



Presented on : 05/02/2025
Registered on : 07/02/2025
Decided on : 21/04/2026
Duration : Ys. Ms. Ds.
01 02 16

IN THE COURT OF SESSIONS JUDGE, SOLAPUR.

(Presided over by Manoj S. Sharma, Sessions Judge, Solapur)

CRIMINAL APPEAL NO. : 09/2025
CNR NO. MHSO01-000449-2025

Exh. 20 'A'

(Arising out of Judgment & Order dated
06/01/2025 passed in R.C.C. No.700/
2019 by the Judicial Magistrate, F.C.
(Court No.4), Solapur.)

1. Appasaheb @ Appasha Bandichhode
Age : 67 yrs., Occp. : Labour,
R/o. : Bhandarkavathe, Tal. South
Solapur, Dist. Solapur.
2. Mallikarjun @ Kumar Bandichhode
Age : 28 yrs., Occp. : Driver,
R/o. : As above.
3. Sou. Kashibai Appasha Bandichhode
Age : 64 yrs., Occp. : Household,
R/o. : As above.
4. Kallappa Yallappa Bandichhode
Age : 56 yrs., Occp. : Labour,
R/o. : As above.

.. **Appellants**
.. (Original
.. accused
.. Nos.1 to 4)

V/s.

The State of Maharashtra

.. **Respondent**
.. (Original
.. Complainant)

**APPEAL AGAINST CONVICTION UNDER
SECTION 374 OF THE CRIMINAL
PROCEDURE CODE ...**

Appearance:-

Shri. P.A.Kulkarni, Advocate for the Appellants No.1 to 4
Shri. A.G.Kurdukar, APP for the Respondent/State

J U D G M E N T

(Dated 21st April, 2026)

01. Feeling aggrieved with the impugned Judgment and Order dated 06/01/2025 passed in R.C.C. No.700/ 2019 by the Judicial Magistrate, F.C. (Court No.4), Solapur, present appeal is preferred by the appellants No.1 to 4/original accused Nos.1 to 4.

02. Vide impugned Judgment and Order, the appellants Nos.1 to 4/original accused Nos.1 to 4 were held guilty for the offences punishable under Sections 325 and 323, read with Section 34 of the Indian Penal Code, 1860 (herein after to be referred as the "IPC") and accordingly, appellants No.1 and 2/original accused Nos.1 and 2 were directed to undergo Rigorous Imprisonment for one year and to pay fine of Rs.5000/- each, in default to undergo Simple Imprisonment for two months for the offence punishable under Section 325 of the IPC and also to undergo Rigorous Imprisonment for two months and to pay fine of Rs.500/- each, in default to undergo Simple Imprisonment of fifteen days for the offence punishable under Section 323 of the IPC. Whereas,

appellants No.3 and 4/accused Nos.3 and 4 were directed to undergo Rigorous Imprisonment for three months and to pay fine of Rs.3000/- each, in default to undergo Simple Imprisonment for one month for the offence punishable under Section 325 of the IPC and to to undergo Rigorous Imprisonment for fifteen days and to pay fine of Rs.300/- each, in default to undergo Simple Imprisonment for seven days for the offence punishable under Section 323 of the IPC. Appellants No.1 to 4/accused Nos.1 to 4 were acquitted of the offences punishable under Sections, 324, 504 and 506 of the IPC and further direction was given to pay an amount of Rs.10,000 to the informant Pandit Bandichode out of the amount of fine.

: Facts of the case, in brief, are as under :

03. The informant PW-3 Pandit Bandichhode and appellant No.1 Appasaheb @ Appasha are the real brothers. While appellant No.3 Kashibai is the wife and appellant No.2 Mallikarjun is the son of appellant No.1. Appellant No.4 Kallappa is the cousin of appellant No.1.

04. PW-3 Pandit Bandichhode lodged an FIR on 09/06/2019 alleging that, on 08/06/2019, at about 04.00 p.m., minor quarrel took place between his son Sachin and grand son of appellant No.1 named Ganesh on the cause of playing pebbles. However, said quarrel was settled amicably. But, being angry with the same, on 09/06/2019, at about 08.30 a.m., when the informant PW-3 Pandit was proceeding on his motor cycle for his agricultural work and was

passing from in front of the house of appellant No.1 Appasaheb @ Appasha, that time, appellant No.1 Appasaheb @ Appasha stopped his motor cycle and on the cause of quarrel which took place on earlier day, started hurling abuses at him. Thereafter, appellant No.1 Appasaheb @ Appasha assaulted on his head by a stick which he was holding in his hand. Thereafter, appellant No.1 Appasaheb @ Appasha assaulted on his both hands and caused injury to him. When wife of PW-3 Pandit named Mirabai and his son Sachin came to intervene, that time, all the appellants assaulted them by fist and kick blows and threatened to kill them. That time, the neighbourer arrived there and rescued them. Then he went to the Police Station, from where, he was sent to the Rural Hospital and after coming back, he lodged an FIR against all appellants.

05. In view of said FIR, Crime No.133/2019 for the offences punishable under Sections 325, 324, 323, 504 and 506, read with Section 34 of the IPC came to be registered against these appellants and investigation of the crime was handed over to PW-9 PSI Sunil Bansode, who after taking over investigation, visited the spot of incident and drew spot panchanama (Exh.23). Thereafter, he recorded statements of witnesses, took search of the appellants and seized weapon produced by the appellant No.1. Thereafter, he procured the Medico Legal Certificate of the injured witnesses and after finding sufficient evidence, he filed a charge sheet against all the appellants before the learned trial Court.

06. The learned trial Court framed Charge below Exh.13 against all the appellants for the offences punishable under Sections 325, 324, 323, 504 and 506, read with Section 34 of the IPC. The appellants pleaded not guilty and claimed to be tried.

07. Upon commencing the trial, the learned trial Court examined 9 witnesses and also placed reliance on certain circumstances.

08. Thereafter, statements of appellants as per Section 313 of the Criminal Procedure Code were recorded below Exhs.68 to 71.

09. After hearing the learned APP and learned Advocate for appellants, the learned trial Court arrived at a conclusion that, all the appellants have committed the offences punishable under Sections 325 and 323 of the IPC and convicted all of them accordingly. The learned trial Court further arrived at a conclusion that, the appellants have not committed the offences punishable under Sections 324,504 and 506 of the IPC and acquitted them of the said offences.

10. Feeling aggrieved with the same, all the appellants preferred this appeal on following grounds amongst various other grounds and prayed to allow the appeal by setting aside impugned Judgment and Order :

1) The impugned Judgment and Order is bad in law and the

learned trial Court did not appreciate evidence properly.

- 2) The learned trial Court failed to note that, there were material discrepancies in the version of eye witnesses, which create a reasonable doubt.
- 3) There was delay of 5 to 6 hours in lodging of FIR, which was not explained by the prosecution and the same is fatal.
- 4) The eye witnesses account is not corroborated by the medical evidence.
- 5) The learned trial Court failed to consider that, the FIR was lodged by the informant just to give counter blast to the complaint filed by the appellant No.3 against them.
- 6) The appellants were falsely implicated in the offence .

11. In view of submissions so made, following points arise for consideration. Findings against all the points are recorded for the reasons stated below :

POINTS

FINDINGS

- 1) Do the prosecution prove that, on 09/06/2019, at about 08.30 a.m., in front of the accused No.1 Appasaheb @ Appasha, situated at Bhandharkavathe, Tal. South Solapur, Dist. Solapur, accused Nos.1 to 4/appellants No.1 to 4, in furtherance of their common intention, ... No. voluntarily caused grievous hurt to the informant PW-3 Pandit Bandichode by assaulting him with stick and thereby caused fracture to the little finger of his right hand ?
- 2) Do the prosecution prove that, on the aforesaid date, time and place, accused Nos.1 to 4/appellants No.1 to 4, in

- furtherance of their common intention, voluntarily caused hurt to the informant PW-3 Pandit, PW-5 Miroabai and PW-7 Sachin by assaulting them with fist and kick blows ? ... No.
- 3) Whether interference by this Court in the impugned Judgment and Order is called for ? ... Yes.
- 4) What order ? ... As per final order.

REASONS

As to points No. 1 & 2 :-

12. Since all the points are interlinked and based on same set of evidence, they are considered together.

13. To discharge the burden, prosecution has placed reliance on eye witness account, as well as certain circumstances. In so far as eye witness account is concerned, as per learned Advocate for the appellants, the eye witness account is discrepant and also there are material omissions and contradictions, therefore, testimony of eye witnesses is shrouded with suspicion and do not inspire confidence and therefore, the learned trial court should not have relied on the same.

14. Per contra, learned APP for the State submitted that, the eye witness account is consistent and therefore, same is cogent and reliable and learned trial Court did not commit any error in placing

reliance on the same.

15. Thus, the eye witness account is assailed on two grounds. Firstly, the discrepancies in the version of witnesses and secondly, modifications in the version of these witnesses.

16. In so far as eye witness account is concerned, there are four important witnesses. PW-3 Pandit Bandichode, the informant, PW-5 Mirabai Bandichode (wife of PW-3), PW-7 Sachin Bandichode (son of PW-3) and PW-5 and PW-6 Birappa Bandichode (nephew of PW-3).

17. As per the version of PW-3 Pandit Bandichode, the informant, all the appellants reside at the distance of $\frac{1}{2}$ to 1 Kms. from his house. On 08/06/2019, there was a quarrel between PW-7 Sachin and grand son of the appellant No.1 on the cause of playing pebbles. That time, appellant No.1 has assaulted on the eye of his son PW-7 Sachin by a stick. However, said dispute was resolved. At about 08.30 to 09.00 a.m. on 09/06/2019, he was going to the river to start the motor, that time, all the appellants caught him and assaulted him. He further deposed that, appellants No.1 to 4 assaulted on his head, both hands, thighs and back by a wooden log, due to which, he sustained bleeding injury on the head. Thereafter, his wife PW-5 Mirabai arrived there and intervened for which, she fell on his person to save him. That time, all appellants assaulted her, as well, by hands and wooden log. Then appellants

threatened him by saying that, they will kill him. Thereafter, PW-6 Birappa, his brothers Mahasidha, Prakash and Santosh brought him to the hospital in the village. Then he lodged an FIR in the Police Station. Said FIR is below Exh.32. This is the version of the injured informant PW-3 Pandit.

18. In so far as version of PW-5 Mirabai is concerned, she deposed that, on the earlier day of the incident, there was a quarrel between her son and grand son of appellant No.1 on the cause of playing pebbles and said quarrel was settled. Thereafter, on the next day, at about 08.30 a.m., PW-3 Pandit was going for work. That time, all the appellants obstructed PW-3 Pandit and beat him and that time, she was in the house. Her husband i.e. PW-3 Pandit gave her call. Therefore, she came out hurriedly. When she was trying to save her husband, that time, appellant No.2 Mallikarjun and appellant No.4 Kallappa beat her. Her husband sustained injury on head and on hands.

19. As per the version of PW-7 Sachin, on the earlier day of the incident, a quarrel has taken place between him and Ganesh Bandichode when he was playing pebbles with the boys in the lane. That time, appellant No.1 came there and beat him. On the next day at about 08.00 a.m., PW-3 Pandit was going to agricultural land on motor cycle and that time, appellants obstructed him and beat him. That time, he and his mother PW-5 Mirabai were inside of the house. They heard shouts of his father PW-3 Pandit and went to the

spot of incident. That time, all appellants beat him as well. He further deposed that, due to assault made by the appellants, his father had sustained injury on the head and due to the same, his father felt giddiness and fell down. Then they brought his father to the Rural Hospital, at Mandrup and from there they brought him to the Hospital of Dr.Kumthale at Solapur.

20. PW-6 Birappa, the nephew of PW-3 Pandit also deposed about the incident which took place on the earlier day of the incident. He deposed that, on 09/06/2019, when PW-3 Pandit was proceeding for work, appellants assaulted him by stick and threatened to kill him. That time, PW-3 Pandit fell unconscious, therefore, he brought PW-3 in the hospital in the village, where doctors told him to take him ahead (i.e. at Solapur). Thereafter, first he brought PW-3 to Mandrup Police Station and informed the police about the incident. Police registered crime, then, he brought PW-3 to the hospital of Dr.Kumthale at Solapur.

21. If the versions of all the witnesses are perused carefully, then, serious discrepancies in their version can be noted. As per the version of PW-3 Pandit, when appellants were assaulting him, his wife PW-5 Mirabai arrived there. He did not whisper a single word about arrival of PW-7 Sachin on the spot and assault made by appellants on PW-7 Sachin.

22. Further more, as per the version of PW-5 Mirabai, at the

time of incident, she was in her house, PW-3 Pandit gave her call, therefore, she came out. But, PW-3 Pandit did not depose so. From his version, it appears that, PW-5 Mirabai came there on her own. As per the version of PW-3 Pandit, all appellants assaulted PW-5 Mirabai when she came to intervene and fell on his body to save him. But, nowhere PW-5 Mirabai deposes that, she came and fell on the body of PW-3 to save him. Also, as per her version, only appellants No.2 and 4 assaulted her.

23. In so far as PW-7 Sachin is concerned, he deposed that, he and PW-5 Mirabai were inside their house when the incident took place and after hearing the commotion, they both came out and rushed to save PW-3 Pandit. But, the testimony of PW-5 Mirabai nowhere shows that, when she came out of the house to save PW-3, PW-7 Sachin was also with her and appellants assaulted PW-7 Sachin as well. Her version clearly shows that, only she alone came out of the house to save her husband.

24. Further more, from the version of PW-5 Mirabai and PW-7 Sachin and the admissions given by them in their cross-examination, it is apparent that, when they came out, that time, they saw PW-3 Pandit was lying on the ground and his motor cycle was also lying there, which shows that, whatever has happened to PW-3 Pandit, has happened before their arrival on the spot of incident. Therefore, it can not be said that, they saw appellants assaulting PW-3 Pandit.

25. The important testimony is of PW-6 Birappa. Upon plain reading of his evidence, it is apparent that, neither he was witness to the incident which alleged to have taken place on the earlier day of the incident, nor he did witness the actual incident which took place at about 08.30 a.m. on 09/06/2019. As per his version, he was the person who brought PW-3 Pandit to the hospital in the village and from there, he brought PW-3 ahead, but before that, he brought PW-3 to the Mandrup Police Station, where information regarding the incident was given to the police and crime was registered. He also deposed that, PW-3 Pandit has become unconscious and in said condition, he brought him to the hospital. However, neither PW-3 Pandit nor PW-5 Mirabai or PW-7 Sachin deposed that, PW-3 has become unconscious. Thus, version of PW-6 Birappa contradicts version of PW-3 Pandit, PW-5 Mirabai and PW-7 Sachin.

26. Further more, the important admissions have been given by PW-6 Birappa in his cross-examination. He admitted that, he went to the spot of incident and that, after PW-3 Pandit becoming unconscious and before his arrival, already 50 persons have gathered on the spot. He also admitted that, what ever he deposed about the incident which took place on 08/06/2019 was hearsay. He gave fatal admissions that, while proceeding to the Police Station from village, they had a discussion and it was discussed that, since all the appellants continuously harass them, they should file a case against them and after discussion, they went to the Police

Station and lodged a case. Also he admitted that, in the discussion, it was also discussed as to who assaulted and how they assaulted and accordingly they decided to file a complaint in the Police Station, which shows that in the discussion, it was discussed and decided on whom allegations of assault to be made and how those assaults have been made.

27. Thus, all these admissions given by PW-6 Birappa during his cross-examination, on one hand, washes away the versions of PW-3 Pandit, PW-5 Mirabai and PW-7 Sachin and on the other hand, clearly show that, the lodging of an FIR was the outcome of the due deliberation between PW-6 Birappa, PW-3 Pandit, PW-5 Mirabai and PW-7 Sachin and after deciding as to whom what role to be attributed and what type of allegations to be levelled, the FIR came to be lodged. It also reflects that, all these witnesses felt that, since appellants harassed them consistently and therefore, a case is required to be filed against them, which clearly show that, they wanted to teach a lesson to the appellants and therefore, they deliberated and lodged an FIR.

28. The further admissions given by PW-6 Birappa during his cross-examination clearly show as to how much interested he is in supporting PW-3 Pandit and getting appellants convicted. In the last paragraph of his cross-examination, this witness admitted that, he came to the Court with PW-3 Pandit and PW-5 Mirabai and also that, PW-3 Pandit has told him how his evidence was adduced and

therefore, he is adducing his evidence accordingly, which clearly show that, even before adducing evidence by PW-6 Birappa in the Court, there was a discussion and due deliberation between him, PW-3 Pandit and PW-5 Mirabai and after knowing what other witnesses have deposed before the Court, he adduced his evidence in conformity with the same.

29. Another aspect is regarding the omissions in the evidence of PW-3 Pandit. In his cross-examination, PW-3 Pandit has deposed that, while giving information to the police, he has given entire information and while lodging FIR he has stated that, appellant No.1 has assaulted on the eyes of PW-7 Sachin by wooden log, on 09/06/2019 he was going towards river on his motor cycle for starting motor, appellants no.1 to 4 have assaulted on his head, hands, thighs and back by wooden log, blood started oozing from his head, that time, PW-5 Mirabai arrived there and to save him, she intervened and fell down on his body, appellants also assaulted her by hands and wooden log, his brothers Mahasidha, PW-6 Birappa, Prakash and Santosh brought him to the hospital in the village. He showed his inability for absence of all these facts in the FIR.

30. Certainly, all these facts are not mentioned in the FIR. The learned trial Court observed that, FIR is not expected to be an encyclopedia incorporating all minute details and therefore, these aspects are of no consequence. However, considering the nature of the modifications so made in the version, learned trial Court should

have considered that, these aspects touch the root of matter and they are material omissions.

31. The learned trial Court also failed to consider that, the prosecution did not examine the scribe of the FIR, who scribed said FIR in the Police Station and therefore, appellants lost an opportunity to get all these omissions proved through said scribe. Since FIR is exhibited document, these omissions can be considered and it can be seen that, the material aspects i.e. on 09/06/2019, PW-3 Pandit was proceeding on his motor cycle towards river for starting a motor, appellants No.1 to 4 assaulted on his head, hands, thighs and back by wooden log and blood started oozing from his head, arrival of PW-5 Mirabai on the spot and falling on his person to save him and appellants assaulting PW-5 Pandit as well have come on record as omissions and they are lacking in the FIR.

32. True it is that, FIR is not an encyclopedia and it is not expected that, all minute details shall be mentioned in the same, but still, it is expected that, aforesaid material aspects should have got reflected from the FIR. These aspects becomes more important in view of admissions given by PW-6 Birappa that, FIR was lodged after discussion and due deliberation.

33. Thus, the learned Advocate for appellants was absolutely correct in submitting that, the eye witness account suffers from discrepancies and material omissions and therefore can

not be termed as cogent and reliable and therefore, it is necessary to look for corroboration from other circumstances.

Spot of Incident :

34. PW-9 PSI Bansode, the investigating officer deposed that, investigation of Crime No.33/2019 was handed over to him. Then he visited spot of incident and prepared spot panchanama. Said panchanama is below Exh.23.

35. Besides PW-9 PSI Bansode, the prosecution has also examined PW-1 Prakash Bansode and PW-2 Santosh Bandichhode, who are the panch witnesses on the spot panchanama (Exh.23). According to both these witnesses, on 09/06/2019, police called them in front of the house of appellant No.1 Appasha Bandichhode to act as a panch and in their presence, spot panchanama was prepared, which is below Exh.23.

36. In his cross-examination, PW-1 Prakash has admitted that, after he reached on the spot, police had already written the contents of the panchanama and obtained his signature on the same. He also admitted that, PW-2 Santosh has also signed on the paper of which contents were already written. So far as PW-2 Santosh is concerned, he denied the suggestion that, the police had already written the panchanama. As such, there is discrepancy in the version of both the panch witnesses on the spot panchanama. Considering the admissions given by PW-1 Prakash in his cross-

examination, it can not be said that, the panchanama was prepared in their presence. So also, both these witnesses have admitted that, the informant PW-3 Pandit is their close relative. In such circumstances, not much reliance can be kept on the testimony of PW-1 Prakash and PW-2 Santosh.

Medical Evidence :

37. The prosecution relied on the medical evidence to lend corroboration to the eye witness account. It has come on record that, immediately after the alleged incident, PW-3 Pandit was taken to the hospital in the village, from where, he was advised to be taken ahead. Thereafter, he was taken to the Police Station and then to the Rural Hospital, Mandrup. There is a letter issued by the Medical Officer, Rural Officer, Mandrup below Exh.68, whereby he referred the patient i.e. PW-3 Pandit for CT Scan to the Civil Hospital, at Solapur. However, apart from that, no document is filed on record, much less, the Medico Legal Certificate to show that, any medical treatment was extended to PW-3 Pandit. It is very difficult to imagine that, though PW-3 has been brought to the hospital in the village, but no first aid or further medical treatment may not have been given to him and since said hospital was a Govt. hospital, it was expected that, Medico Legal Examination of PW-3 must have been done in the said hospital. The letter below Exh.68 merely show that, a CT Scan was advised by the doctor in the hospital at village, which clearly show that, PW-3 was examined by said doctor. However, said doctor is also not examined by the

prosecution. It is important to note that, said doctor was the first person who immediately after the incident, had examined PW-3 and his version was very important but for the reasons best known to the prosecution, said important piece of evidence is lacking and that creates a severe doubt.

38. Instead, the prosecution has examined PW-8 Dr. Arvind Kumthale at Exh.62. He deposed that, on 09/06/2019, patient PW-3 Pandit was brought to his hospital. He obtained x-ray of right hand of the patient and also got his CT Scan done. On final diagnosis of the patient, he found following injuries and accordingly issued the Injury Certificate Exh.63 :

- I) Fracture of little finger of right hand
- II) Deep lacerated wound over left parietal scalp
- III) Blunt Injury over head
- IV) Contusion over left fore-arm and left leg

39. PW-8 Dr. Kumthale has stated in his cross-examination that, after noting the history of assault, he did not inform to the police because patient had told that, he had come from the police station. However, in his next cross-examination, he admitted that, he has not mentioned the said fact in the case papers. This witness also admitted that, if any patient comes with the history of assault, then it is his bounden duty to inform the police by sending an MLC report. The reason so stated by this witness can not be accepted as sending of an MLC report is an independent obligation and have no

concern with the wishes of the patient who comes to him with such history.

40. Further more, record shows that, by filing an application below Exh.27, the informant PW-3 Pandit sought permission to file the documents regarding medical treatment and x-ray plate on record, production of which was allowed and accordingly PW-3 produced the report of CT Scan and x-ray of his right hand on record, which clearly show that, during investigation, these papers were not seized by PW-9 PSI Bansode and near about 7 months of the incident, they came to be filed by the informant PW-3 Pandit on record.

41. It is important to note here that, PW-5 Mirabai, PW-6 Birappa and PW-7 Sachin admitted in cross-examination that, when they came to the spot of incident, they saw PW-3 lying on the ground and motor cycle lying on the spot. Suggestions were given to PW-3 that, while going towards agricultural land, he fell down from the motor cycle and sustained injuries so sustained by him, which he denied. However, PW-8 Dr. Kumthale has admitted that, what ever injuries have been caused to the PW-3 can also be caused if he falls from the motor cycle and this admission along with the admission given by PW-3 in his cross-examination that, when he fell on the ground, that time, 20 to 25 neighbourers have gathered there and after seeing that, he has fell on the ground, PW-5 Mirabai and PW-7 Sachin has come there.

42. Here, it is pertinent to note that, the accused is not required to prove his defence by proving facts beyond reasonable doubt, but, it is enough if he raises a reasonable doubt. In the case in hand, reasonable doubt gets created in view of the admissions given by PW-3 Pandit in his cross-examination that, no quarrel has taken place between him and appellant No.1 which clearly show that, before the day of incident, there was no dispute between PW-3 Pandit and appellant No.1.

43. In view of all such circumstances, the defence so raised by the appellants seems to be probable and learned trial Court was required to take notice of all these facts.

Seizure of Weapon :

44. In so far as seizure of the weapon is concerned, PW-9 PSI Sunil Bansode deposed that, appellant No.1 has produced the stick in Police Station which he has seized in presence of the panch witnesses and drew panchanama to that effect which is below Exh.67. However, PW-4 Gangaram Gaikwad, who is claimed to be the panch witness on seizure panchanama Exh.67 did not support prosecution. He clearly deposed that, police has called him and obtained his signature on a panchanama. He do not know anything about the contents in the panchanama. The other panch was not examined. In such situation, the seizure panchanama should not have been considered to be proved by the prosecution, but, the learned trial Court by placing reliance on the version of PW-9 PSI

Bansode considered same to be proved. The learned trial Court lost sight of the fact that, there is sanctity attached to availing independent panch witnesses, but the learned trial Court overlooked said aspect and only believed PW-9 PSI Bansode and held that seizure of stick is proved which in fact should have been held as to be not proved by the prosecution.

45. Apart from that, though it is claimed by PW-3 Pandit and PW-5 Mirabai that, PW-5 Mirabai was also examined in the Rural Hospital, at Mandrup and then PW-5 Mirabai took treatment in the hospital of PW-8 and they can produce document to that effect, no document is produced on record nor any doctor is examined to prove the same.

46. Further, the clothes of injured informant PW-3 Pandit were also not seized by the investigating officer PW-9 PSI Bansode. The most important aspect regarding the investigation is, almost every witness has admitted that, near about 20 to 25 persons have gathered on the spot. However, PW-9 on one hand admitted that, all the witnesses are Bandichhode witnesses and he did not record statement of any neighbourer of PW-3. This fact becomes important in view of the admission by the witnesses that, several houses are situated in the vicinity of the house of PW-3. It is not the case that, incident took place in isolation and nobody was present there. When it is a clear case showing presence of number of persons on the spot, then, PW-9 PSI Bansode, the investigating officer was under

obligation to record statement of independent witnesses to carry out fair and independent investigation, but, the same is not done.

47. Note of all aforesaid infirmities, discrepancies and modifications have not been taken by the learned trial Court and without considering the same, the learned trial Court has arrived at a conclusion that, all the appellants have committed the offences as alleged. Thus, it appears that, learned trial Court failed to appreciate evidence on record properly and also failed to give benefit of doubt to the appellants and therefore, the findings so recorded by the learned rial Court deserves to be set aside. Hence, Points No.1 and 2 are answered in the negative.

As to Point No.3 :

48. In view of the above discussion, the appellants are not guilty for the offences punishable under Sections 325 and 323 of the IPC. So, the findings recorded by the learned trial Court holding appellants guilty for the said offences and accordingly sentencing them to the aforesaid sentence, is required to be set aside. Hence, the interference by this Court in the impugned Judgment and Order to the extent of setting aside said findings and accordingly passing sentence, is called for. As such, Point No.3 is answered in the affirmative.

As to Point No.4 :

49. In view of findings recorded against Points No.1 to 3,

appeal deserves to be allowed and appellants are entitled to be acquitted of the offences punishable under Sections 325 and 323, read with Section 34 of the IPC. Hence, in answer to Point No.4, following order is passed.

ORDER

- 1) Criminal Appeal No.09/2025 is allowed.
- 2) The impugned Judgment and Order dated 06/01/2025 passed in R.C.C. No.700/ 2019 by the Judicial Magistrate, F.C. (Court No.4), Solapur, is modified as under.
- 3) The impugned Judgment and Order dated 06/01/2025 passed in R.C.C. No.700/ 2019 by the Judicial Magistrate, F.C. (Court No.4), Solapur is set aside to the extent of convicting and sentencing appellants No.1 to 4/original accused Nos.1 to 4 for the offences punishable under Sections 325 and 323, read with Section 34 of the Indian Penal Code.
- 4) Appellants No.1 to 4/original accused Nos.1 to 4 are acquitted of the offences punishable under Sections 325 and 323, read with Section 34 of the Indian Penal Code, 1860 vide Section 386(b)(i) of the Criminal Procedure Code, 1973.
- 5) The appellants No.1 to 4/original accused Nos.1 to 4 shall execute the bail bond of Rs. 15,000/- (Rs. Fifteen Thousand only) each with a surety of like amount to appeal before the appellate Court as and when the Court issued notice in respect of appeal or petition against the judgment vide section 437-A of Code of Criminal Procedure.

- 6) The bail bond of appellant stand cancelled.
- 7) Criminal Appeal No. 09/2025 stands disposed off accordingly.

Date : 21/04/2026

(**Manoj S. Sharma**)
Sessions Judge,
Solapur.

CERTIFICATE

I affirm that the contents of this PDF file Judgment are same word to word, as per the original order.

Name of Stenographer : Sou. Javalgekar M.C.
Court : Principal District & Sessions
Judge, Solapur
Date : 21/04/2026
Judgment signed by the : 21/04/2026
Presiding Officer on
Judgment uploaded on : 21/04/2026
Corrections carried out as per : 22/04/2026
order below Exh.1 dated
22/4/26 & corrected copy of
the Judgment uploaded on