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 Decided on : 18/08/2026
 Duration : Ys. Ms. Ds.
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IN THE COURT OF SESSIONS JUDGE AT SOLAPUR Present : Manoj S. Sharma, Sessions Judge Sessions Case No. 62 / 2021 (CNR : MH SO-1001153-2021) Date of the Judgment – 18/08/2026 Exh. 120 “A”		
FIR No.102/2020 of Sadar Bazaar Police Station, Solapur		
COMPLAINANT		State of Maharashtra
REPRESENTED BY		Learned DGP Mr. P. M. Rajput
ACCUSED No.1	1	Pravin Uttamrao Nikalje (Abated)
	2	Sunil Babanrao Sabale, Age. 41 years, Occ. Business, R/o. H.No. 108, near Buddha Vihar, Sanjay Nagar, Kumtha Naka, Solapur
	3.	Mohammad Jakariya @ Jakku Shafi Sayyad, Age. 23 years, Occ. Driver, R/o. H.No. 229, in front of Almomin Masjid, Sanjay Nagar, Kumtha Naka, Solapur.
	4.	Shridhar Sudhakar Katkar, Age. 26 years, Occ. Social Worker, R/o. 309, Vijay Nagar, Maulana Azad Chowk, Nayi Zindagi, Solapur.
	5.	Tushar @ Pinttu Chandrakant Bansode, Age. 19 years, Occ. Education,

	6.	R/o. H. No.31, near Sushant Kirana Shop, Sanjay Nagar, Kumtha Naka, Solapur. Dam @ Nagsen Gautam Gaikwad, Age. 35 years, Occ. Business, R/o. H. No. 43, in front of Mhasoba Temple, New Sanjay Nagar, Kumtha Naka, Solapur.
	7.	Sagar Nagnath Gaikwad, Age. 28 years, Occ. Education, R/o. Plot No. 30, near Tohid Masjid, Nayi Zindagi, Solapur.
REPRESENTED BY		Adv. S. V. Kulkarni, for accused No.1, 3 and 4. Adv. I. N. Shaikh, for accused No. 2, 5 and 7. Adv. V.Y.Pandhare, for accused No.6.

Date of Offence	16/02/2020
Date of FIR	17/02/2020
Date of Charge-sheet	23/04/2020
Date of Framing of Charge	13/02/2024
Date of commencement of evidence	09/07/2024
Date on which judgment is reserved	05/08/2026
Date of the Judgment	17/08/2026
Date of the Sentencing Order, if any	--

Accused Details

Ran k of Acc	Name of the accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sent ence imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.P.C.
1	Pravin Uttamrao Nikalje (Abated)	N.A.	N.A.	Section 307,	N.A.	N.A.	N.A.

2	Sunil Babanrao Sabale,	24/02 /2020	10/05/ 2020	109, 143,147, 148,504,	Acquitted	–	–
3	Mohammad Jakariya @ Jakku Shafi Sayyad,	24/02 /2020	04/04/ 2020	506 read with 149 of IPC and section 135 of MP Act and Section 4/25 of Arms Act	Acquitted	–	–
4	Shridhar Sudhakar Katkar	24/02 /2020	08/04/ 2020		Acquitted	–	–
5	Tushar @ Pinttu Chandrakan t Bansode	24/02 /2020	04/04/ 2020		Acquitted	–	–
6	Dam @ Nagsen Gautam Gaikwad	17/02 /2020	04/04/ 2020		Acquitted	–	–
7	Sagar Nagnath Gaikwad	17/02 /2020	10/04/ 2020		Acquitted	–	–

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES**A. Prosecution :**

RANK	NAME	EXH	NATURE OF EVIDENCE
PW-1	Sanjay Pralhad Kuchekar	58	First informant
PW-2	Jyotipal Pralhad Kuchekar	63	Injured Witness
PW-3	Vijay Pralhad Kuchekar	65	Injured Witness
PW-4	Nitin Machindra Kamble	70	Panch witness
PW-5	Dr. Shantanu Anil Gunjotikar	77	Medical Officer
PW-6	Dr. Anil Annarao Patki	86	Medical Officer
PW-7	Juber Ahmed Sayyadmir Tamboli	94	Carrier
PW-8	Sanjay Bhillu Rathod	96	Investigating officer
PW-9	Sanjay Pandurang Patil	102	Investigating officer

B. Defence Witnesses, if any :

RANK	NAME	EXH.	NATURE OF EVIDENCE
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C. Court Witnesses, if any :

RANK	NAME	EXH	NATURE OF EVIDENCE
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LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**A. Prosecution :**

Sr. No	Exhibit Number	Description
1	59	FIR
2	60	Printed FIR
3	61, 64, 66	Statement of witnesses under section 164 of CrPC
4	71	Spot panchanama
5	72, 73, 90	Seizure panchanama
6	74	Accused memorandum form
7	81	Letter to Medical Officer by I.O.
8	82	Letter to I.O. from Medical Officer
9	83, 84, 85	Medico legal notice to police station
10	78 to 80	Medico legal certificate
11	87	Letter of Medical Officer
12	101	Photograph

B. Defence :

Sr. N	Exhibit Number	Description
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C. Court Exhibits

Sr. N	Exhibit Number	Description
1	---	---

D. Material Objects :

Sr. N	Exhibit Number	Description
1	--	----

JUDGEMENT(Delivered on this 18th day of August, 2026)

1. Accused No. 1 to 7 stood tried for the offences punishable under section 143, 147, 148, 307, 109, 504, 506 read with section 149 of the Indian Penal Code (for the sake of brevity, hereinafter to be referred as

“IPC”) and section 135 of the Maharashtra Police Act (hereinafter to be referred as “MP Act” and Section 4 read with section 25 and 27 of the Arms Act (in short, it be referred as “the Act”).

2. At the outset it is important to mention that, during the trial after recording of the statement of all accused persons as per Sec. 313 of the Cr.P.C. Accused no. 1 was reported to have expired and therefore, the trial stood abated against him by an order order dated 15/06/2026 passed below Exh. 1.

The case of the prosecution, in brief, is as under :-

3. On 17/02/2020 statement of PW-1, the informant, was recorded, when he was admitted in Ashwini Hospital at Solapur, wherein, he stated that, along with his brother Ashok, PW-2 Jyotipal and their wives he resides at Balaji Society, Sanjay Nagar, Solapur and carries on business of selling milk. Before two months of the incident, he had some dispute with accused No.2, who was closely associated with deceased accused No.1, who was a Corporator of Ward No. 20 and from that moment, deceased accused No.1 and his workers were angry with him and his family members.

4. As per PW-2, at about 11.30 p.m. on 16/02/2020, he finished the meeting held in Buddha Vihar regarding celebration of Dr. Babasaheb Ambedkar Jayanti and came in front of his house, that time, accused persons and 7 to 8 other persons came in front of his house and started hurling abuses at him in loud voice and then started beating him. Seeing the crowd gathered, his brother PW-2 Jyotipal, PW-3 Vijay, nephew Aniket and brother Ashok Kuchekar and others came to intervene. That time,

accused No.2 assaulted on his head and left shoulder by iron Sattur which he was holding. Accused No.2 also assaulted PW-3 Vijay Kuchekar, PW-2 Jyotipal and his nephew Aniket, due to which, all of them got injured. Accused No.3 and 4 assaulted them by sticks and remaining accused persons pelted stones and bricks at them and due to said assault, they sustained injuries.

5. In view of such information given by informant, Crime No. 102/2020 came to be registered with Sadar Bazar Police Station for the aforesaid offences punishable under section 143, 147, 148, 307, 109, 504, 506 read with section 149 of IPC, section 135 of MP Act and section 4 read with 25 and 27 of the Act and investigation of the same was handed over to PW-9 Police Inspector Sanjay Patil, who, after taking over the investigation, visited spot of incident and drew spot panchanama. From the spot of incident, he seized bricks, stones and bamboo sticks. Then, he recorded statement of witnesses, seized mobile phone of accused No.1 which was produced by Ashok Kuchekar on 20/02/2020. Then, he seized clothes of the injured persons, then, he arrested accused persons and seized their clothes as well.

6. However, PW-8 another PI Sanjay Rathod on the instruction of investigating officer arrested accused No. 2 to 4, seized their clothes. Thereafter, accused No.2 claimed to have made a statement before him and showed his willingness to give recovery of weapon. He gave memorandum statement and accordingly, accused No.2 gave recovery of iron Sattur and further investigation was done by PW-9 PI Sanjay Rathod. The investigating officer forwarded all seized articles to forensic laboratory for chemical analysis and after finding sufficient evidence, he

filed a charge sheet against accused No.1 to 7 before learned Judicial Magistrate First class, Solapur, who, in turn committed the case for trial to the court of Sessions.

7. The charge was framed against deceased accused No. 1 and accused No.2 to 7 below Exh.40 on 13/02/2024 for the aforesaid offences. They pleaded not guilty and claimed to be tried.

8. Upon commencing the trial, in all, prosecution has examined nine witnesses and closed the evidence by filing a pursis below Exh.105. Thereafter, statements of all accused persons, as per section 313 of the Code of Criminal Procedure were recorded below Exh. 106 to 112. Their defence is of total denial and neither any accused entered in the witness box nor they examined any witness on their behalf.

9. Heard learned DGP for the State and the learned advocate for the accused persons. Perused the record.

10. In the light of evidence on record and rival submissions so made, following points arise for consideration ;

P O I N T S

FINDINGS

- 1 Do the prosecution prove that, on 16/02/2020 at about 11.30 hours at house No. 110, Balaji Society, Sanjay Nagar, Kumtha Naka, Solapur, all accused persons were members of an unlawful assembly and in prosecution of the common object of said assembly, assaulted the informant and witnesses and thereby committed an offence punishable under section 143 read with section 149 of IPC ?

No.

- 2 Do the prosecution prove that, on aforesaid time, date and place, all accused persons were members of an unlawful assembly and in prosecution of the common object of said assembly, assaulted the informant and witnesses by iron Sattur, wooden stick, stones, bricks and thereby committed an offence punishable under section 147 read with section 149 of IPC ? No.
- 3 Do the prosecution prove that, on aforesaid time, date and place, all accused persons were members of an unlawful assembly and in prosecution of the common object of such assembly, committed an offence of rioting and armed with deadly weapon viz., iron Sattur, wooden stick, stones, brick is likely to cause death and thereby committed an offence punishable under section 148 read with section 149 of IPC ? No.
- 4 Do the prosecution prove that, on aforesaid time, date and place, all accused persons were members of an unlawful assembly and in prosecution of the common object of said assembly, accused No.2 assaulted the informant and witnesses by means of iron Sattur with such intention or knowledge and under such circumstances that if by that act, he had caused death of said informant and witnesses, accused would have been guilty of murder and thereby caused hurt to the informant and witnesses and thereby committed an offence punishable under section 307 read with section 149 of IPC ? No.
- 5 Do the prosecution prove that, on aforesaid time, date and place, accused persons were members of an unlawful assembly and in prosecution of the common object of such assembly, accused No.1 abetted accused No.2 to 7 in commission of offence and thereby committed an offence punishable under section 109 read with section 149 of IPC ? No.
- 6 Do the prosecution prove that, on aforesaid time, date and place, accused persons were members of an unlawful assembly and in prosecution of the common object of such assembly, intentionally insulted and thereby gave provocation to the informant and witnesses intending that, such provocation will cause No.

them to break public peace and thereby committed an offence punishable under section 504 read with section 149 of IPC ?

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|----|---|--------------------------------|
| 7 | Do the prosecution prove that, on aforesaid time, date and place, accused persons were members of an unlawful assembly and in prosecution of the common object of such assembly, committed criminal intimidation by threatening the informant and witnesses with injury to their person and thereby committed an offence punishable under section 506 read with section 149 of IPC ? | No. |
| 8 | Do the prosecution prove that, on aforesaid time, date and place, accused persons were members of an unlawful assembly and in prosecution of the common object of such assembly, disobeyed the order of District Magistrate of prohibiting public peace and safety, a notification publicly promulgated and thereby committed an offence punishable under section 135 of the Maharashtra Police Act ? | No. |
| 9 | Do the prosecution prove that, on aforesaid time, date and place, accused persons were members of an unlawful assembly and in prosecution of the common object of such assembly, having possession or carrying or uses prohibited arms in contravention of notification in the official gazette and thereby committed an offence punishable under section 4 read with section 25 and 17 of the Arms Act ? | No. |
| 10 | What order ? | Accused persons are acquitted. |

All the points are accordingly answered for the reasons stated below;-

REASONS

11. To discharge the burden so cast on it prosecution led oral as well as circumstantial/documentary evidence on record

12. In so far as the oral evidence is concerned following witnesses have been examined by the prosecution, viz.,

RANK	NAME	EXH	NATURE OF EVIDENCE
PW-1	Sanjay Pralhad Kuchekar	58	First informant
PW-2	Jyotipal Pralhad Kuchekar	63	Injured Witness
PW-3	Vijay Pralhad Kuchekar	65	Injured Witness
PW-4	Nitin Machindra Kamble	70	Panch witness
PW-5	Dr. Shantanu Anil Gunjotikar	77	Medical Officer
PW-6	Dr. Anil Annarao Patki	86	Medical Officer
PW-7	Juber Ahmed Sayyadmir Tamboli	94	Carrier
PW-8	Sanjay Bhillu Rathod	96	Investigating officer
PW-9	Sanjay Pandurang Patil	102	Investigating officer

13. In so far as the circumstances/documents are concerned they are as follows :-

Sr. N	Exhibit Number	Description
1	59	FIR
2	60	Printed FIR
3	61, 64, 66	Statement of witnesses under section 164 of CrPC
4	71	Spot panchanama
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As to point No. 4 :-

14. It was the burden on the prosecution to prove that, all accused persons formed an unlawful assembly having common object to

commit murder of the injured eye witnesses and with that object accused No.2 made assault on them with a weapon Sattur and attempted to commit murder. To discharge said burden, prosecution has relied on the testimony of injured eye witnesses and several other circumstances, such as FIR, medical evidence, recovery of weapon at the instance of accused No.2, seizure of clothes of injured and accused persons, report of forensic laboratory and spot panchanama. The most important evidence is of injured eye witnesses PW-1 to PW-3. The eye witness account and all other circumstances are discussed as follows;-

: EYE WITNESS ACCOUNT :

15. The most important piece of evidence on which prosecution heavily relies is the eye witness account through the testimony of the injured eye witnesses.

16. Learned DGP vehemently argued that, testimony of all the injured witness is consistent and lends corroboration to each other and therefore leaves no room for doubt. He further submitted that, the eyewitness account is unambiguous, clinching, cogent and reliable and therefore, same is sufficient to establish the guilt of all accused persons.

17. Per contra learned advocate for accused persons submitted that, there are serious discrepancies in the version of the eye witnesses which creates reasonable doubt on the version of the prosecution and also casts a serious doubt on the occurrence of the incident itself. He further submitted that, also there is a terrible delay in lodging of F.I.R. And it is highly doubtful whether it is an F.I.R. And therefore eye witness account is not reliable.

18. Before considering the eye witness account first it is necessary to mention certain admitted facts on the record viz, PW-1 Sanjay, the informant has three brothers Ashok, PW-2 Jyotipal and PW-3 Vijay and Jyotipal is the eldest brother. Secondly, All accused persons and PW-1,2,3 and their families reside in the same locality and are well acquainted with each other.

19. In so far as eye witness account is concerned three important injured eye witnesses have been examined by the prosecution. At the outset it is necessary to mention here that, though it is an admitted position on record that Ashok Kuchekar, the brother of the PW-1 Sanjay was present on the spot of incident at the time of incident and has brought all injured to Ashwini Hospital he is not examined by the prosecution. Furthermore, though PW-1 Sanjay has deposed that, his nephew Aniket and Swapnil were also assaulted in the incident and were injured by the accused persons both of them were not examined by the prosecution.

20. In so far as version of PW-1 Sanjay is concerned he deposed that, he know accused no.1 Praveen (deceased) who is a corporator from his ward no.20. One Shridhar Katkar is the worker of the accused no.1 and before incident he had some dispute with said Shridhar on account of money transaction and since then Accused no.1 and his workers were angry with him and his family members.

21. As per his further version at about 11.30 p.m. on 6.02.2020 he came in front of his house after finishing a meeting regarding the celebration of Dr. Babasaheb Ambedkar Jayanti that time accused no. 1 to 4, 6, 7 and other persons arrived there and started hurling abuses at him.

They told him that he is called by Praveen Dada and he should come with them and then started beating him. By seeing the crowd PW-2, PW-3 their nephew Aniket and Swapnil came there to intervene. That time accused no.2, who was holding an iron Sattur in his hand, assaulted on his head and shoulder by said Sattur, then accused no.2 assaulted on face of PW-3 thereafter accused no.2 made assault on cheek and left ear of PW-2 by said Sattur and thereafter this accused made assault on the back of said Aniket and Swapnil due which they got injured. He further deposed that, all of them got injured due to assault and due to injury he himself became unconscious. As per his further version other accused persons assaulted them with bricks, stones and sticks and accused no.1 was instigating them to make assault. He also proved the F.I.R. Which is below Exh. 59. This is the version of PW-1 about the incident.

22. In so far as version of PW-2 Jyotipal is concerned he deposed that, he know all accused persons as they reside in his locality. He further deposed that his brother Raju Kuchekar runs a tailoring shop under the name and style as R.K. Tailor and said Raju has erected a tin shed by the side of his tailoring shop. At about 10.00 a.m. on !6.02.2020 Accused no.1, his father Shridhar Nikalje, Shriniwas Yeldi, Sudhir Shinde and accused no.7 had been to the shop of Raju asked Raju to remove the shed so erected by him and threatened him by saying that, if he do not remove the tin shed then they will remove his shop and because of that Raju removed the tin shed and told about the same to this witness in the afternoon.

23. As per his further version at about 11.15 on !6.02.2020 he was at his home and he heard commotion therefore, he came out and

went near the temple of Mhasoba, at that time he saw that a quarrel was going on between accused no.2 and PW-1. Accused no.2 was hurling abuses at PW-1 and was asking him as to why he did not attend the meeting. PW-2 tried to console both of them but they didn't listen to him. Thereafter his cousin Nishigandh Kuchekar, PW-3 and he himself intervened the quarrel and he brought PW-1 to his house situated in Balaji Society.

24. He further deposed that, then PW-3 received a phone call from Mahananda Kuchekar who informed that, accused no. 1 has come near their shop and is hurling abuses and asking to call PW-1 then he himself also received a phone call from accused no.1 who asked him to come near the shop of PW-3. Then he, PW-1, PW-3 Nishigandh and Ashok went near the shop of PW-3. There accused no.1 along with other accused persons was present and they were hurling abuses. He asked accused no.1 as to why he had come with so many people. That time accused no.3 and 4 were holding sticks and bricks and they both started assaulting them with sticks and bricks. PW-3 got hit by a brick and he fell down. He further deposed that, accused no.1 was holding a sharp edged weapon and with said weapon he made assault on the head and shoulder of PW-1 and that time accused no.2 arrived there and he was holding an iron Sattur in his hand and with said Sattur accused no.2 assaulted on his cheek and left ear due which he fell down on the ground. Due to the assault, he and PW-2 sustained bleeding injuries and his clothes got stained with blood. Then somebody brought him to Ashwini Hospital and that time he was unconscious. He was in the hospital from 16.02.2020 to 29.02.2020 and his statement was recorded on 02.04.2020.

25. Lastly, in so far as version of PW-3 Vijay is concerned, he also deposed that, he knew all accused persons as they all reside in his locality. His house is situated at Kumthat Naka and he runs his shop from his house. As per his version on 16.02.2020 he and his brother Nishigandh attended a meeting regarding celebration of Dr. Babasaheb Ambedkar Jayanti and he returned home at about 9.30 p.m. After having dinner he was sitting in the house and he heard commotion therefore he went out of the house and saw that, quarrel was going on between PW-1 and accused no.2. Then he, Ashok and Nishigandh went there and intervened and then he brought PW-1 to the house at Balaji society. Thereafter he received a phone call from his wife Mahananda who told him that accused no.1 and others have come near his shop and are hurling abuses in loud voices and are asking to call PW-1 and therefore he, Ashok, Nishigandh and PW-1 went there. On the spot all accused persons were present. Then accused no.3 and 4 started beating them with sticks and also pelted bricks at them. One brick struck his left cheek therefore he sat down. That time accused no.1 was holding a sharp weapon in his hand and with said weapon he assaulted on head and shoulder of PW-1 and thereafter accused no.2,3, and 4 started beating them all with sticks, accused no.2 assaulted with Sattur on left cheek of PW-2 and he also assaulted Aniket and Swapnil with Sattur. Due to assault PW-1 sat down and then accused no.1 caught hold of collar of PW-1 and started dragging him and that time accused no.1 was hurling dirty abuses at them and was threatening them.

26. PW-1 to PW-3 were cross examined at length. Relevant cross examination may be considered at appropriate places. In respect of assailants and incidents PW-1 has given a very important admission. A suggestion was given to PW-1 that at about 11.30 p.m. he was standing on

a road in Balaji Housing Society and was hurling abuses at public which he denied but then he admitted that, because of that 8-10 unknown persons had beaten him. This admission touches the root of matter and is in consonance with the defence so raised by the accused persons.

27. In so far as discrepancies in the version of the injured eye witnesses as claimed by the learned advocates for the accused persons are concerned a careful perusal of examination in chief of PW-1 to PW-3 reveals serious discrepancies in their versions about cause of the incident, mode and manner of taking place of incident and mode and manner of assaults so made.

28. In so far as the cause of the incident is concerned, as per version of PW-1 before the incident there was a dispute between him and accused no.4 on account of some money transaction and since accused no.4 is the worker of accused no.1, the accused no.1 and his workers were angry with him. Thus, according to this witness, the cause was the money transaction between him and accused no.4.

29. As per version of PW-2 there are two causes, firstly, earlier at about 10.00 a.m. on the day of incident accused no. 1, 4, 7 and some other persons had been to the tailoring shop of his brother Raju Kuchekar and asked him to remove the tin shed erected by him which he removed. Secondly, at about 11.15 p.m. when he came out of his house hearing commotion he saw a quarrel was going on between PW-1 and accused no.2 and accused no.2 was hurling abuses at PW-1 on account of his not attending the meeting and was asking PW-1 why he did not attend the meeting. PW-3 did not disclose any cause for the quarrel but just deposed that a quarrel was going on between PW-1 and accused no.2.

30. Here it is important to note that, as per version of PW-1 on the day of incident at about 11.30 p.m. he came before his house after attending the meeting held in respect of celebration of Dr. Ambedkar Jayanti and on the other hand as per version of PW-2 the quarrel took place between PW-1 and accused no.2 due to not attending said meeting by the PW-1.

31. Thus, there is a serious discrepancy in the version of witnesses regarding the cause of the incident I.e. dispute on account of money transaction between PW-1 and accused no.4 and on the other hand PW-1 not attending the meeting which he claims to have attended.

32. In so far as mode and manner of taking place of the incident is concerned, as per version of PW-1 after attending meeting at about 11.30 p.m. he came in front of his house and at that time all accused persons arrived there, hurled abuses at him, assaulted him and others and threatened them, but as per the version of PW-2 and 3 at the time of incident they were in their respective houses and they heard some loud voices and they came out of the house and saw that, a quarrel was going on between PW-1 and accused no.2. They both tried to convince both of them but they did not listen, then they with their brother Nishigandh somehow intervened the quarrel and brought PW-1 to their house at Balaji Society. Thereafter wife of PW-3 Mahananda made a phone call to PW-2 and 3 and conveyed that, accused no1 has come before their house with some persons and they are hurling abuses and in wake of said phone call they both (PW-2 and PW-3), PW-1, Kishor Kuchekar and Nishigandh together went to the spot of incident.

33. Thus, there is a complete departure from the version of PW-1. Nowhere PW-1 deposed that earlier a quarrel took place between him and accused no.2 on account of his not attending meeting then said quarrel was intervened by PW-2,3 and others, then he was brought to the house at Balaji Society and then in view of Phone call of Mahananda, wife of PW-3 they all returned to the spot of incident.

34. Now let us consider the mode and manner of the alleged assaults so made and the role played by each of the accused.

35. As per version of PW-1 at the time of incident accused no.1 Praveen with his workers i.e. all other accused persons arrived on the spot of incident and started hurling abuses at him. They told him that, "मला प्रविण दादांनी बोलावले आहे चल असे म्हणून मारहाण करण्यास सुरुवात केली". The question arises here that when Accused Praveen himself was claimed to have arrived there with his workers then who was Praveen Dada who called this witness to meet. In absence of any other explanation and considering the facts on record the only inference can be drawn is said Praveen Dada means accused no.1 Praveen and same creates a doubt whether accused no.1 was present on the spot or not.

36. Furthermore, as per version of PW-1, accused no.2 made an assault on his head and shoulder by a Sattur he was holding. Then with same Sattur he assaulted on cheek of PW-3 Vijay, thereafter accused no.2 made assault on cheek and left ear of PW-2 and after this accused assaulted on back of his nephews Aniket and Swapnil, who came to intervene, by said Sattur. He further deposed that, due to said assault so made, all of them got injured. A question arises here what is the role

attributed by this witness to accused no.1 ? Simply that accused no.1 was instigating all accused persons to make assault on the witnesses. No other role is attributed to accused no. 1 and all allegations of assault by a weapon are leveled against accused no.2 only.

37. It is important to note that, PW-2 who himself is claimed to be the injured eye witness and claimed to be present on spot since beginning has admitted in his cross examination that when they were beaten by sticks and bricks that time accused no.2 was not present on the spot of incident. This admission negates the stand so taken by PW-1.

38. In so far as the version of PW-2 regarding mode and manner of assault is concerned, as per him when in view of a phone call by Mahananda and accused no1 he went to the spot of incident that time accused no.1 along with accused no 3 to 7, Nishigandh and one Rohit Raase were present there. That time accused no. 3 and 4 were holding sticks and bricks in their hands and they started assaulting all injured witnesses with the same. That time one brick got struck to the head of PW-3 because of which PW-3 fell down. Then accused no.1, who was holding a sharp weapon in his hand, made an assault on the head and shoulder of PW-1 with said weapon. This version is exactly contradictory to the version of PW-1. PW-1 nowhere deposed that it was accused no.1 who committed an assault on his head and shoulder by a sharp weapon.

39. The PW-2 further deposed that, thereafter accused no.2 arrived on the spot of incident and he was holding a Sattur in his hand with which he made an assault on cheek and ear of this witness due to which he got injured and fell down on the ground. Nowhere this witness

deposed that, accused no.2 also assaulted PW-3, Swapnil and Aniket by said Sattur. Furthermore as per his version PW-3 got injured due to brick and not Sattur. The most important aspect is, as admitted by him also, accused no. 2 was not present on the spot of incident since beginning while as per the version of PW-1 since beginning he was present and assaulted all five injured by Sattur he was holding.

40. In so far as the version of PW-3 is concerned he has also come with a different version. As per him when, in view of a phone call from his wife Mahananda he, PW-1, Ashok, Nishgandh and others went near his shop that time all accused persons were present there. Accused no.3 and 4 were hurling abuses and both accused persons started beating them with sticks and bricks. One brick struck him so he sat down. That time accused no.1 was holding a sharp weapon in his hand and with said weapon he made an assault on the head and shoulder of PW-1 due to which he got injured. Thereafter accused no. 2,3,4 and 6 started beating them with sticks and accused no.2 made an assault on PW-2 by Sattur and with said Sattur he also assaulted Aniket and Swapnil. This witness went a step ahead and deposed that, accused no.1 then caught hold of the collar of PW-1 and started bringing him from there by dragging him.

41. On one hand version of this witness contradicts the version of PW-2 in respect of assault so made by accused No.2 and no allegations of assault are made against accused No.5 and 7 and on the other hand he came with a version that, after making assaults accused no.1 caught hold of PW-1 and started dragging him which is absolutely absent in the version of PW-1. If it has been so then certainly PW-1 must have deposed so.

42. Thus right from the cause of the incident till the manner and mode of taking place of incident and the assault and role of each of the accused more particularly accused No.1 and 2 there are serious discrepancies in the version of these three most important witnesses and if this fact is considered with fact that prosecution did not examine important witnesses Ashok Kuchekar, Nishigandh, Aniket and Swapnil and any other independent witnesses though it is an admitted fact that, the houses of the injured eye witnesses are situated in densely populated area a reasonable doubt arise regarding the eye witness account and therefore it is necessary to look for the corroboration.

43. The other circumstances are lodging of F.I.R., medical evidence, recovery of weapon at the instance of accused No.2, recovery of other weapons from the spot of incidence, report of chemical analysis etc.

: F.I.R. and delay in its lodging :

44. Learned DGP submitted that there is no delay in lodging of FIR and considering the circumstances that after brutal assault the eye witnesses got severely injured and unconscious and were in hospital therefore it can not be said that there was any delay.

45. Per contra, learned advocate for the accused persons submitted that, evidence on record shows that all injured were conscious and were in position to lodge FIR. But the same got lodged at about 2.00 p.m. on next day and no explanation as to delay has been tendered. They also submitted that, initially information was sent to the police station that some unknown persons have assaulted the injured eye witnesses and

thereafter, while giving statement PW-1 stated name of accused persons which appear to be outcome of afterthought and therefore, evidence is not reliable.

46. In so far as FIR is concerned, as per version of PW-1, he lodged FIR when he was admitted in Semi ICU at Ashwini Hospital, Solapur. He deposed that, while lodging such FIR, he was conscious. The FIR is below Exh. 59 which shows that it was recorded at 2.30 p.m. and was registered at 4.31 p.m on 17/02/2020. The incident is alleged to have taken place at about 11.30 a.m. on 16/02/2020 and from the spot of incident, Ashok Kuchekar is claimed to have brought all the injured persons to Ashwini Hospital at Solapur.

47. As per version of PW-5 Dr. Shantanu Gunjotikar, at about 1.00 a.m. on 17/02/2020, he examined PW-2 and at the time of examination, PW-2 was conscious and oriented to time, place and person. Likewise, he also examined PW-3 Vijay at the same time and deposed that, at the time of examination, PW-3 was conscious and gave history. PW-5 also examined PW-1 at about 1.00 a.m. on 17/02/2020 and about PW-1 also PW-5 deposed that, PW-1 was conscious and well oriented to time, place and person. On one hand, PW-1, PW-2 and PW-3 deposed that, after being assaulted, they fell down and became unconscious, but after sometime, when they were examined in Ashwini Hospital, all three witnesses were found to be conscious and well oriented as to time, place and person.

48. The important aspect is PW-5 Dr Shantanu deposed that, PW-1, PW-2 and PW-3 gave history of assault before they were examined.

PW-1 gave history of assault by 10 to 15 persons at about 11.00 p.m., while, PW-2 gave history of assault by 8 to 10 persons by sharp weapon and PW-3 gave history of assault by 10 to 15 people at about 11.00 p.m. Interestingly, though all these witnesses claimed that, all accused persons resides in the same locality, in which they reside and they know all accused persons very well, still, neither PW-1 to PW-3 nor their brother Kishor Kuchekar who brought them to hospital even whispered about any of the accused person.

49. Further more, PW-5 in his cross-examination admitted that, in a medico legal case, it is necessary to forward intimation to concern police station and intimation in respect of PW-1 to PW-3 was sent to the police station at about 2.00 a.m. on 17/02/2020 and as per said intimation, PW-1 to PW-3 were brought to the hospital by their brother Ashok Kuchekar and as per MLC intimation, the history received from the patient is assault by 8 to 10 unknown persons. The MLC intimations are below Exh. 83, 84 and 85.

50. Bare perusal of MLC intimations below Exh. 83, 84 and 85 clearly show that, in respect of PW-1, PW-2 and PW-3 independent MLC were forwarded to Sadar Bazar police station at Solapur and in those MLC's it is clearly mentioned that, as per information at about 11.00 p.m. on 16/02/2020, when the injured were sitting at the spot of incident, that time, 8 to 10 unknown persons assaulted them with stick and Sattur.

51. Further more, PW-9 PI Sanjay Patil, the I.O. admitted in cross-examination that, it was revealed to him during investigation that, on 16/02/2020, informant and two other injured eye witnesses were

admitted in the hospital and information regarding the same was received by the police station from Ashwini Hospital and that, all the injured were hospitalized by Ashok Kuchekar and they received information from the hospital that, 8 to 10 unknown persons had assaulted informant and both injured eye witnesses. He gave a fatal admission that, before lodging of FIR by the informant, said information was with the police station. Thus, the evidence of PW-5 and PW-9 makes it absolutely clear that, in the hospital, PW-1 to PW-3 were conscious and well oriented, they gave a history of assault by 8 to 10 unknown persons and said information was forwarded by Ashwini Hospital to Sadar Bazar police station.

52. Thus, the information so sent from hospital to the concerned police station was the first information regarding commission of cognizable offence as the information clearly revealed that, eye witnesses were assaulted by 8 to 10 unknown persons with sticks and Sattur. Said information should have been registered and same was the FIR and not the statement of PW-1 below Exh. 59. Nothing is on record to justify the delay so caused in giving a statement by PW-1 to the police when it is a fact on record that, throughout these three witnesses were conscious and well oriented. Even if it is considered that injured eye witnesses were in the hospital then their brother Ashok Kuchekar who was present on the spot of incident and brought them to the hospital was also in a position to lodge an FIR immediately after the incident. But, surprisingly neither he approached the police station nor was he examined as a witness by prosecution.

53. It is not always that, the delay is fatal to the prosecution, however, unexplained inordinate delay do hit case of prosecution severely.

In the case in hand, the facts clearly show that, initially, all three injured eye witnesses gave history of assault by 10 to 15 unknown persons and suddenly, after 12 hours statement of PW-1 gets recorded and in said statement he made allegations against all accused persons, which indicates that, it was outcome of the afterthought and therefore, on one hand the delay so caused is fatal to the case of prosecution and on the other hand, the facts and circumstances clearly show that, the statement below Exh. 59 is not the first information received by the concerned police station.

: Recovery of weapon of offence :

54. As per the case of prosecution, deadly assaults were made on the injured eye witnesses with the help of Sattur and it is claimed that, accused No.2 has kept said weapon concealed and subsequently gave recovery of the same. To prove this important and material circumstance, prosecution examined PW-8, API Sanjay Rathod, the I.O. and PW-4 Nitin Kamble, the panch witness.

55. In so far as recovery of the weapon is concerned, PW-8 is the person who claimed to have visited Ashwini Hospital on 17/02/2020 and recorded statement of PW-1 and got the FIR registered on the basis of the same. In view of registration of crime, the investigation was handed over to PW-9 Sanjay Patil, however, PW-8 claimed to have arrested three accused persons, i.e., accused No.2, 3 and 4. He claimed that, he effected arrest in view of orders given by PW-9. As per his version, while in custody accused No.2 made a statement before him that, he is ready to give recovery of the weapon. He recorded said statement, in which accused No.2 claimed to have stated that, he has kept Sattur concealed on the roof of latrine of his house and he is ready to give recovery of the same. Said

statement was recorded on 26/02/2020, i.e., near about 10 days after the date of incident. The memorandum statement is below Exh.74. As per his version then, accused led them to his house situated at Kumtha Naka and after reaching there, he gave recovery of Sattur kept on a tank which was kept on the roof of the latrine of his house. He seized said weapon under a panchanama. Said panchanama is below Exh. 75 and the weapon Sattur is below Article-A. He identified said weapon.

56. It is interesting to note that, in his cross-examination, this witness has admitted that, after receipt of MLC report, further inquiry was handed over to Police Naik Dhadwad, bakkal No. 1684 and in present crime, no written orders were given to him for recording statement of informant by visiting Ashwini Hospital nor any written order was given to him by PW-9, the I.O for arresting accused persons, preparing panchanama regarding the same or for recording statement of the accused. He further deposed that, he did not make any entry in police station diary, nor he asked anyone to do the same when he arrested accused persons, seized their clothes, prepared panchanama to that effect or even when recorded statement of the accused. Thus, the record clearly show that, before registration of crime and after receipt of MLC report, inquiry was handed over to Police Naik Dhadwad, but nothing is on record to even to show that, said PN Dhadwad conducted any inquiry. The prosecution is absolutely silent about him or the inquiry conducted by him.

57. After registration of crime, investigation was handed over to PW-9, but all the important task such as arresting accused persons, seizing their clothes, recording statement of accused persons etc were performed

by PW-8 to whom no written order was issued nor he did seek any written order and if at all, he was under direction of PW-9, then he was expected to make such entry in the station diary, but admittedly he did not make any such entry about any act done by him. Moreover, PW-9 nowhere deposed that, he has directed PW-8 to visit Ashwini Hospital to record statement of PW-1, to arrest accused persons, seize their clothes or record statement of accused persons, therefore, the stand so taken by PW-8 that, he performed all the acts on the direction of PW-9 can not be believed.

58. The record shows that, investigation of the crime was handed over to PW-9 at 4.31 p.m. on 17/02/2020 itself and it was expected that, PW-9 should have proceeded with the investigation and should have performed all the tasks which were claimed to have been performed by PW-8. Apparently, neither PW-9 deposed that, he directed PW-8 to perform those acts nor there is any written order directing PW-8 to do the same and therefore, a serious question arise for consideration, as to under what authority, PW-8 performed all these acts when he was not the investigation officer of the case nor inquiry of MLC was handed over to him. This cast a serious doubt on the case of prosecution and also raises serious concern about the manner in which investigation was conducted.

59. Further cross-examination of PW-8 reveals that, he was unable to state four boundaries of the house of accused No.2. During the cross-examination, learned advocate for accused No. 2, 5 and 7 filed an application for bringing one photograph on record and then, confronted said photograph to PW-8. After seeing the photograph, PW-8 deposed that, house of accused No.2 is visible in the same and said photograph is correct, therefore, it was marked as "Exh.101". He further admitted that,

in said photograph, latrine of the house of accused No.2 with pipe connected with the same is visible and no water tank is visible on the roof of the latrine. Then, he volunteered that the water tank was inside the house. The admission so given by this witness shakes his credibility, as, as per his version accused No.2 led them to his house and gave recovery of Sattur below Article-A which was kept on a tank placed on roof of latrine of the house of accused No.2. The photograph clearly show that, no tank was placed on the roof of the latrine situated in the house of the accused and said fact falsifies the stand of PW-8.

60. The prosecution has also examined one panch witness PW-4 Nitin Kamble, who is a panch witness to almost all panchanmas prepared during investigation including the memorandum panchanama below Exh. 74 and seizure panchanama below Exh. 75. This witness was serving as a Teacher in a school and deposed that, on 26/02/2020 he was called by the police in the police station. He went there. In his presence, statement of accused No.2 was recorded, wherein, accused No.2 has stated that, he has kept Sattur concealed on the roof of the washroom of his house. Then, said accused led them to his house and after reaching there, accused took out a Sattur from the loft of the washroom which was seized by PW-8 under a panchanama. There is a discrepancy in the version of PW-4 and PW-8 regarding the place from where Sattur was alleged to have been discovered. As per version of PW-4, said Sattur was recovered from loft of the latrine of the house of accused No.2, while, as per version of PW-8 it was kept on a water tank situated on the roof of the latrine of accused No.2.

61. In so far as credibility of this witness is concerned, he admitted that, before 18/02/2020 also, he acted as a panch and on

18/02/2020, he was called by police by issuing a letter to him. He specifically admitted that, on 26/02/2020, police did not come to the school to call him and on that day, he was informed to attend the police station. He further deposed that, PSI of Sadar bazar police station called him on his phone and asked him to come to police station. While, PW-8 admitted in his cross-examination that, when panchas were called for preparing panchanama, PW-4 was in school and for that purpose, he personally had gone to the school, where PW-4 was and said school was Zilla Parishad School, but he was unable to state the area in which said school was situated. Here also, version of PW-8 and PW-4 contradicts each other. On one hand, PW-4 clearly deposed that, police did not come to school, while, on the other hand, PW-8 deposed that, he personally had been to the school to call PW-4.

62. Also, from the evidence of PW-4 it appears that, he is a regular panch of the police. In present crime several time PW-4 was called by police, but not a single document is placed on record showing the Head Master of the school was requested to provide panch witnesses and it is rather surprising when PW-4 was a serving teacher in the school, then, how without any intimation to the Head Master of said school and without taking any leave, he attended the concerned police station for so many times. Thus, all aforesaid circumstances create a reasonable doubt and therefore, it can not be said that, this piece of evidence is cogent and reliable.

: Medical Evidence :

63. Another very important piece of evidence is the Medical Evidence.

64. It is the case of prosecution that, soon after the incident PW-1 to PW-3 were brought to Ashwini Hospital at Solapur by their brother Ashok Kuchekar, where, PW-5 Dr. Shantanu Gunjotikar a Neuro Surgeon working in Ashwini Hospital, Solapur examined all three of them. He deposed that, at about 1.00 a.m. on 17/02/2020 he examined PW-1 Sanjay and found presence of following injuries on his person;-

- i) contused lacerated wound (CLW) over left shoulder of size 4 x 2 x 2 cm
- ii) Abrasion over occipital region.

65. As per his opinion, injuries were fresh and may have been caused within six hours. They were simple in nature and may have been caused by sharp and hard blunt object. Then he issued a certificate to that effect which is below Exh. 18. As per his opinion, injury No.1 can be caused by Sattur below Article-A and injury No.2 can be caused by sticks Article-B and bricks Article -C.

66. However, in his cross-examination, he admitted that, injuries sustained by PW-1 can be caused by sudden accidental fall on sharp and blunt object.

67. Now, if allegations of assault so made on PW-1 are considered, the evidence of PW-1 to PW-3 shows that, an assault on the head and left shoulder of PW-1 was made by Sattur below Article-A. In the cross-examination, PW-5 has admitted that, Sattur is sharp on one side and blunt on the other side and there can be incised or contused lacerated wound if assault is made by Sattur and that, PW-1 did not sustain any

incised wound. The injuries so sustained by the PW-1 on occipital region is merely an abrasion, it is neither incised nor CLW and therefore, the allegation of assault by Sattur on his head is not corroborated by the medical evidence. Also, the injury on the left shoulder does not lend any corroboration if it is the claim of prosecution that, assault was made with the help of sharp edge of Sattur as it is an admitted position that, if sharp edge is used then, incised wound will be caused and not the CLW.

68. Lastly, this witness admitted that, to give an opinion that a particular injury can be caused by particular weapon, the size of injury and size of blade of weapon are important, but he had not given description of blade of the weapon as to its length, width, breadth and thickness and therefore, in absence of any such data, the weapon and injury can not be correlated.

69. As per version of PW-5, he also examined PW-2 Jyotipal at about 1.00 a.m. on that day and found presence of following injuries;-

- i) Large incised wound (15 x 4 x 3.5) situated across left side of face from left cheek to left retroauricular area dividing left ear pinna with active bleeding. On CT scan of face, fracture of left mandible and fracture of left external auditory canal,
- ii) Abrasion on chest of size 22 cm
- iii) Abrasion over back of size 22 cm.

70. As per his opinion, injury No.1 was grievous and other two injuries were simple and injury No.1 may have been caused by Sattur Article-A and injuries No.2 and 3 may have been caused by sticks Article B and brick Article-C.

71. Regarding PW-2, this witness admitted that, injury No.1 can be caused by sudden fall and sharp object and other two injuries also can be caused by accidental fall. Again, the opinion of this witness that, due to sharp edge of Sattur, incised wound can be caused clearly show that, since the injury No.1 sustained by this witness by PW-2 is contused lacerated wound, same may not have been caused due to sharp edge of the Sattur Article-A.

72. Lastly, PW-3 Vijay was examined by this witness and he noted presence of following injuries on his person;-

- i) Swelling over left maxillary, zygomatic and periorbital region. CT scan of face done. Multiple fractures on left side of face were seen. Left conjunctival chemosis (black eye)
- ii) Abrasion over left malar region of size 1 x ½ cm,
- iii) Abrasion over chest of size 2 x 2 cm,
- iv) Abrasion over back of size 3 x 2 cm,

73. In so far as injury sustained by this witness is concerned, as per version of PW-1, accused No.2 made an assault on the head of PW-3 by Sattur. While, as per version of PW-3 himself a brick struck his head, due to which, injury was caused to him and he sat down. Nothing on record to show who pelted said brick at him.

74. Further more, regarding PW-1 this witness admitted that, Vijay did not sustain any incised wound and in the injury certificate he did not mention by which type of weapon he may have sustained injury.

75. Thus, two aspects emerge from the version of PW-5 either injuries to all the witnesses may have been caused due to assault of the weapon, but medical evidence do not corroborate the allegations so leveled or the injuries may have been caused by accidental fall.

: Spot of incident :

76. Another piece of evidence is spot of incident. As per version of PW-9 After taking over investigation, he visited spot of incident and drew a spot panchanama. Said spot of incident was house of PW-1 situated at Kumtha Naka. From there, he seized brick, stone and Bamboo stick. Said panchanama is below Exh. 71.

77. The prosecution also examined PW-4, a panch witness, as per whose version on 18/02/2020 he was called in police station and from there, along with police he went to Kumtha Naka. Then, police brought him near a tamarind tree situated near house of one Nagsen Gaikwad. From there, they went in front of a house and gave a call and that time, from one house, a woman named Mahananda Kuchekar came out. She showed the spot of incident. At that spot, pieces of bricks, stones and partly broken sticks of the size 3 to 4 feet were lying. Police seized three bricks, two stones and two sticks in their presence and prepared a spot panchanama. However, in his cross-examination, this witness gave an important admission. He admitted that in the spot panchanama below Exh. 71, it is mentioned that, no incriminating object pertaining to the incident was found on the spot of incident.

78. A careful perusal of spot panchanama below Exh. 71 shows that, brick, stone and sticks were seized from the spot of incident,

however, in the spot panchanama, it is also mentioned that, since the incident has taken place at 11.30 p.m. on 16/02/2020, no objectionable thing or article related to the crime were found on the spot of incident, which clearly show that, though the stone, brick and stick were found on the spot of incident, they were not related with the incident.

79. Furthermore, it can not be forgotten that, though the incident took place at 11.30 p.m. on 16/02/2020, the spot panchanama was prepared at about 10.00 to 11.30 a.m. on 18/02/2020. The place where incident alleged to have taken place was an open place accessible to the public at large and nothing is there on record to show that, soon after the incident, any police officer was deputed to protect the spot till drawing of spot panchanama and therefore, possibility of tampering of spot of incident can not be ruled out and thus, recovery of bricks, stones and sticks from the spot of incident do not inspire confidence.

: Chemical Analysis Report :

80. PW-9 claimed to have forwarded Sattur Article-A, blood samples of PW-1 to PW-3 and clothes of these witnesses as well as accused persons for chemical analysis. The report regarding the same are below Exh. 48 to 51. The examination report below Exh. 48 is pertaining to clothes of accused persons, PW-1 to PW-3 and Sattur. The report reveals that, no bloodstains were found on Sattur Article-A, while, bloodstains found on Exhibit 1 to 3 of the examination report below Exh. 48, i. e., shirt, banian and jeans pant of the informant Sanjay Pralhad Kuchekar were of group 'B'

81. The report below Exh. 49 to 51 are pertaining to blood sample of PW-1, PW-2 and PW-3 respectively and all the reports show

that, the samples were unsuitable for blood grouping and blood group could not be determined.

82. Thus, the important report is regarding Sattur Article-A and if the version of PW-1 is believed, all five injured persons were assaulted by said Sattur and it seems to be highly improbable that, it may not have got stained with blood. Further more, since the blood group of injured witnesses could not be ascertained, no inference from blood stains having group B on the clothes can be drawn. In toto, the report of chemical analysis does not lend any corroboration to the case of prosecution.

83. Another surprising aspect of the case is examination of PW-6 Dr. Anil Patki who is claimed to be a General Medical Practitioner at Solapur. He claimed to have examined Aniket Kuchekar at 11.30 a.m. on 17/02/2020 and found presence of three injuries on his person. However, though this witness is examined by the prosecution, the injured Aniket Kuchekar is not examined. Already, it is observed herein before that, in view of allegations of assault on Aniket who is claimed to be nephew of PW-1 to PW-3, prosecution should have examined said witness, but, did not examine nor examine another injured Swapnil, therefore, testimony of this witness is of no consequence.

: Investigation :

84. The judgment can not be parted without considering the manner in which investigation was conducted by PW-9. His own testimony and testimony of PW-8 shows that, even though investigation of this crime was handed over to PW-9 at 4.31 p.m on 17/02/2020 itself, most of the part of the investigation was done by PW-8 without any authority and

power. Nothing is on record to show what restrained PW-9 from conducting investigation himself.

85. Further more, while recording evidence of PW-9, the defence tried to show one document from the copy of charge sheet supplied to the defence and it was found that, said document was not present on the record of the court. Thereafter, when copy of charge sheet on record of the court was verified with copy supplied to learned DGP and learned advocate for the accused, it was found that, the copy of charge sheet supplied to accused persons showed list of 102 documents, while, list of documents filed before the court showed only 46 documents. Thereafter, learned DGP submitted that, copy supplied to him contains only 36 documents as per list and considering the same, it was apparent that, PW-9 committed gross negligence while preparing the charge sheet. At that stage, this court seized the copy supplied to learned DGP and copy supplied to accused No.1, 3 and 4.

86. After completion of final arguments, an explanation was called from PW-9, the I.O. and by filing affidavit below Exh. 119, PW-9 tendered explanation and submitted that, when he filed charge sheet before JMFC, that time, list of documents was regarding 36 documents. Then, he filed supplementary charge sheet against accused No.1 which contained total 42 documents and therefore he submits that, initially a charge sheet was filed and then supplementary charge sheet was filed and therefore, number of documents were increased and the mistake got caused inadvertently and he tendered unconditional apology regarding the same. Though, PW-9 has tendered explanation, but same do not appear to be bonafide and satisfactory as some documents which are found in the

copy supplied to accused No.1, 3 and 4 are not part of the copy of charge sheet on record of the court and some documents which are part of copy of charge sheet supplied to learned DGP are also not part of the record of the court. However, aforesaid circumstances clearly show how negligently and casually, investigation was conducted in such serious crime and charge sheet was filed.

87. Thus, if entire evidence so led on record is summarized, then it is apparent that, the eye witness account is discrepant, there is inordinate delay in lodging of FIR, the earliest information received by police station shows assault made on injured eye witnesses by unknown persons, non examination of material witnesses like Ashok Kuchekar, Mahananda Kuchekar, Aniket and Swapnil Kuchekar, a doubtful recovery at the instance of accused No.2 and the medical evidence which do not lend any corroboration to the case of prosecution and in such circumstances, it can not be said that, prosecution has discharged the burden beyond reasonable doubt, therefore, point No.4 is answered in the negative.

As to points No.1 to 3 :-

88. In view of the observations so made and findings recorded against point No. 4 and specifically the fact on record that, history stated by PW-1 to PW-5 that they were assaulted by 10 to 15 unknown persons and also the discrepancies in the version of all injured eye witnesses, it can not be said that, all accused persons formed unlawful assembly and that time, they were holding dangerous weapons and said assembly had a common object to assault injured eye witnesses. As such, points No. 1 to 3 are answered in the negative.

As to point No. 5 :-

89. All the accused persons were also charged for the offence punishable under section 109 of IPC on the allegation that, deceased accused No.1 abetted accused No.2 to 7 to commit crime, however, since accused No.1 is no more and also there is no evidence to that effect, point No. 5 is answered in the negative.

As to points No. 6 and 7 : -

90. No evidence is led on record to prove that, accused persons intentionally insulted and thereby gave provocation to PW-1 intending that, such provocation will cause him to break the public piece and also, prosecution failed to prove that, accused persons committed criminal intimidation by threatening PW-1 with injury to his person and therefore, prosecution failed to prove the offences punishable under section 504 and 506 of IPC. As such points No. 6 and 7 are also answered in the negative.

As to points No. 8 and 9 :-

91. In so far as the offence punishable under section 135 of the Maharashtra Police Act and section 4 read with section 35 and 27 of the Arms Act is concerned, as already discussed above, it is not established that the accused persons at the relevant time were possessing any deadly weapons, i.e., iron rod etc in or other weapon in contravention of the Maharashtra Police Act. Therefore, it cannot be said that, the prosecution has successfully proved the charge against the accused persons. As such, points No.8 and 9 are answered in the negative.

As to point No. 10 :-

92. Since the prosecution has miserably failed to discharge the burden so cast on it, no offence as alleged by the prosecution is proved against any of the accused and as a consequences thereof, all the accused persons are entitled to be acquitted. Hence, the following order is passed.

ORDER

- 1 Accused No.2 to 7 are acquitted of the offences punishable under Section 307, 109, 143, 147, 148, 504 and 506 of the Indian Penal Code, section 135 of the Maharashtra Police Act and section 4 read with section 25 and 27 of the Arms Act, vide Section 235(1) of the Criminal Procedure Code.
- 2 Accused No. 2 to 7 shall execute the bail bond of Rs.15,000/- (Rs.Fifteen Thousand) each with a surety in like amount to appear before the Appellate Court as and when the Court issues notice in respect of appeal or petition against the judgment vide Section 437-A of the Code of Criminal Procedure, 1973.
- 3 The bail bond stand cancelled and surety be discharged.
- 4 The muddemal articles, viz.,
 - i) one Sony Xperia mobile having IMEI No. 352189072995637 and 352189072995629 be returned to its owner and if already returned, be retained with him, after the expiry of appeal period.
 - ii) stones, bricks, wooden sticks, Sattur, clothes of the accused and injured persons, being useless and worthless, be destroyed after the expiry of appeal period.

Date : 18/08/2026

(Manoj S. Sharma)
Sessions Judge, Solapur

CERTIFICATE

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

Name of Stenographer	: Kanaki P. N.
Court	: Principal District & Sessions Judge, Solapur
Date	: 18/08/2026
Order uploaded on	: 20/08/2026