

MHST010015032022



Received on : 03.06.2022

Registered on : 08.06.2022

Decided on : 13.03.2026

Duration : 03 Y. 09 M. 10D.

IN THE COURT OF AD-HOC ADDITIONAL SESSIONS JUDGE,
SATARA AT - SATARA
(Presided over by J. S. Bhatia)

SESSIONS CASE NO. 102/2022
CNR No. MHST010015032022
EXH. 51

Part 'A'

<u>Details of FIR and Police Station</u>	
C. R. no. 387/2018, Satara Taluka Police Station, Taluka and District Satara registered under Section 353, 379 and 201 of the Indian Penal Code, 1860.	
Prosecution	The state of Maharashtra (Through Satara Taluka Police Station, District - Satara)
Represented by	Learned A. P. P. Smt. A. S. Nimbalkar
Accused	Ketan Suresh Pharande Age 31 yrs. Occ. Labour Residing at :- Anewadi, Taluka Jaoli, District Satara
Represented by	Learned Advocate Shri. J. P. Bhosale for accused

Part 'B'

Date of Offence	29.07.2018
Date of FIR	29.07.2018

Date of Charge-sheet	03.10.2019
Date of Framing of Charge	10.03.2023
Date of commencement of evidence	16.01.2024
Date on which judgment is reserved	--
Date of the Judgment	13.03.2026
Date of the sentencing order, if any	NIL

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428 of Cr.P.C.
1.	Ketan Suresh Pharande	30.07.2018	01.08.2018	Offences under Section 353, 379 and 201 of the I.P.C.	Acquitted	Not applicable	Nil

JUDGMENT

(Delivered on 13th March, 2026)

The accused is facing trial for the offences punishable under Section 353, 379 and 201 of the Indian Penal Code, 1860 (hereinafter referred as the I.P.C.).

Facts in brief;

2. Kotwal Rohit Laxman Dhumal, posted at village Mardhe, Taluka Jaoli, District Satara, lodged the First Information Report at Satara Taluka Police Station with an allegation that on 29/07/2018 at about 11.30 a.m. he received a phone call of Amol

Vasantrao Shingate, Deputy Sarpanch of village Mardhe, stating that he had caught hold one tractor driver along with a tractor and trolley, near the house of Sudhakar Narayan Shingate, village Mardhe, while doing illegal transportation of sand. Accordingly, Kotwal Rohit Dhumal reached on the spot. He asked the name to the tractor driver, in reply of which he stated as Ketan Suresh Pharande. Kotwal Rohit Dhumal demanded the receipt for transportation of sand on which Ketan Suresh Pharande showed him the receipt available on What's app, which was for collection of sand. As Ketan Pharande was not having transportation receipt, therefore, Kotwal Rohit Dhumal made a phone call to M.D. Gore, Talathi of village Mardhe and informed about the incident. Getting key of the tractor, the informant Rohit Dhumal told the tractor driver Ketan Pharande to come to Tahasil office for initiation of further action. On this, tractor driver Ketan Pharande snatched the key of tractor from the hands of Rohit Dhumal and left the spot by forcibly driving said tractor. At the relevant time, there was no number plate to the tractor or trolley, therefore the informant could not note the number. Eventually, he came at Satara Taluka police station and reported the incident. Upon said report C.R.no. 387/2018 was registered at Satara Taluka Police Station, Satara under Section 353, 379 and 201 of the Indian Penal Code, 1860.

3. Investigation was handed over to P. H.C. Hanmant Bhau Sawant, who had prepared the spot panchanama, recorded statement of witnesses, arrested accused and thereafter further

investigation was handed over to A.P.I. Shaligram, who submitted final report before the Court of Chief Judicial Magistrate, Satara.

4. As per order below Exh. 1 dated 27.04.2022, as offence punishable under Section 353 of the Indian Penal Code is triable exclusively by the Court of Sessions, learned Court of 5th Judicial Magistrate First Class, Satara committed the case to this Court.

5. Predecessor of this Court has framed charge against the accused for offences punishable under Sections 353, 379 and 201 of the Indian Penal Code, 1860 at Exh. 06. Accused abjured the guilt and claimed to be tried.

6. To bring home the guilt of accused, the prosecution has relied upon the evidence of total 5 witnesses and has closed its evidence as per Exh. 48. Statement of the accused under Section 313 of the Code of Criminal Procedure are recorded at Exh. 49. His defence is of total denial and false implication.

7. Considering the prosecution case and the defence raised by the accused, following points arise for determination of this case, against which findings are recorded for the reasons given as follows.

No.	POINTS	FINDINGS
	Whether the prosecution proves that on 29/07/2018 at about 11.30 a.m. at Mardhe to Anewadi road, in front of house of	

	Sudhakar Narayan Shingate in village Mardhe, Taluka Jaoli District Satara, the accused -	
1.	Assaulted or used criminal force to the informant Kotwal Rohit Laxman Dhumal and others with intent to prevent or deter them in discharge of their duty as public servant ?	<u>No.</u>
2.	Dishonestly committed theft of sand ?	<u>No.</u>
3.	Knowingly and intention disappeared the evidence of committing theft of sand ?	<u>No.</u>
4.	Whether any offence has been proved against the accused ?	<u>No.</u>
5.	What order ?	<u>Accused is acquitted as per final order.</u>

: **REASONS** :

Legal position :-

8. In Mahendra Kumar Sonker Vs. The State of Madhya Pradesh (Criminal Appeal no. 520/2012 decided on 12/08/2024 by the Hon'ble Supreme Court (Reportable)) the Hon'ble Supreme Court has been pleased to discuss the definition of assault and criminal force to consider the ingredients of Section 353 of the Indian Penal Code. The relevant extract of paragraph no. 15 to 18 are reproduced as under.

15. A perusal of Section 353 indicates that whoever assaults or uses criminal force -

- (a) to any person being a public servant in the execution of his duty as such public servant, or
- (b) with intent to prevent or deter that person from discharging his duty as such public servant, or
- (c) in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with the imprisonment of either description for a term which may extend to two years, or with fine, or with .

16. It is important at this stage to notice the definition of criminal force as defined in Section 350 of the IPC.

“350. Criminal force.- Whoever intentionally uses force to any person, without that person’s consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.”

As would be clear, what is required to establish criminal force is intentional use of force to any person without that person’s consent in order to the committing of any offence.

17. Section 349 of the IPC which defines force is extracted hereinbelow :

“349. Force.- A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other’s body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other’s sense of feeling:

Provided that the person causing the motion, or

change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described.

First. - By his own bodily power,

Secondly. - By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly. - By inducing any animal to move, to change its motion, or to cease to move.”

18. Assault under Section 351 of the IPC would mean whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person.

9. In view of this settled legal position, it is necessary to peruse the evidence adduced by the prosecution to nail the accused for the offence punishable under Section 353 of the Indian Penal Code.

As to point no. 1 to 4 collectively :-

10. As the appreciation of evidence on these points is interlinked, to avoid repetition, I discuss them together.

11. In support of their contentions, the prosecution has mainly relied upon the evidence of the informant Kotwal Rohit Laxman Dhumal (P. W. 3) given at Exh. 36 and Deputy Sarpanch Amol Vasantrao Shingate (P. W. 2) given at Exh. 33.

12. The informant Kotwal Rohit Laxman Dhumal (P. W. 2) had evident by reiterating the contentions of FIR of Exh. 37. He has also added that on the next day of the incident, he had been to the spot for the purpose of conducting spot panchanama (Exh. 16). However, on perusal of said panchanama, it seems that said spot panchanama does not bear signature of the informant as showing the spot. It reveals from his cross-examination that the flying squad to cope up with legal sand excavation and transportation are appointed at village Mardhe of which Talathi and Circle inspector are the members. Admittedly, the informant was not the member of said flying squad. Even the information was not given to said flying squad. The reason for said inaction is not stated by the prosecution.

13. It is unexplained as to why no action has been taken by Talathi or the Circle Inspector of village Mardhe by following the requisite procedure through concerned flying squad, in spite of getting information of the incident through phone call of the informant. The witness has further evinced that he was not knowing the accused prior to the incident, therefore, the identification of the accused before the Court is only dock identification.

14. Allegedly the incident happened at about 11.00 a.m. however FIR was registered at about 5.54 p.m. in the evening. There is an incomprehensible delay of 6 hours in lodging FIR. Said delay is unreasonable as well as unexplained. Neither the

witness nor the prosecution had taken pain to give plausible explanation of said delay for the reasons best known to them.

15. Except the contention that violating the direction of this witness to take tractor to Tahasil office, nothing is on record showing the overt act of the accused in commission of offence under Section 353 of the Indian Penal Code.

16. Turning to the evidence of P.W. no. 2 Amol Shingate given at Exh. 33, it seems that he had caught hold the accused and as he was not having sand transportation receipt, the witness made a phone call to the informant as well as Talathi Gore. After receiving the phone call, Kotwal Rohit Laxman Dhumal approached to the spot. They had taken the key of tractor but the accused forcibly obtained said key from the hands of Kotwal Rohit Laxman Dhumal and fled away with the tractor and trolley. Said witness tried to follow the accused, but the accused left. It is difficult to accept that the slow moving vehicle like a tractor, was not chased or caught by these both witnesses despite due endeavor.

17. Evidence of these both witnesses is not supported by the Tulshidas Shankar Jadhav (P.W. 4) as he had resiled from his statement. Said witness has denied that the accused made empty his trolley near the farm of this witness and then fled away. The chronological sequence of the incident is not identical and supported by the testimony of this material witness.

18. Nitin Bhanudas Patil (P. W. 1) is a spot panch who has evident at Exh. 15 that at about 9.30 a.m. of 30.07.2018, the spot panchanama of Exh. 16 was conducted in his presence at Mardhe-Anewadi road. Said witness is not the resident of vicinity. He has given details about the political backdrop of village Anewadi and Mardhe. On perusal of panchanama, it reveals that only the description of the road is given therein. As the tractor was not available at the relevant time, evidence of this witness is not proving incriminating against accused.

19. Investigating officer Hanmant Bhau Sawant (P. W. 5) has evident at Exh. 42 that he conducted spot panchanama of Exh. 16, recorded the statements of witnesses, arrested accused, gave letter to Circle officer for getting map of the spot as well as letter to Tahasil office for getting the copy of appointment order of the informant. It transpired in his investigation that accused snatched the key of tractor and thereby prevented the informant in discharge of his public duty. Subsequently, charge-sheet was filed by A.P.I. Shaligram.

20. The investigation is not done on the point whose tractor was being driven by the accused, from where the sand was brought and where it was to be transported. The presence of accused on the spot is also not duly proved by the prosecution. Though charge of disappearance of evidence as per Section 201 of the Indian Penal Code is framed against the accused by the predecessor of this Court, there is no *iota* of evidence to prove the

said charge. Not single statement or document is on record showing that the accused has caused disappearance of evidence. Non-producing the material evidence brings the prosecution case under cloud of suspicion and it seems that it is concocted one.

21. As far as offence of Section 379 of the I.P.C. is concerned, the excavation and illegal transportation of sand does not come within the ambit of Section 379 of the I.P.C. when the special legislation like Section 48(7) of the Maharashtra Land Revenue Code, 1966 and Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013 regulate the extraction of sand and classify illegal extraction as an offence.

22. It is not credible to consider that the informant Kotwal Rohit Dhumal and Deputy Sarpanch Amol Shingate were not able to catch the accused, who left the spot after getting key of the tractor and left the spot by driving slow moving vehicle like tractor and trolley. Hence, the evidence of the informant and Deputy Sarpanch that the accused left the spot is not sufficient to prove the offence of Section 353 of the Indian Penal Code.

23. The result of this discussion is that the entire prosecution case has become untrusting. The allegations made against the accused do not comply the essential ingredients of the offence of Section 353, 379 or 201 of the Indian Penal Code. The result is that the prosecution has failed to prove that the accused had used criminal force to the informant with intent to prevent him from discharging his duty as public servant or abused or

threatened him. Accordingly, I answer point no. 1 to 3 collectively in the negative.

24. In view of aforesaid discussion, no offence is proved against any of the accused by the prosecution. Accordingly, I answer point no. 4 in the negative. To conclude and in answer to point no. 5, I proceed to pass following order.

ORDER

- 1 Accused Ketan Suresh Pharande is acquitted vide Section 235(1) of Criminal Procedure Code, 1973 of the offences punishable under Sections 353, 379 and 201 of the Indian Penal Code, 1860.
- 2 Bail bonds of the accused are discharged.
- 3 Nothing is seized in this case, hence no order as to muddemal.
- 4 Accused is directed to furnish PB. and S.B. each with surety like this amount of Rs.15,000/- in compliance of the provisions of Section 437-A of the Criminal Procedure Code, 1973.
- 5 Copy of this judgment be forwarded to the District Magistrate, Satara as per Section 365 of the Code of Criminal Procedure.

(Dictated and pronounced in open Court.)

Date - 13/03/2026

(J. S. Bhatia)
Ad-hoc District Judge -1
Satara

Part 'C'
LIST OF PROSECUTION / DEFENCE/ COURT WITNESSES

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE	Exh.
P.W.1	Nitin Bhanudas Patil	Spot panch	15
P.W.2	Amol Vasantrao Shingte	Eye witness	33
P.W.3	Kotwal- Rohit Laxman Dhumal	Informant	36
P.W.4	Tulashids Shankar Jadhav	Eye witness	39
P.W.5	Hanmant Bhau Sawant, Police Hawaldar Bakkal no. 498	Investigating Officer	42

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
	Nil	

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
-	Nil	-

LIST OF PROSECUTION / DEFENCE/ COURT Exhibit

A. Prosecution :

Sr.No.	Exh.No.	DESCRIPTION
1	16	Spot panchnama

2	37	First Information Report
3	38	Printed First Information Report.
4	43	Order of allotment investigation of C.R. no. 387/2018 of Satara Taluka Police Station.
5	44	Statement of Tulashidas Shankar Jadhav recorded under Section 161 of the Code of Criminal Procedure.
6	45	Arrest Panchanama of the accused
7	46	Letter sent to the Circle officer, Satara for preparation of map of the spot.
8	47	Letter sent to the Executive Magistrate, Satara for availing appointment order of the informant as Kotwal.

B. Defence :

SR.NO.	Exh. NO.	DESCRIPTION
	Nil	--

C. Court Exhibit :

SR.NO.	Exh. NO.	DESCRIPTION
	Nil	--

D. Material Objects :

Sr.No.	Material Object no.	DESCRIPTION
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