

MHST010022622018



Received on : 23.07.2018
Registered on: 24.07.2018
Decided on : 12.03.2026
Duration : 07Ys. 07Ms. 17Ds.

Exhibit No. : (29)

IN THE COURT OF SESSIONS JUDGE, SATARA
(Presided over by A. S. Waghmare)

Criminal Appeal No. 59/2018

Akash Vasu Chavan, }
Age - 20 years, Occu. - Labour work, } ... **APPELLANT**
R/o.- Laxmitekadi Zopadpatti, } (Ori. Accused)
Sadar Bazar, Satara, }
Taluka and District Satara. }

Versus

The State of Maharashtra, }
Through Satara Taluka Police Station.} ... **RESPONDENT**
Taluka and District Satara. } (Ori. Complainant)

APPEARANCE :

Advocate Mr. A. L. Rathod for appellent.
Learned APP Mrs. A. S. Nimbalkar for respondent.

JUDGMENT

(Delivered on 12th day of March, 2026)

Being aggrieved by the judgment and order passed by the learned Assistant Sessions Judge, Satara in Sessions Case No. 32/2018 on 30.06.2018 convicting and sentencing the appellent for the offence punishable under Sections 353 and 332 of the Indian Penal Code, 1860 (for the sake of brevity hereinafter referred as "IPC") the present appeal is preferred. For the offence punishable

under Section 353 of the IPC, the appellant was sentenced to suffer simple imprisonment for one year and to pay fine of Rs. 500/- in default to suffer simple imprisonment for 3 months. Further, for the offence punishable under Section 332 of the IPC, the appellant was sentenced to suffer simple imprisonment for one year and to pay fine of Rs. 500/- in default to suffer simple imprisonment for 3 months.

02. The appellant is the original accused. The respondent is the State of Maharashtra. For the sake of brevity, the parties in the present appeal are referred to by their nomenclature before the learned Trial Court.

03. The facts of the prosecution case, in brief, are as under -

On 16.10.2017, at about 4.00 p.m., the informant Police Constable Sunil Shankar Jadhav was on duty as a Traffic Police in front of Choice Optical Shop situated at Powai Naka, near Kasat Market. As there was crowd in front of Shikshak Bank, he went to see why the crowd has gathered. He noticed that the accused was quarreling with a rickshaw driver. When the informant/complainant was trying to convince accused and was taking the accused in custody, he caught hold his collar, abused him, scuffled with him and tried to run away. During scuffle, due to the fight by the accused, the complainant sustained injury to his left hand little finger. The complainant caught hold the accused, called the PCR van and brought him to the Police Station by means of the said van. The injury sustained by the complainant was sutured at Civil Hospital, Satara. Therefore, as the accused assaulted the complainant to deter

him from discharging his duty as a public servant and intentionally insulted him with an intention to provoke breach of the peace and criminal intimidated him, he lodged the complaint (Exh.13) for the offence punishable under Sections 353, 333, 504 and 506 of the IPC against the accused.

04. On the basis of the complaint (Exh.13), the Crime was registered vide C.R. No.835 of 2017 for the offence punishable under Sections 353, 333, 504 and 506 of the IPC against the accused and its investigation was handed over to Police Naik Rajaram Jadhav of Satara City Police Station.

05. During the course of investigation, the Investigating Officer Police Naik Rajaram Jadhav recorded the statements of witnesses, visited the spot of incident and prepared the spot panchanama (Exh.17), collected relevant documents including medical certificate of complainant etc. After completion of investigation, the accused was charge-sheeted for committing the offences punishable under Sections 353, 333, 504, 506 of the IPC.

06. The learned Trial Court framed the charge (Exh.13) against the accused for the offences punishable under Sections 353, 333, 504, 506 of the IPC. The prosecution examined seven witnesses before the learned Trial Court. After considering the evidence on the record and after hearing both the sides, the learned Trial Court only convicted and sentenced the accused for the offence punishable under Sections 353 and 332 of the IPC. Hence, this appeal.

07. Heard learned Advocate Mr. A. L. Rathod for the appellant and learned APP Mrs. A. S. Nimbalkar for the respondent.

08. In the light of the facts of the case and on the basis of the submissions made on behalf of the parties, the following points arise for consideration and the findings thereon are recorded as under, for the reasons to follow.

Sr. No.	POINTS	FINDINGS
1.	Does prosecution prove that on 16.10.2017 at about 4.00 p.m. near Kasat Market in front of Choice Optician Shop near Powai Naka, the accused assaulted the complainant Police Constable Sunil Shankar Jadhav, a public servant while he was discharging duty as such public servant and prevented him from discharging his duty as such public servant and thereby committed an offence punishable under Section 353 of the IPC ?	Yes.
2.	Does prosecution prove that on the above mentioned date, time and place of incident, the accused voluntarily caused hurt to the complainant, a public servant in discharge of his duty as a public servant and thereby committed an offence punishable under Section 332 of the IPC ?	Yes.
3.	Whether the sentence imposed upon the accused by the learned Trial Court calls for any interference?	No.
4.	What order?	As per final order.

REASONS

09. The prosecution examined following listed witnesses before the learned Trial Court -

Sr. No.	Rank	Name	Nature of Evidence	Exh.
1	PW1	Sunil Shankar Jadhav	Complainant	12
2	PW2	Mohasin Harun Shaikh	Eye-witness	14
3	PW3	Sanjay Baburao Sawant	Witness-driver of PCR Van	15
4	PW4	Kiran Pralhad Shinde	Panch witness on spot panchanama	16
5	PW5	Dr. Sharada Shivaji Bhaskar	Medical Officer	19
6	PW6	Anil Ramchandra Dhanawade	Witness	21
7	PW7	Rajaram Sadashiv Jadhav	Investigating Officer	23

10. The following documents are admitted and proved in the evidence -

Sr.No.	Description	Exh.
1	Report/Complaint lodged by complainant-PW.1-Sunil Jadhav.	13
2	Spot panchanama.	17
3	Medico-legal certificate issued by PW.5.	20
4	True copy of duty register.	22

11. The accused neither examined witness nor adduced any document before the learned Trial Court.

AS TO POINT NOS.1 & 2 :

12. Both the points are interconnected, therefore, taken up together for common discussion.

13. The learned Advocate Mr. A. L. Rathod for appellant/accused argued that the present appeal is filed challenging the conviction under Sections 353 and 332 of IPC vide judgment and order of learned Assistant Sessions Judge, Satara in Sessions Case No. 32/2018 dated 30.06.2018. The learned Trial Court on the basis of evidence of seven witnesses i.e. PW.1 to PW.7 held the accused/appellant guilty. The alleged complaint is false as the so called eye-witness is an interested witness, but the learned Trial Court has not considered this fact. The learned Trial Court has not considered the material contradictions, omissions and improvements in the evidence of prosecution witnesses.

14. It is further argued by Advocate Mr. Rathod that the learned Trial Court failed to appreciate ingredients of Section 27 of Evidence Act. There is no any independent witness to the incident. The learned Trial Court has not considered any admission taken by defense and contradictions and omissions brought on record through the cross-examination of witnesses. Injury certificate (Exh.20) does not disclose that there was grievous hurt to the little finger of left hand of the complainant, thus the injury certificate (Exh.20) is wrongly appreciated by the learned Trial Court. Thus, the learned Trial Court failed to apply judicial mind to the evidence on record and also not followed the principles of criminal jurisprudence. The

statement of rickshaw driver was not recorded which is fatal to the case of prosecution. There is overwriting in a duty register (Exh.22) in respect of timing of duty. The learned Trial Court has not appreciated the evidence on record properly and came to the wrong conclusion. Considering the evidence adduced by the prosecution before the learned Trial Court, the judgment and order under challenge is not legal and proper and hence, it is liable to be quashed and set aside. Therefore, prayed to allow the appeal and the appellant/accused be acquitted.

15. Per contra, the learned APP Smt. A. S. Nimbalkar argued that the complainant Sunil Jadhav is Police Head Constable and he was on official duty on the alleged day of incident. It is an admitted fact that the complainant is a public servant. It is also not disputed that the incident had not happened. The evidence of all seven witnesses PW.1 to PW.7 examined before the learned Trial Court is consistent and their version is same. There is specific evidence on record that on the date of incident the complainant was discharging his official duty as a public servant and at that time the accused assaulted him and deterred him from discharging his duty, so also he caused hurt on little finger of left hand of the complainant. In this way, the accused abused, scuffled and used criminal force to the complainant and obstructed him in his official duty. The evidence of eye-witness PW.2 Mohasin is consistent with the evidence of complainant PW.1, further it is supported by PW.6 Anil and Investigating Officer PW.7.

16. It is further argued that the accused come with the defence that the false complaint is lodged against him, but it failed to prove the said defence. Considering the evidence brought on record by the prosecution before the learned Trial Court, it cannot be said that the complaint was false. The learned Trial Court appreciated the evidence on record in proper perspective and came to the right conclusion. The punishment imposed for the offended punishable under Sections 353 and 332 of IPC to the extent of simple imprisonment for one year and fine of Rs. 500/- in default, simple imprisonment for 3 months is less. Therefore, the punishment may be upheld. It is further submitted that the judgment and order of learned Trial Court under challenge is legal and proper. Hence, prayed that it be maintained and appeal be dismissed.

17. Before the learned Trial Court the appellant/accused was prosecuted for the offence punishable under Sections 353, 333, 504, 506 of the IPC and the accused was convicted for the offence under Sections 353 and 332 of IPC and in rest of offences, he was acquitted.

18. In order to decide the appeal in which the judgment and order of the learned Assistant Sessions Judge, Satara dated 30.06.2018 is challenged, the evidence appreciated by the learned Trial Court needs to be reconsidered afresh and re-appreciated on the basis of which conviction is awarded by the learned Trial Court. Before the learned Trial Court, the prosecution examined in all seven witnesses. As the said judgment of learned Trial Court is challenged

on the point of conviction to accused/appellant, hence, it is worth to discuss and consider the evidence adduced before the learned Trial Court to that extent in view of entire incident.

19. To prove the spot of incident, prosecution relied upon oral evidence of PW.4 Kiran, PW.1 Sunil and PW.7 Rajaram. On perusal of spot panchanama (Exh.17), it reveals that, complainant PW.1 had shown the spot of incident to Police and panchas, which was in front of Choice Optician on a tar road. During cross-examination of Kiran (PW.4) nothing came on record to disbelieve his evidence. Thus, the spot of incident is proved by way of proving spot panchanama (Exh.17) through the testimony of PW.4 Kiran.

20. The star witnesses in this incident are the complainant Police Head Constable Sunil (PW.1) and eye-witness Mohasin (PW.2).

21. PW.1 Sunil deposed that on 16.10.2027 from 9.00 a.m. to 9.00 p.m. he was on duty as traffic controller near Kasat Market. On that day, at about 4.00 p.m., he noticed that there was crowd near Shikshak Bank at Kasat Market, so he went there, he noticed that the accused was quarreling with one rickshaw driver, so there was crowd. He convinced rickshaw driver and set right the traffic. He took the accused aside and when he was taking the accused to Shivaji Circle by walking, suddenly the accused hold his collar, abused him and assaulted him by giving fight on his little finger of left hand, so blood was oozing from it. PW.1 called PCR van and he himself, employees and driver of PCR van brought the accused at

Satara Police Station and gave the accused in the custody of Police. He further deposed that on the date of incident, he signed the duty register. Police issued him medical yadi, accordingly, he went to Civil Hospital, Satara, Doctor put 2 stitches on his little finger. Thereafter, he lodged complaint (Exh.13) at Police Station.

22. The learned Advocate for accused tried to rebut his testimony by asking various questions. During cross-examination PW.1 admitted that he did not notice the number of rickshaw with whose driver the accused was quarreling. He further admitted that at the time of incident, the accused was not having the vehicle and there was no violation of traffic rules by him. The said admissions given by PW.1 has no credential because the number of rickshaw and name of said rickshaw driver is not necessary. From the evidence of PW.1 it is crystal clear that the alleged incident of quarrel of accused with rickshaw driver, holding collar of informant/complainant and assault to him by accused had happen. As such, nothing is brought on record by the defence to disbelieve his testimony. Thus, evidence of PW.1 is fully supporting to the case of prosecution,

23. Mohasin (PW.2), who is the owner of Choice Watch and Optician Shop situated in Kasat Market, Satara is the eye-witness to the incident. He deposed that he opens his shop at 9.30 a.m. and closes it at 9.00 p.m. daily. On 16.10.2017, from 9.30 a.m. to 9.00 p.m. he was present in his shop alongwith his servant Jyotiram Maskar. On that day, at about 4.00 p.m. the complainant PW.1 was performing duty his in front of his shop, that time quarrel took place

between accused and a rickshaw driver, so people gathered there. The complainant PW.1 was trying to disburse the crowd and to convince rickshaw driver and the accused. But, the accused caught hold the collar of the complainant, there was scuffle between the complainant and the accused. The accused assaulted the complainant on his little finger of left hand by fight. The complainant called PCR van. PW.2 further deposed that the accused obstructed the complainant when he was performing his duty as a public servant.

24. During cross-examination, PW.2 admitted that he had not filed any documentary evidence on record to show that he is owner of Choice Watch and Optician shop. Sometimes, Police used to visit his shop to purchase watch and other articles, so he is knowing some of the Police. He denied that he had not noticed the incident.

25. Though, PW.2 admitted that he has not filed documentary evidence to show that he is owner of said shop, but the fact is undisputed that the said shop Choice Watch and Optician is situated adjacent to the spot of incident. So also, the evidence of PW.2 shows that he daily opens his shop at 9.30 a.m. and closes at 9.00 p.m. Therefore, the presence of Mohasin (PW.2) at the spot at relevant time cannot be doubted, his presence seems to be natural and nothing material came on record to infer that he is not trustworthy witness. Further, he is an independent witness and that too eye-witness. He specifically stated that he is owner of said shop and on the day of incident at 4.00 p.m. when incident occurred, he was in his shop. As people gathered at spot of incident, he also went

there and saw the alleged incident of caught holding of collar of informant/complainant by the accused and scuffle between them.

26. Sanjay PW.3, PCR van driver deposed that on 16.10.2017, he was on duty from 9.00 a.m to 9.00 p.m on PCR van bearing registration No. MH-11-AB-319 and ASI B.R. Patil was in charge of said vehicle. On that day, at about 4.05 p.m., he received wireless call and was directed to reach to Kasat Market to assist complainant (PW.1). When he reached on the spot of incident alongwith ASI B.R. Patil, with PCR van, they noticed that, there was injury to the left hand little finger of complainant (PW.1) and blood was oozing from it. The complainant caught hold the accused. They took the accused in PCR van.

27. During cross-examination, nothing come on record to disbelieve that on 16.10.2017, he was not on duty as driver of PCR van and ASI B.R.Patil was not in charge of said vehicle. So, the evidence of PW.3 also corroborates with the testimony of PW.1.

28. Police Head Constable Anil (PW.6) was attached to Traffic Branch, Satara since the year 2016. He deposed that at the relevant time, he was having work to allot the duties to other traffic Police Constables. On 16.10.2017, from 9.00 a.m. to 9.00 p.m. he was on duty. The complainant was on duty at Powai Naka from 2.30 p.m. to 9.00 p.m. to control the traffic. On that day, at about 4.00 p.m. when he was near Kamani Houd and checking the points, he received the phone call from Head Constable J.B.Jadhav informing that, traffic

was blocked near Powai Naka near Kasat Market. He told Head Constable to call PCR van. Accordingly, at 4.30 p.m. when he reached to traffic office, he got information about the incident. Through his evidence true copy of duty register (Exh.22) came to be proved. On perusal of Exh.22, it reveals that on 16.10.2017, from 2.30 p.m. to 9.00 p.m. the complainant was on duty near Kasat Market and his signature appears on duty register. He further admitted that there is some overwriting in column No.5 of Exh.22, however, same is in respect of duty from 9.00 a.m. to 2.30 p.m. When the incident occurred at 4.00 p.m. and at about 4.30 p.m. he received the information of incident.

29. It is pertinent to note here that the present incident took place at about 4.00 p.m. and in that respect there is no overwriting in a duty register (Exh.22). Hence, though there is some overwriting in Exh.22 in column No.5, at no stretch of imagination, it can be said that, same is fatal to the case of prosecution.

30. From the oral evidence of Sunil (PW.1), Mohasin (PW.2), Sanjay (PW.3), Anil (PW.6) and documentary evidence i.e. true copy of duty register at Exh.22, it can be inferred that complainant is Police Head Constable and on the date of incident, he was attached to traffic branch, Satara and was on duty from 2.30 p.m. to 9.00 p.m. near Kasat Market.

31. Now, it is necessary to see whether the accused assaulted the complainant, when he was performing his duty as a public

servant and whether the accused with intention prevented or deterred the complainant, when he was discharging his duty as a public servant.

32. It is pertinent to note that, the evidence of PW.1 and PW.2 is cogent and consistent with each other, as both of them stated that on 16.10.2017 at about 4.00 p.m. near Kasat Market in front of Choice Optician Shop near Powai Naka, the accused assaulted the complainant Police Constable Sunil Shankar Jadhav, a public servant while he was discharging duty as such public servant and prevented him from discharging his duty as such public servant. The spot of incident is proved through the evidence of PW.4. The evidence of PW.6 is corroborated with evidence of PW.1 and PW.2 that the complainant was on duty on the date of incident which is proved by way of documentary evidence i.e. copy of duty register (Exh.22). The collective evidence of all the witnesses PW.1, PW.2, PW.4 and PW.6 indicates that the on the date, time and place of incident, the complainant was discharging his duty as a public servant and the accused prevented /obstructed him from discharging his duty. Thus, all the ingredients attracting the offence punishable under Section 353 of IPC are proved by the prosecution without any reasonable doubt. In my considered opinion, the Ld. Trial Court has rightly recorded finding that the offence punishable under Section 353 of IPC is proved by the prosecution. Hence, I answer Point No. 1 in the affirmative.

33. So far as, offence punishable under Section 333 of IPC, is concerned, as per the case of the prosecution, the accused caused grievous hurt to the complainant who is public servant. It has come in the evidence of Sunil (PW.1) that the accused assaulted him by fight on his little finger of left hand. This version of PW.1 is supported by the evidence of Mohasin (PW.2) who also deposed in the same line of PW.1 that the accused assaulted the complainant on his little finger of left hand with fight. To prove the injury sustained by the complainant, the prosecution relied upon the evidence of Dr. Sharda (PW.5), who was Medical Officer at Civil Hospital, Satara at the relevant period. She deposed that on 16.10.2017 at about 5.00 p.m., she examined the complainant vide MLC No. 7390 at Civil Hospital, Satara. There was history of assault. She noticed Contused Lacerated Wound over left little finger of size 1 x 0.5 x 0.5 cm., age of injury was within 24 hrs. She advised patient to have X-ray of left hand and also advised to take opinion from Orthopedic Doctor. She provided primary treatment to the complainant. In spite of her advise no X-ray was made by the complainant. In absence of X-ray she shown her inability to opine as to the nature of injury. She made endorsement in injury certificate (Exh.20) that, "investigation is pending." During her cross-examination, she admitted that, the injury mentioned in a certificate at Exh.20, is not dangerous to life saying that, at the most, it would be harmful to bone. She further admitted that there is no reference in a certificate (Exh.20) that stitches were made to left hand little finger of the complainant. She denied that injury mentioned at Exh.20 is possible if someone tried to assault to another person and another person tried to save himself.

34. On the basis of evidence of Sunil (PW.1) and Dr. Sharda (PW.5) and injury certificate (Exh.20) though it is proved by the prosecution that there was injury to left little finger of the complainant, but it is not proved that the injury was grievous injury. Thus, it is proved that the accused voluntarily caused hurt to the informant/complainant (PW.1). Though it is held that, the accused is not guilty for the offence punishable under Section 333 of IPC, he can be held to be guilty for the offence punishable under Section 332 of IPC for voluntarily causing hurt to a public servant. Therefore, in my considered opinion, the learned Trial Court has come to the right conclusion and held the accused guilty for the offence punishable under Section 332 of IPC, the minor offence instead of offence punishable under Section 333 of IPC. Accordingly, I also answer affirmative finding to Point No.2 to the extent of Section 332 of IPC and negative finding to the extent of Section 333 of IPC.

AS TO POINT NOS.3 & 4 :

35. From the evidence discussed by the Learned Trial Court it reveals that all the acts of accused are related to each other to show that he has used criminal force to obstruct or deter the public servant complainant (PW.1) while performing his official duty and caused hurt to him. The evidence of prosecution witness is consistent with each other. Accordingly, the Learned Trial Court held the accused guilty for the offences punishable under Sections 353 and 332 of IPC. Ultimately, said fact is proved through the evidence of the witnesses examined by the prosecution before the Learned Trial Court.

36. Therefore, on carefully scrutinizing the evidence on record, it clearly indicates that the Learned Trial Court has appreciated the evidence on record in proper perspective and came to the right conclusion by convicting the appellant/accused. It appears that the Learned Trial Court has given correct findings to Point Nos. 1 and 2 in affirmative. So, I do not find any reason to interfere in the judgment and order dated 30.06.2018, passed by the Learned Assistant Sessions Judge, Satara in Sessions Case No. 32/2018, which is under challenge. So also, the Learned Trial Court has shown leniency by imposing punishment to suffer simple imprisonment for one year and fine of Rs. 500/- and in default to suffer simple imprisonment for 3 month only under Section 332 instead of Section 333 of IPC. As such, the Learned Trial Court has imposed very less fine. Thus, I am inclined to answer Point No. 3 in the negative and pass the following order :

ORDER

1. Criminal Appeal No.59 of 2018 is hereby dismissed.
2. The judgment and order dated 30.06.2018, delivered by the learned Assistant Sessions Judge, Satara in Sessions Case No. 59/2018 is upheld.
3. Conviction of the appellant/accused-Akash Vasu Chavan for the offences punishable under Sections 353 and 332 of the Indian Penal Code is upheld.
4. Bail bonds of the appellant/accused-Akash Vasu Chavan stand cancelled.

5. The appellant/accused-Akash Vasu Chavan is taken in custody.
6. Conviction warrant shall be issued against the appellant/accused-Akash Vasu Chavan.
7. The copy of the judgment be given to the appellant/accused-Akash Vasu Chavan free of costs.
8. Copy of judgment alongwith record and proceedings be returned to the learned Trial Court.

(Dictated and pronounced in open Court).

Date: 12.03.2026.

(A. S. Waghmare)
Sessions Judge, Satara.