

**Sessions Case No.33/2015
Exh. No.43**

Deposition of witness No.2 for the State.

I do hereby on solemn affirmation state that :-

My name :- Vitthal Vasant Dhuri,

My age :- 38 years. Occu. :- Police Naik, B. No.561,
Vengurla Police Station.

R/o.Vengurla, Tal. Vengurla, Dist. Sindhudurg.

Examination-in-chief by A.P.P. G. M. Todkari for State.

1. On 28/11/2014 I was attached to Malvan Police Station as police constable. Before the incident I was working at Malvan Police Station for five years. On 28/11/2014 I was on duty as traffic control, Nakabandi and patrolling at Bharad Naka. The said duty was fixed on 27/11/2014 on roll call. I was present in police station at the time of roll call. The allotment of duty is recorded in Duty Batavada Register. PC Fernandes was also on Nakabandi duty with me.

2. On 28/11/2014 I went to police station and thereafter on my dress I started proceeding to my duty at Bharad Naka at 9.05 a.m. by making entry in station diary. I was wearing the dress of traffic police i.e. white shirt and khaki pant. I conducted duty up to 1.00 p.m. and went to police station. Thereafter at about 4.00 p.m. I alongwith PC Fernandes went to Nakabandi duty at Bharad Naka. We conducted Nakabandi duty up to 6.00 p.m. At about 6.00 p.m. we started proceeding for bazar

patrolling. While patrolling PHC Kadam, B. No.604 met us. We took him with us. Thereafter, we started proceeding towards bazarpeth by motorcycle bearing registration No. MH-07/G-0020. At Gaonkar Naka there was work of digging road was going on and it was not possible to proceed by any vehicle. Therefore, we started proceeding to Bharad Naka. We reached near Zaty Hospital at 6.10 p.m. I saw one motorcycle coming from opposite direction by carrying three persons. Therefore, I gave signal to them to stop. The motorcycle was not having any number plate. It was Bajaj Pulsar motorcycle. Girish Pednekar was riding the motorcycle and Rajesh Parkar and Sail Parkar were pillion riders. I asked them to show the driving license and the documents of the vehicle for verification. They did not show the documents of the vehicle and the driving license and started arguing with me. They started abusing me by saying that "they will not show the documents and pay the fine, you do whatever" and accused Rajesh Parkar caught hold me by hugging. Accused Sail Parkar twisted my left hand. Therefore, I sustained injury to my left shoulder. Sail Parkar gave fist blows on my ear and abdomen. At that time Ranjeet Parkar and Ramesh Parkar came there while running. They also abused me and started arguing with me. They scuffled me and dragged in a lane near the house of Bidvalkar. PHC Kadam tried to rescue me, but they scuffled him and abused him. People gathered there. The lane was narrow. In the lane the accused had pressed my mouth and neck. They were saying that, "this police should not be kept alive". They dragged me inside the Gadga situated towards backside of the house of Bidvalkar. Ramesh Parkar caught hold both my legs. Ranjeet Parkar pressed my neck and mouth. After sometime

police staff including Police Naik Parulekar, PC Rane and P.C. Sarang came there. Thereafter, the accused ran away. Thereafter, I went to the main road. The in-charge of police station PI Bulbule met me. I narrated the incident to him.

3. Due to the scuffle and assault, my shirt was became dirty and two buttons were cut down. The whistle and its clip was also fallen down. Due to the incident I could not perform my duty. Thereafter, I went to the police station. The incident was noted in station diary and I was referred for medical examination. PC Parab took me for medical examination and treatment. I was examined and provided medical treatment at Rural Hospital, Malvan at about 7.30 p.m. Thereafter, I went to Malvan police station and lodged report of the incident. The complaint now shown to me, is the same. It bears my signature. Its contents are true and correct. It is at **Exh.44**.

4. I can identify the accused, who had assaulted me. The accused are present before Court.

5. After recording my complaint, I handed over my shirt to police and it was seized. On next day I was called on the spot of incident by API Keram for pointing out the spot of incident. I had pointed out the spot of incident to him. On the spot of incident near a shed my whistle and its clip was found. Two buttons of black colour of my shirt were found in the lane. Accordingly, the spot panchanama was prepared. I can identify the buttons, shirt, whistle and its clip, if shown to me.

6. Now I am shown muddemal shirt Article-1, is the same my shirt. It bears my name plate. I had worn the said shirt at the time of incident. Now I am shown the muddemal two buttons of shirt, are the same. It is at Article-2. The said buttons are of my shirt Article No.1. Now I am shown muddemal whistle, is the same. It is at Article-3. Now I am shown muddemal clip, is the same. It is at Article-4. I can identify the motorcycle by which the accused were proceeding.

7. Today I have brought my identity card to show that I am serving in Police Department of Sindhudurg District.

(Examination-in-chief on behalf of prosecution is completed.)

Cross-examination by Adv. Shri.S.D. Desai
for accused No. 1, 4 & 5.

(In view of order passed below Exh.45, the cross-examination is adjourned till next date.)

Read over to the witness to which he admitted it to be correct.

Date :- 10.12.2021.
Sindhudurg Oros.

(R. B. Rote)
Addl. Sessions Judge,
Sindhudurg-Oros.

Resumed on fresh oath:-**Cross-examination by Adv. Shri.S.D. Desai**
for accused No. 1, 4 & 5.

8. I had been to hospital for medical treatment on 28/11/2014 at about 7.30 p.m. For taking medical leave in illness it is necessary to furnish medical certificate. I had not applied for medical leave before 8 to 10 days of the incident. Before the incident I had no occasion to take medical treatment from Dr. Navangul of Kudal.

9. On 28/11/2014 my duty hours were 9.00 a.m. to 9.00 p.m. During the said hours I used to do different duties like Nakabandi, patrolling and traffic duty. The said entry was made in Duty Batwada Register. The then in-charge of the police station used to allot the duties. It is not true that my duties hours were from 20.00 hours on 27/11/2014 to 20.00 hours of 28/11/2014. Now I am shown Duty Batwada Register. It is true that in the Duty Batwada Register my duty was shown 20.00 hours on 27/11/2014 to 20.00 hours of 28/11/2014. Police Constable Fernandes was not with me in the entire duty hours. It is not true that in Duty Batwada Register my duty and the duty of PC Fernandes was shown jointly. Except Nakabandi duty myself and PC Fernandes were on different duties. Myself and PC Fernandes were not proceeded to duty in the morning at the same time. On that day PC Fernandes met me first time at 16.00 hours. I myself and PC Fernandes were together till 18.00 hours. I do not know where Fernandes gone at 18.00 hours. Now I am shown the Duty Batwada Register. Since this document is referred in cross-examination, it is marked as **Exh.48**. It is true that as per said

Duty Batwada Register myself and PC Fernandes were allotted duties from 20.00 hours of 27/11/2014 to 20.00 hours of 28/11/2014 at Bharad Naka and Nakabandi. It did not so happen that we went to other work by leaving the duty. On that day we had been to Bharad Naka for Nakabandi. It is not true that on that day since I was given duty at Bharad Naka, I had no right to go to other place. At about 6.00 p.m. when I left Bharad Naka, no police officer was present there.

Que. Whether before going to Barzarpeth from Bharad Naka, you have mentioned to police station by phone call and to take entry in station diary ?

Ans. In the morning I had left police station by making entry and there was no necessity to make entry every time while leaving the point as it comes under the traffic duty.

It is not true to that in the Duty Batwada Register at Exh.48, there is no entry regarding allotment of traffic duty and patrolling to me.

10. On that day after medical treatment, I cannot tell when I reached to police station. Malvan Municipal Council had not given me a letter stating that the work of road is in progress and to take the traffic by another road. I was knowing Rajesh Kamtekar. He was having a hotel beside the S.T. stand. I had not visited Rajesh Kamtekar on 28/11/2014. On that day first time I saw accused No.1 at 18.10 hours in front of Zaty Hospital on road. On that day at about 18.00 hours I was at Bharad Naka. It

requires two minutes to reach from Bharad Naka to Zaty Hospital by motorcycle. It is true that both sides of the road from Bharad Naka to Zaty Hospital, there are shops and it is the main market place. It is true that at about 6.00 to 6.30 p.m. there is always crowd on the said road. It is true that there is a junction of 5 roads at Bharad Naka, therefore, there is always traffic. It is true that therefore, there is always traffic police remains at Bharad Naka at evening time for controlling the traffic. It is true that 6.00 p.m. it is pick hour of traffic, therefore, traffic police used to control the traffic at Bharad Naka.

Que. At about 6.00 to 7.00 p.m. as there is always heavy traffic, the traffic police at Bharad Naka are not leaving Bharad Naka unless there is emergency ?

Ans. On that day while doing duty at Bharad Naka, the two wheeler riders going to Bazarpeth were returning back, therefore, I went there to see what happened.

I had stated the above fact while lodging the F.I.R. According to me, in Bazarpeth the road was under repairs, therefore, I had been there. Motorcycle patrolling is mentioned in Duty Batwada Register, it means patrolling by motorcycle. I know the difference between patrolling and clearing the traffic, if it is blocked. According to me, my Nakabandi duty was completed at 18.00 hours.

Que. Whether it happened that while returning after patrolling in Malvan Bazarpeth, the incident was occurred?

Ans. I had been to see whether the road was under repairs, while returning from that place, the incident was occurred.

It is not true that it is not mentioned in my complaint that the two wheeler riders were returning back, therefore, I had been there to see what happened.

(Further cross-examination is adjourned as court time is over)

Read over to the witness to which he admitted it to be correct.

Sd/-

Date :- 22.03.2022.
Sindhudurg Oros.

(R. B. Rote)
Addl. Sessions Judge,
Sindhudurg-Oros.

Resumed on fresh oath:-**Cross-examination by Adv. Shri.S.D. Desai**
for accused No. 1, 4 & 5.

11. The incident of assault was going on for about 5 minutes. During that period I never tried to overpower the accused by using force. Police constable Kadam had also never tried to overpower the accused by using force. At the time when the incident was going on, other police had not come there. Police came there at the end of the incident. Three police persons had come there. I do not know whether the other police tried to chase them by following them. I never tried to chase any of the assailant because I was not in a position to chase them. Many people were gathered there. I cannot tell how many people had gathered to the spot. I cannot tell whether the people from the mob had tried to chase the assailant. The mob was present on the road and the incident was occurred towards backside of a house in the lane. In the incident I had not sustained any injury. There were no marks of beating on my body. Usually while on duty I used to button my shirt.

12. After the incident no separate crime was lodged for driving the motorcycle triple seat and without number plate. On that day I was having the receipt-book for preparing challan. At that time I had not prepared receipt in respect of driving motorcycle triple seat and without number plate. It is true that in the F.I.R. the sections for offence of M.V. Act are not mentioned. I do not know whether a crime under section 323, 504 and 427 of I.P.C. has been registered at Malvan Police Station in respect of the incident occurred at Bharad Naka at 5.45 p.m. on 28/11/2014.

I do not know whether the entry was made in Malvan Police Station in station diary vide No. 333/2014 at 6.45 p.m. Later on I came to know that one Rajesh Dipak Kamtekar had lodged complaint that accused Rajesh Ramesh Parkar alongwith two unknown persons had assaulted him at Bharad Naka at 5.45 p.m. on 28/11/2014. No such incident of assault was taken place in my presence. It did not so happen that I had left the duty spot of Bharad Naka, therefore, I had no knowledge as to what happened at Bharad Naka. I had not received information that at 5.45 p.m. an incident of assault was taken place and therefore, it was necessary to make enquiry about the same. I do not know whether the team of Malvan Police Station had reached Bharad Naka for enquiry about the complaint given by Rajesh Kamtekar. It is not true that when the team of Malvan Police Station had reached Bharad Naka, I was not present on duty and I had left the place. Witness volunteers that I had been to Gaonkar Naka for my duty. It is not true that since I was not present on duty to avoid any action, I personally went towards the accused and told them to support me and come to police station. It is not true that when accused asked me, I did not give them satisfactory answers and tried to take them towards police station forcibly. It is not true that the accused had asked me about the reason for illegally taking them to police station, I became angry and to avoid action against me, since I was not on duty, I have prepared false case against the accused.

13. It is not true that I deposed false that, *on 28/11/2014 I was attached to Malvan Police Station as police constable. Before the incident I was working at Malvan Police Station for*

five years. On 28/11/2014 I was on duty as traffic control, Nakabandi and patrolling at Bharad Naka. The said duty was fixed on 27/11/2014 on roll call. I was present in police station at the time of roll call. The allotment of duty is recorded in Duty Batavada Register. PC Fernandes was also on Nakabandi duty with me.

14. It is not true that I deposed false that, *on 28/11/2014 I went to police station and thereafter on my dress I started proceeding to my duty at Bharad Naka at 9.05 a.m. by making entry in station diary. I was wearing the dress of traffic police i.e. white shirt and khaki pant. I conducted duty up to 1.00 p.m. and went to police station. Thereafter at about 4.00 p.m. I alongwith PC Fernandes went to Nakabandi duty at Bharad Naka. We conducted Nakabandi duty up to 6.00 p.m. At about 6.00 p.m. we started proceeding for bazar patrolling. While patrolling PHC Kadam, B. No.604 met us. We took him with us. Thereafter, we started proceeding towards bazarpeth by motorcycle bearing registration No. MH-07/G-0020. At Gaonkar Naka there was work of digging road was going on and it was not possible to proceed by any vehicle. Therefore, we started proceeding to Bharad Naka. We reached near Zaty Hospital at 6.10 p.m. I saw one motorcycle coming from opposite direction by carrying three persons. Therefore, I gave signal to them to stop. The motorcycle was not having any number plate. It was Bajaj Pulsar motorcycle. Girish Pednekar was riding the motorcycle and Rajesh Parkar and Sail Parkar were pillion riders. I asked them to show the driving license and the documents of the vehicle for verification. They did not show the documents of the vehicle and*

the driving license and started arguing with me. They started abusing me by saying that' "they will not show the documents and pay the fine, you do whatever" and accused Rajesh Parkat caughthold me by hugging. Accused Sail Parkar twisted my left hand. Therefore, I sustained injury to my left shoulder. Sail Parkar gave fist blows on my ear and abdomen. At that time Ranjeet Parkar and Ramesh Parkar came there while running. They also abused me and started arguing with me. They scuffled me and dragged in a lane near the house of Bidvalkar. PHC Kadam tried to rescue me, but they scuffled him and abused him. People gathered there. The lane was narrow. In the lane the accused had pressed my mouth and neck. They were saying that, "this police should not be kept alive". They dragged me inside the Gadga situated towards backside of the house of Bidvalkar. Ramesh Parkar caughthold both my legs. Ranjeet Parkar pressed my neck and mouth. After sometime police staff including Police Naik Parulekar, PC Rane and P.C. Sarang came there. Thereafter, the accused ran away. Thereafter, I went to the main road. The in-charge of police station PI Bulbule met me. I narrated the incident to him.

15. It is not true that I deposed false that, *due to the scuffle and assault, my shirt was became dirty and two buttons were cut down. The whistle and its clip was also fallen down. Due to the incident I could not perform my duty. Thereafter, I went to the police station. The incident was noted in station diary and I was referred for medical examination. PC Parab took me for medical examination and treatment. I was examined and provided medical treatment at Rural Hospital, Malvan at about*

7.30 p.m. Thereafter, I went to Malvan police station and lodged report of the incident which is at Exh.44.

16. It is not true that I deposed false that, *after recording my complaint, I handed over my shirt to police and it was seized. On next day I was called on the spot of incident by API Keram for pointing out the spot of incident. I had pointed out the spot of incident to him. On the spot of incident near a shed my whistle and its clip was found. Two buttons of black colour of my shirt were found in the lane. Accordingly, the spot panchanama was prepared.*

17. It is not true that I deposed false that, *I identified muddemal shirt Article-1, two buttons of shirt Article-2, whistle Article-3, clip Article-4. I can identify the motorcycle by which the accused were proceeding.*

(Cross-examination on behalf of accused No.1, 4 and 5 is completed.)

Cross-examination by Adv. Shri.Y. R. Khanolkar
for accused No.2

(The cross-examination taken on behalf of accused No.1, 4 and 5 has been adopted by accused No.2)

18. It is true that Sail Parkar and Sainath Parkar are two different names. I had not stated while lodging the complaint that, Sainath Parkar had assaulted me. In police station the I.O. had verified about the identification of accused Sainath Parkar from me. Accordingly, my supplementary statement was not

recorded. It is not true that there is no concern of accused Sainath Parkar with the person mentioned in F.I.R. as Sail Parkar. It is not true that on the day and time of incident accused Sainath Parkar was not present at Malvan. It is not true that, accused No.2 is the relative of other accused, he has been falsely implicated in this case. It is not true that the accused never assaulted me and never twisted my left hand.

(Cross-examination on behalf of accused No.2 is completed.)

Cross-examination by Adv. Shri.V.P. Chindakar
for accused No.3

19. It can be gathered from station diary whether I had done my duty on 28/11/2014. I do not know whether the station diary extract of 28/11/2014 is produced on record or not. I do not know whether the station diary extract in respect of police constable Fernandes of 28/11/2014 is produced or not.

20. The station diary entry of 28/11/2014 at 9.05 a.m. is produced in the police papers. I have done service for about 12 to 13 years in Police Department. I have done duty as traffic controller for some days while I was attached to Malvan Police Station. It is true that the dress of police constable and traffic controller are different. It is not true that white shirt and brown pant is not the dress of traffic police. It is not true that the dress of traffic police is of white shirt and white pant.

21. There is one different branch of traffic police in Police Department, but in police station one constable is

appointed for traffic control. The traffic police of Traffic Department was not appointed at Malvan within the jurisdiction of Malvan Police Station. It is true that the name of traffic branch is District Transport Department. Its headquarter is at Oros. I was not appointed in District Transport Department of Oros.

22. I know the meaning of word Nakabandi. It is true that Nakabandi is done by obstructing the traffic for making enquiry of any vehicle or crime. At that time Nakabandi was not done by using barricades. At the time of conducting Nakabandi we used to take entries in respect of the vehicles and persons enquired with. A separate kaccha register is maintained for the same. I had given the said register dated 28/11/2014 to the P.S.O.

23. It is not true that I deposed false that I conducted Nakabandi up to 6.00 p.m. and thereafter started proceeding for patrolling to Bazarpeth. It is not true that I deposed false that, while patrolling PHC Kadam met me. PHC Kadam was attached to District Special Branch, Sindhudurg. It is not true that I deposed false that, I took him for patrolling duty.

24. I was residing in police quarters situated towards backside of the Court premises. It is true that in front of the building of the court, there is office of Tahasildar and Police Station. It is true that while proceeding from Malvan Police Station to Bharad Naka, one has to go by one way situated adjacent to theater. It is true that while proceeding from Bharad Naka to Police Station, one has to go by Bazarpeth by one way.

Gaonkar Naka is situated in Bazarpeth. The distance between Bharad Naka and Gaonkar Naka is about 300 to 400 meters. At Gaonkar Naka the work of underground drainage was going on. I cannot tell where from the work was going on. It is true that without prior permission of Police Department, digging work of road cannot be started. It is not true that I deposed false that near Zaty Hospital, 3 persons were coming on motorcycle triple seat. It is not true that I deposed false that I was patrolling by motorcycle No.MH-07/G-0020. The said motorcycle was owned by government. The entry was made in log-book to show that it was given to me. We used to take government motorcycle from the P.I. of concerned police station. It is not true that the said motorcycle was not taken from P.I. On 28/11/2014 P.I. Bulbule was the in-charge of Malvan Police Station. There is difference in patrolling by walking and by vehicle. While going from Bharad Naka to Gaonkar Naka, there is Zaty Hospital earlier to Gaonkar Naka.

25. The distance between Gaonkar Naka to Zaty Hospital is about 100 to 150 meters. At Gaonkar Naka the work of underground drainage was going on. At noon I had been to my house for taking lunch. I went to my house by Bazarpeth road. At that time the road was dug, but the vehicles were proceeding. It is true that the underground drainage in Malvan City is done at the centre of the road. It is not true that the excavated soil were kept towards both side of the road.

26. It is not true that I deposed false that, Girish Pednekar was riding the motorcycle of Bajaj Pulsar and Rajesh

Parkar and Sail Parkar were the pillion riders. It is not true that I deposed false that Ranjit Parkar and Ramesh Parkar came there by running. Before lodging the F.I.R. I had done duty at Malvan City for 5 years. It is not true that, no such incident was taken place as deposed by me in my examination-in-chief, therefore, notice under section 209 of M.V.Act was not given. It is not true that I deposed false that, I asked them to show about their driving license and document of vehicle and they scuffled with me. It is true that if the traffic police demanded the documents of vehicle and the vehicle rider did not furnish the same, is a distinct offence under M.V. Act.

27. It is not true that I deposed false that the accused abused me. It is not true that since the accused had not abused me, the words of abuses are not mentioned in the F.I.R.

28. It is not true I deposed false that the accused dragged me in lane near the house of Bilwadkar. It is not true that there is no lane in front of the house of Bilwadkar. The house of Bilwadkar is situated adjacent to Bazarpeth road. Bazarpeth road and lane are different roads.

29. It is true that there is name to every lane situated at Malvan. I had not given record in respect of Bilwadkar lane to the I.O. It is not true that there was no such lane, therefore, I have not given any record to the I.O.

30. It is true that there is one shop of accused Ramesh Parkar in Malvan Bazarpeth. I do not know whether accused

No.3 Ranjit Parkar works in the said shop. It is true that the shop of accused No.4 is situated ahead Gaonkar Naka towards the side of Malvan Police Station. It is not true that I deposed false that the accused scuffled me and the people gathered there. I know that a compound wall and drainage is recorded in the Municipal record. It is not true that I deposed false that, Police Naik Parulekar, Police constable Rane and Sarang came there and thereafter accused ran away. It is not true that I deposed false that thereafter, I came on the road, P.I. Bulbule met and I narrated the incident to him.

31. The shirt of the dress was given to me by Department. I do not know whether tailor Palav used to stitch the shirt of Traffic Department. The dress, shoes, cap and whistle were provided by government. I have seen the charge-sheet.

32. The distance between Bharad Naka to Police Station is about 2 to 2 1/4 k.m. It is true that the government hospital is situated in between Bharad Naka and Police Station.

(Further cross-examination is adjourned as court time is over)

Read over to the witness to which he admitted it to be correct.

Sd/-

Date :- 19.04.2022.
Sindhudurg Oros.

(R. B. Rote)
Addl. Sessions Judge,
Sindhudurg-Oros.

Resumed on fresh oath:-

Cross-examination by Adv. Shri.V. P. Chindarkar
for accused No. 3.

33.

(Cross-examination on behalf of accused No.3 is completed.)

Read over to the witness to which he admitted it to be correct.

Date :- 19.04.2022.
Sindhudurg Oros.

(R. B. Rote)
Addl. Sessions Judge,
Sindhudurg-Oros.