

corroborate testimony of informant. However, prosecution has not proved alleged video shooting by showing DVD to the informant(PW1) and Fanindra Madavi(PW5) at the time of their deposition. In absence of proving contents of DVD deposition of Fanindra Madavi(PW5) is not useful to the Prosecution as regards seizure of DVD and Hash value certificate(Exh.59). The said video shooting in the DVD would be best evidence for the prosecution. The Hon'ble Supreme Court in the case of **Tomaso Bruno v. State of Uttar Pradesh, Criminal Appeal No.142 of 2015, (Arising out of S.L.P.(Crl.) No. 1156/2013)** has observed that though CCTV was available at the spot of incident and if prosecution has not brought it on record, adverse inference has to be drawn against prosecution case. Further, section 114(g) of The Indian Evidence Act 1872 states that evidence which could be produce and is not produce would, if produce, be unfavorable to the person who withhold it, would be applicable here. Hence, adverse inference shall be drawn against prosecution case for not showing DVD to the prosecution witnesses.

15) The plot no.63 at Gofan where alleged fresh excavated sand was found is a government plot. Hence, sand found at Gofan cannot be said to be belongs to accused unless there is concrete evidence to show that accused is in occupation said land and sand. Prosecution has examined Shirish Tambadkar(PW6) to prove memorandum statement of accused Ramij Dange(A1), discovery of Gofan plot panchnama(Exh.64) and seizure panchnama(Exh.63) of JCB. However, said witness

did not prove memorandum statement and only proved seizure and panchnama of discovery of Gofan spot. Ld. A.P. P sought permission of the Court to ask leading questions to the witness as he did not said anything about memorandum statement. In absence of proving voluntary memorandum statement of accused, discovery according to it would loose its evidentiary value. It would not be proper to held that as per memorandum statement of accused Ramij Dange(A1) Gofan plot & JCB were discovered. Apart from that as per prosecution case, informant alongwith Dilip Suryavanshi(PW3) had visited Gofan plot on 13.06.2018 day of alleged incident. Thus, it cannot be said that Gofan plot was discovered at the instance of accused. The seizure of JCB under panchnama(Exh.63) also cannot be said to be at the instance of accused in absence of proved memorandum statement.

16) It is admitted position that at that relevant time number of constructions were going on at Mhada Colony. Naturally, sand would be available at that construction site. Thus, mere evidence of seizure of sand at Mhada Colony would be not sufficient to connect the accused with said sand. Hence, prosecution failed to connect accused Ramij Dange(A1) with the sand found at Mhada Colony and at plot no.63 Gofan.

17) Accused no.2 Shashikant Kadu(A2) was undisputedly not with accused Ramij Dange(A1) at the time of alleged offence, and he was implicated in the offence only

because he was allegedly in contact with accused no.1 Ramij Dange(A1) on mobile phone at relevant time. However, prosecution failed to prove CDR between them. Apart from that prosecution failed to prove prior meeting of mind to attract section 34 of the IPC against the Accused no.2 Shashikant Kadu(A2). As concluded herein above prosecution failed connect accused Ramij Dange(A1) with the alleged offence, consequently failed to connect accused no.2 Shashikant Kadu(A2) with the offence. Hence, Prosecution failed to prove accused committed theft of six brass sand intending to take dishonestly out of possession of State Government without its consent. Therefore, I answer point no.1 in the negative.

**As to point no.2 :**

18) To prove charge of section 353 of the IPC, prosecution must prove that informant is public servant, discharging his duty and accused assaulted or used criminal force with intent to prevent him from discharging his duties.

19) Defence not disputed informant is public servant. However, informant(PW1) in his deposition first time stated that, when accused trying to take dumper at Mhada colony, he restrained him from turning starring wheel of the dumper, at that time accused pushed him by left hand. However, during cross examination informant admitted that he has not stated aforesaid things at the time of lodging report(Exh.43). Thus, it is an omission. Besides, to attract section 353 of the IPC, there

must be some overt act committed by the accused for preventing discharge of duty by public servant. From the case it appears that informant seems to have discharged his duties thereafter. Further, not following instruction of informant does not mean use of criminal force to deter public servant from discharging his duty. Admittedly accused no.2 Shashikant Kadu was not with the accused no. 1Ramij Dange at the time of alleged incident. Further, there is no evidence to say that, accused Ramij Dange was acting as per instruction given on mobile phone by accused Shashikant Kadu. Thus, prosecution failed to prove charge u/s. 353 of the IPC against the accused. Hence, I answer point no.2 in the negative.

**As to point no.3:**

20) Therefore, Prosecution failed to prove charges beyond reasonable doubt against accused. Hence, accused entitled to be acquitted. The muddemal property dumper bearing No.MH-06/BD-41 and JCB bearing no.MH-04/DT-3408 are reported having been released and delivered to its owner on indemnity bond. The said bond needs to be cancelled in favour of respective owner after appeal period is over. The sand belongs to the State Government, it needs to be confiscated to the State Government, after appeal period is over. Further, 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 **Ramij Rajjak Dange(A1) & Shashikant Ganpat Kadu(A2)** are hereby acquitted under section 235(1) of the Code of Criminal Procedure, for the offence punishable u/s.379, 353 r/w.34 of the Indian Penal Code 1860 (in short "IPC") & punishable U/s.21 Mines and Minerals (Development and Regulation) Act, 1957.
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 dumper bearing No.MH-06/BD-41 and JCB bearing no.MH-04/DT-3408 are reported having been released and delivered to the owner on indemnity bond, the said bond stand cancelled in favour of respective owner of dumpers after appeal period is over.

5. The sand be confiscated to the State Government 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: 15.04.2026.

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	Pravin Abaji Lokare	Informant
PW-2	Ravindra Hari Bait	Eye witness
PW-3	Dilip Vitthalrao Somvanshi	Witness
PW-4	Santosh Damodar Pingale	Panch witness
PW-5	Fanindra Anant Madvi	Seizure panch
PW-6	Shirish Harishchandra Tambadkar	Seizure panch
PW-7	Prashant Sampat Tayade	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-43/PW-1	Report
2]	Exh.P-44/PW-1	Printed FIR
3]	Exh.P-48/PW-2	Panchanama
4]	Exh.P-50/PW-3	Seizure panchanama of sand
5]	Exh.P-53/PW-4	Spot panchanama
6]	Exh.P-57/PW-5	Seizure panchanama of DVD
7]	Exh.P-58/PW-5	Sealed envelope
8]	Exh.P-59/PW-5	Hash Value Certificate
9]	Exh.P-63/PW-6	Seizure panchanama of JCB
10]	Exh.P-64/PW-6	Memorandum Panchanama
11)	Exh.P-68/PW-7	Handmap
12)	Exh.P-69/PW-7	Muddemal receipt
13)	Exh.P-70/PW-7	7/12 extract
14)	Exh.P-71/PW-7	Handmap of Gofan plot
15)	Exh.P-72/PW-7	Muddemal receipt about 2 brass sand
16)	Exh.P-73/PW-7	Arrest panchanama of Ramij Dange (A1)
17)	Exh.P-74/PW-7	lockbook extract
18)	Exh.P-75/PW-7	lockbook extract
19)	Exh.P-76/PW-7	Letter dt.21.06.2018.

**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	Photo.
2)	MO-B	Photo.
3)	MO-C	Photo.
4)	MO-D	Photo.
5)	MO-E	Receipt about photo print.
6)	MO-F	CDR

Sd/-

Mangaon.

(M. K. Patil)

Date: 15.04.2026.

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 ::

१५.०४.२०२६.

न्यायनिर्णय टंकलिखित केल्याचा दिनांक ::

१५.०४.२०२६.

न्यायनिर्णय स्वाक्षरीत केल्याची दिनांक ::

१५.०४.२०२६.

न्यायनिर्णय अपलोड केल्याची दिनांक ::

१५.०४.२०२६.