

CNRNOMHSI03-000043-2024 Received on : 24/09/2018



Registered on : 24/09/2018

Decided on : 07/05/2026

Duration : Yrs. Ms. Ds  
07 07 13**PART 'A'****IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,****SINDHUDURG- OROS,**

Before : Atul A. Chendke

[Date of Judgment – 07/05/2026]

**Regular Criminal Case No. 6 of 2024**

(Ori. R.C.C. No. 53/2018 of Cri. Court Kudal)

Exh. 53

|                                                    |                                                                                                                                                                                                          |
|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Details of F.I.R. -<br>Crime -<br>Police Station – | C.R. No. 71/2018.<br>U/Sec. 323, 324, 336, 427 and 504 r.w. 34<br>of Indian Penal Code<br>Police Station Kudal.                                                                                          |
| Informant                                          | Ashwini Kedar Gogate,<br>Age 43 yrs., Occ. - Insurance Agent,<br>R/o. Omkarnagar, Varchi- Kumbharwadi,<br>MIDC Kudal, Tal. Kudal,<br>Dist. Sindhudurg.                                                   |
| Represented by                                     | Ld. A.P.P. Smt. S.Y.Gobade                                                                                                                                                                               |
| Accused                                            | 1. Harishchandra Pandurang Nerurkar,<br>Age 75 yrs., Occ. - Labour<br>2. Taramati Harishchandra Nerurkar,<br>Age 70 yrs., Occ. - Household,<br>Both R/o. Omkarnagar, Varchi-<br>Kumbharwadi, MIDC Kudal, |

|                |                               |
|----------------|-------------------------------|
|                | Tal. Kudal, Dist. Sindhudurg. |
| Represented by | Adv. Shri. S.V. Khanolkar     |

### PART 'B'

|                                      |            |
|--------------------------------------|------------|
| Date of offence                      | 20/04/2018 |
| Date of F.I.R.                       | 20/04/2018 |
| Date of Charge-sheet                 | 24/09/2018 |
| Date of framing charge               | 08/08/2024 |
| Date of commencement of evidence     | 11/12/2024 |
| Date on which judgment is reserved   | 07/05/2026 |
| Date of the Judgment                 | 07/05/2026 |
| Date of the Sentencing Order, if any | ----       |

### Accused Details

| Rank & Name of Accused               | Date of arrest | Date of release on bail | Offences charged with                               | Whether acquitted or convicted | Sentence Imposed | Period of Detention during Trial |
|--------------------------------------|----------------|-------------------------|-----------------------------------------------------|--------------------------------|------------------|----------------------------------|
| 1. Harishchandra Pandurang Nerurkar, | --             | 10/07/2024              | U/Sec. 323, 324, 336, 427 and 504 r.w. 34 of I.P.C. | Acquitted                      | --               | --                               |
| 2. Taramati Harishchandra Nerurkar,  | --             | --                      | --                                                  | --                             | --               | --                               |

**PART 'C'****LIST OF PROSECUTION / DEFENCE / COURT WITNESSES****A. Prosecution/ Complainant:**

| RANK | NAME                    | NATURE OF EVIDENCE      |
|------|-------------------------|-------------------------|
| PW1  | Ashwini Kedar Gogate    | Informant and injured   |
| PW2  | Laxman Avinash Ghate    | Panch witness           |
| PW3  | Kedar Shashikant Gogate | Eye Witness and injured |
| PW4  | Gourav Uday Ghurye      | Medical Officer         |
| PW5  | Sandip Shankar Padelkar | Investigating Officer   |

**B. Defence Witness, if any :**

| NAME | NATURE OF EVIDENCE |
|------|--------------------|
| --   | --                 |

**C. Court Witness, if any :**

| NAME | NATURE OF EVIDENCE |
|------|--------------------|
| --   | --                 |

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

| SR. NO. | EXHIBIT NUMBER | DESCRIPTION            |
|---------|----------------|------------------------|
| 1       | Exh. 30/PW1    | FIR                    |
| 2       | Exh. 31/PW1    | Printed FIR            |
| 2       | Exh. 36/PW2    | Spot Panchnama         |
| 3       | Exh. 42 /PW4   | MLC of injured Kedar   |
| 4       | Exh. 43/PW4    | MLC of injured Ashwini |

**B. Defence :**

| EXHIBIT NUMBER | DESCRIPTION |
|----------------|-------------|
| --             | --          |

**C. Court Exhibits :**

| EXHIBIT NUMBER | DESCRIPTION |
|----------------|-------------|
| --             | --          |

**D. Material Object :**

| SR. No. | MATERIAL OBJECT NUMBER | DESCRIPTION          |
|---------|------------------------|----------------------|
| 1       | Article-A              | Pieces of Style      |
| 2       | Article-B              | One Stone            |
| 3       | Article-C              | Stick with Iron Hook |

**JUDGMENT**

( Delivered on 7<sup>th</sup> May, 2026 )

The accused Nos. 1 and 2 are prosecuted for the offence punishable under Section 323, 324, 336, 427 and 504 r.w. 34 of the Indian Penal Code.

**02. Prosecution case in nutshell is as under**

According to the informant Ashwini Kedar Gogate, accused Harishchandra and his wife Taramati are her neighbor. There is dispute between them regarding the boundary of land since 2015. On 20/04/2018, at about 06.30 a.m. accused Harishchandra was plucking flowers in disputed land. She told Harishchandra that, as not to pluck the flowers from her tree and not to enter in land. Thereon, He became angry and gave abuses to her. Hearing noise, her husband Kedar came there. At that time, accused Taramati also came there and she pushed informant Ashwini forcefully. In the result, Ashwini felt on the ground. Then Taramati seat on her chest and assaulted her by slapping on

her face, head and hands. During the assault, accused Harishchandra tried to press her neck. Her Mangalsutra was broken. Harishchandra also beat on right leg of her husband Kedar with a stick which he has been used for plucking flowers. Ashwini found her Mangalsutra in damaged condition. She approached to Kudal Police Station to lodge complaint about the incident. Police referred her and her husband Kedar to Rural Hospital, Kudal for medical treatment. On that day, she lodged first information report against the accused persons about the incident in Kudal police station. Crime is registered against the accused U/Sec. 323, 324, 336, 427 and 504 r.w. 34 of the Indian Penal Code. ASI Shri. S.S. Padelkar investigate the crime and after completion of the investigation of crime he has filed charge-sheet against the accused persons in the Court of JMFC Kudal.

**03.** The learned predecessor of the Court has framed charge against the accused persons for the offences punishable under Sections 323, 324, 336, 427 and 504 r.w. 34 of the Indian Penal Code. They have pleaded not guilty and claimed to be tried.

**04.** To prove charge against the accused persons, the prosecution lead its evidence by examining in all five witnesses. The statements of accused Nos. 1 and 2 under Section 313 of the Criminal Procedure Code have been recorded. Their defence is of total denial. According to their defence, they have not committed any crime as alleged by the prosecution. On the contrary, informant Ashwini and her husband Kedar assaulted them with stick and stones. Therefore, Harishchandra has filed

criminal case against them, so informant Ashwini and his husband collusively filed this false case to gave counter-check to their case.

**05.** Heard Ld. APP and Ld. advocate Shri. S.V. Khanolkar for accused persons. Considering the nature of offence the following points arises for my determination and I have recorded my finding thereon for the reason recorded as under.

| <b>Sr.No.</b> | <b>POINTS</b>                                                                                                                                                                                                                                                                      | <b>FINDINGS</b> |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| <b>1.</b>     | Whether prosecution proves that, on 20/04/2018 at about 6-30 a.m. to 07.00 a.m. at Varchi Kumbharwadi, Omkar Nagar, Kudal, accused Nos. 1 and 2 in furtherance of their common intention voluntarily caused hurt to informant Ashwini by fist blow and to witness Kedar by stick ? | <b>No.</b>      |
| <b>2.</b>     | Whether prosecution proves that on above date, time and place, accused Nos. 1 and 2 in furtherance of their common intention voluntarily caused hurt to witness Kedar by sticks which is likely to cause death ?                                                                   | <b>No.</b>      |
| <b>3.</b>     | Whether the prosecution proves that on above date, time and place, accused Nos. 1 and 2 have causes hurt to informant Ashwini and witness Kedar by doing rash or negligent act as to endanger human life or the personal                                                           | <b>No.</b>      |

|    |                                                                                                                                                                                                                                                                                                                                                                           |                                         |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
|    | safety of others ?                                                                                                                                                                                                                                                                                                                                                        |                                         |
| 4. | Whether the prosecution proves that on above date, time and place, accused Nos. 1 and 2 in furtherance of their common intention committed mischief by causing wrongful loss or damage to the Mangalsutra of informant Ashwini ?                                                                                                                                          | No.                                     |
| 5. | Whether the prosecution proves that on above date, time and place, accused Nos. 1 and 2 in furtherance of their common intention insulted the informant Ashwini and witness Kedar by abusive words and thereby gave provocation to them intending or knowing it to be likely that such provocation will cause them to break public peace or to commit any other offence ? | No.                                     |
| 6. | What order ?                                                                                                                                                                                                                                                                                                                                                              | Accused Nos.<br>1 & 2 are<br>acquitted. |

### **REASONS**

**06.** In order to prove charge leveled against the accused persons the prosecution has examined in all five witnesses. In support of their oral evidence, the prosecution has produced first information report, spot and seizure panchnama and injury certificates of injured Ashwini and her husband Kedar.

**07. AS TO POINT NOS. 1 TO 5**

The evidence of informant Ashwini Kedar Gogate PW1 is consistent with her allegation in her FIR. She deposed that at the time of incident she just told to accused Harishchandra as not to pluck flowers from her tree. Thereon, he abused her and his wife Taramati pushed her forcefully, therefore, she felt down. Then Taramati seat on her chest and slapped on her face and head. Harishchandra tried to press her neck (गळा). Therefore, her Mangalsutra was broken. Her husband Kedar tried to rescue her. But accused Harishchandra beat on right leg of her husband Kedar with stick.

**08.** Kedar Shashikant Gogate PW3 is deposed that at the time of incident accused Taramati pushed his wife Ashwini and slapped on her face. At that time, accused Harishchandra tried to press neck of his wife. He rushed to rescue his wife but at that time Harishchandra assaulted on his right leg with stick.

**09.** Dr. Gaurav Uday Ghurye P.W.4 deposed that, on 20/04/2018, he medically examined Kedar Shashikant Gogate and in his medical examination he found Abrasion over the back and right knee joint of Kedar. He further deposed that on very day he medically examined Ashwini Kedar Gogate and in his medical examination he found Abrasion and tenderness on her back. He issued MLC of injured Kedar and Ashwini as per Exh. 42 and 43.

**10.** As per defence of accused, there is boundary dispute between prosecution witness Ashwini, her husband

Kedar and accused persons and litigation is pending between them in Kudal Court. Due to inimical terms Ashwini and her husband Kedar assaulted to accused persons and they have lodged false case against the accused in order to counterblast to the case filed by the accused persons.

11. Ashwini Gogate lodged FIR about the incident on very day, therefore there is no any inordinate delay in lodging FIR by the informant Ashwini about the incident. In evidence of Laxman Avinash Ghate PW2, the prosecution has proved the spot panchnama of place of incident and recovery of pieces of style, stone and stick with iron hook i.e. Article A, B, C from the place of incident. These Articles are identified by the informant Ashwini and her husband Kedar, stating that said stick, styles and stone were used by accused persons for assaulting them. Investigating Officer Shri. S.S.Padelkar deposed about the investigation of crime. There is no reason to disbelieve the evidence of prosecution witnesses that on 20/04/2018, alleged incident took place near the house of informant Ashwini and accused at Omkarnagar, Kumbharwadi, Kudal and articles A, B, C i.e. pieces of style, stone and stick with iron hook are recovered from the place of incident.

12. Dr. Gaurav Uday Ghurye PW4 stated that injuries received to injured Kedar are possible by sharp edge weapon. Pieces of style, stone and stick with iron hook produced before the court by prosecution as Article A, B, C are not sharp edge weapons. Moreover, injuries like abrasion are not possible by sharp edge weapon. Apart from these defects in medical

evidence admittedly, there is boundary dispute between the prosecution witness Ashwini, her husband Kedar Gogate and accused persons and in the year 2018, there was court litigation pending between them in the Civil Court of Kudal. As per defense of accused persons, informant Ashwini and her husband beat them by stick and stones. Injuries were found on the person of both accused persons. Thus, there was free fight between the informant Ashwini, her husband Kedar and accused persons. In these circumstances, to find out the exact truth as to who assaulted to whom the evidence of independent witness Smt. Chandrakala Chandrakant Redkar who was on the day of incident residing in Omkarnagar, Kumbharwadi and witness the incident must on record. But unfortunately, prosecution failed to examine her and/or bring her evidence on record.

13. As discussed above, there is inimical terms between the prosecution witness Ashwini, her husband Kedar and accused persons on the ground of boundary dispute and injuries were found on the persons of accused Harishchandra and Taramati also and prosecution failed to bring evidence of independent witness Chandrakala. In these circumstances, there is lacuna in the evidence of prosecution which creates doubt about the truthfulness and correctness of prosecution case. Thus, the prosecution failed to prove its case beyond the doubts and accused are entitled to get benefit of doubts. In view of all of these discussion, I answer point Nos. 1 to 5 in the negative.

#### **AS TO POINT NO. 6**

14. In view of negative findings of point Nos. 1 to 5,

accused Nos. 1 and 2 are deserve to be acquitted. Hence, I pass the following order.

**ORDER**

1. The accused Nos. 1 and 2 is hereby acquitted for the offence punishable under Section 323, 324, 336, 427 and 504 r.w. 34 of the Indian Penal Code, 1860 vide Section 248(1) of Code of Criminal Procedure, 1973.
2. Their bail bond stand canceled.
3. Seized muddemal i.e. stick along with Iron hook, Jambha stone and pieces of Style being worthless be destroyed after appeal period.
4. The accused Nos. 1 and 2 shall furnish personal bond of Rs. 20,000/- each with surety like amount in compliance of Section 437(A) of the Code of Criminal Procedure, 1973.

Place:- Sindhudurg-Oros.

Date :- 07/05/2026

( Atul A. Chendke)

Chief Judicial Magistrate,  
Sindhudurg-Oros.