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SESSION CASE NO.139/2025

Exh. No.

FORM NO.XXXII Part 'A' (Title Page of Judgment) [Para 44 (I) of Chapter VI of Criminal Manual]
<u>IN THE COURT OF ADDITIONAL SESSIONS JUDGE, THANE</u> (Presided over by Mrs. V. L. Bhosale)

Date of Judgment:	10/04/2026
Session Case No.	139/2025
FIR/Crime No.	I-87/2018
Police Station	Kopri police station, Thane.

Prosecution	State of Maharashtra Through Kopri police station, Thane
Represented by	Learned APP Mr. R.P. Patil
Accused	Rajkumar Pesumal Ailani Age- 65 years, Occupation- Retired R/at- Flat No. 03, Above Canara Bank, Five Star Society, Kopari, Thane East.
Represented by	Learned counsel Mr. Sandeep Yeole

Part 'B'

Date of offence	13.08.2018
Date of FIR	13.08.2018
Date of Charge sheet	17.02.2022
Date of framing Charge	23.05.2025

Date of commencement of evidence	22.08.2025
Date of which judgment is reserved	--
Date of the Judgment	10.04.2026
Date of the Sentencing order, if any	--

Accused Detail

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 detention undergone during Trial for purpose of Sec.428
1	Rajkumar Pesumal Ailani	Old age hence, no arrest	dt. 11.02.2025 released on cash bail.	U/s 353 of IPC and S. 112 punishable u/s 117 of the Mumbai police Act and s.130(1) punishable u/sec. 177 of Maharashtra Motor Vehicles Act	Accused is acquitted.	--	--

Part 'C'

[Para 44 (iii) of Chapter VI of Criminal Manual]

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. PROSECUTION

Rank	Name	Nature of Evidence (Eye Witnesses, Police Witness, Medical Witness, Panch Witness)
PW1	Hemlata Sukhdev Sherekar	Complainant
PW2	Satyajeet Prakash Jadhav	Police Witness
PW3	Raju Kantlal Vasave	Police Witness
PW4	Vishwas Baliram Kaule	Seizure panch
PW5	Laxmi Gautam Sapkale	Investigating Officer
PW6	Suresh Laxmi Mahadev	First Investigating Officer

	Atigre	
PW7	Ganesh Pandurang Koli	Police witness

B. DEFENCE WITNESS, IF ANY

Rank	Name	Nature of Evidence (Eye witnesses, Police witness, Medical witness, Panch witness)
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C. COURT WITNESSES, IF ANY

Rank	Name	Nature of Evidence (Eye witnesses, Police witness, Medical witness, Panch witness)
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. PROSECUTION**

Sr.No.	Exhibit	Description
1.	P1/PW1	Complaint
2.	P2/PW2	Printed FIR
3.	P1/PW4	Panchanama (Jammer)
4.	P1/PW5	Section 41(1) of Cr.P.C. notice
5.	P1/PW6	Muddemal receipt
6.	P2/PW6	Letter to RTO
7.	P1/PW7	Spot panchanama

B. DEFENCE

Sr.No.	Exhibit	Description
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C. COURTS EXHIBITS

Sr.No.	Exhibit	Description
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1	Exh.3	Charge.
2	Exh.4	Plea
3.	Exh.21	Statement of accused under section 313 of Cr.PC.

D. MATERIAL OBJECTS

Sr. No.	Material Object Number	Description
1	Article MO1	Jammer

J U D G M E N T

(Delivered on the 10th day of April, 2026.)

INTRODUCTION-

1. The accused Rajkumar Pesumal Aylani, aged 65 years, a retired person residing at Flat No. 03, above Canara Bank, Five Star Society, Kopri, Thane (East), has been tried by this Court for the alleged offences punishable under Sections 353, 332, 504 and 186 of the Indian Penal Code, 1860, arising out of Crime No. I-87/2018 registered with Kopri Police Station, Thane, for an incident alleged to have taken place on 12.08.2018 at around 8:00 p.m. near Dr. Babasaheb Ambedkar Chowk, Kopri, Thane.

PROSECUTION CASE IN BRIEF-

2. The prosecution case, as unfolded through its witnesses and documents, is as follows:

4.1 On 12.08.2018, PW-1 Hemlata Sukhdev Sherekar, Police Inspector and Traffic Branch in-charge at Kopri, along with her staff including PW-2 Satyajit Prakash Jadhav (Police

Naik) and PW-3 Raju Kantalal Vasave (Police Constable), were on duty at Dr. Babasaheb Ambedkar Chowk, Kopri, for traffic regulation purposes. Entry of vehicles from Ambedkar Chowk towards Fataka Market was prohibited from 8:00 p.m. onwards on that day.

3. At around 8:00 p.m., a red coloured Swift car bearing Registration No. MH-04-DR-0618 forcibly entered the restricted/no-entry zone. PW-2 stopped the vehicle and asked the driver (the accused) to produce his driving licence. The accused refused to produce the licence and started arguing, stating that he was aware of the no-entry and would come and go whenever he pleased, that the police were useless, and that he was known to all.

4. The accused was brought before PW-1 (Police Inspector Sherekar). Even before her, the accused continued to argue and threaten, refused to pay the fine or produce his licence. Due to his refusal, a jammer was placed on his vehicle. Thereupon, the accused started his vehicle, causing the jammer to fall off. He then attempted to ram the police officers with his vehicle by moving it towards them, and threatened them.

5. PW-1 reported the incident to the control room. The Beat Marshal of Kopri Police Station arrived at the spot.

The accused and his vehicle were taken into custody and brought to Kopri Police Station, Thane. A complaint was lodged by PW-1 and Crime No. I-87/2018 was registered against the accused.

INVESTIGATION

6. On the basis of first information report, Crime No.-I-87/2018, came to be registered at Kopri police station, Thane. The investigation was partly conducted by Investigating Officer, Shri. Suresh Laxmi Mahadev Atigre. He prepared seizure panchanama. He seized jammer. He prepared muddemal receipt. He recorded the statements of witnesses. He handover the further investigation to Smt. Sapkale. She issued notice under section 41(1) Cr.PC. to accused. After completion of investigation, charge-sheet was filed in the Court against accused for offence punishable under Sections 353 of Indian Penal Code & under section 7 of Criminal Amendment Act and section 112, 117 of Maharashtra Police Act and Prevention of Damage to Public Property Act and section 130(1) C.M.V.R.2 (RRR)177 of Motor vehicles Act.

7. On the basis of final report, my Ld. Predecessor has framed charge for the offence punishable under sections 353 of IPC & section 112/117 of Maharashtra Police Act and

section 130(1) punishable under section 177 of Maharashtra Motor Vehicles Act. The contents of the charge were read over and explained to the accused in vernacular. The accused pleaded not guilty and claimed to be tried. His statement to that effect is recorded at Exh.4.

PROSECUTION EVIDENCE — WITNESS-WISE ANALYSIS

8. The prosecution examined seven witnesses (PW-1 to PW-7) in support of its case. Their evidence is analysed as follows:

PW-1 : Hemlata Sukhdev Sherekar, Police Inspector, Traffic Branch, Kopri

PW-1 is the first informant/complainant. She deposed that on 12.08.2018 she was on duty at Dr. Babasaheb Ambedkar Chowk, Kopri. Entry from the chowk towards Fataka Market was restricted from 8:00 p.m. A red Swift car (MH-04-DR-0618) entered the restricted zone at around 8:00 p.m. Her constable PW-2 stopped it and asked for the driving licence. The accused refused and argued, claiming he knew of the restriction and did not care. She stated that the accused used abusive language, threatened her staff, caused the jammer placed on his vehicle to fall by accelerating the car, and tried to drive the vehicle towards the police personnel.

Relevance of PW-1's evidence in the context of charges: PW-1 is the primary witness on all charges. Her evidence directly addresses — (a) the fact of no-entry restriction; (b)

the refusal to comply; (c) the threatening conduct, (d) the driving of the vehicle towards police (Sections 353 IPC); and (e) obstruction of lawful duty (Section 112/117 of MPC). She is, however, an interested witness being the complainant herself, and her testimony requires corroboration.

PW-2 : Satyajit Prakash Jadhav, Police Naik, Kopri Traffic Branch.

PW-2 corroborated the version of PW-1 in all material particulars. He deposed that he stopped the accused's car, demanded his driving licence, and the accused refused and created a scene. The accused was brought before PW-1 and continued to misbehave. PW-2 deposed regarding the placing of the jammer and its falling off when the accused accelerated. He also deposed about the accused moving his vehicle towards the police.

Relevance: PW-2's deposition is relevant to establish the initial confrontation, refusal to produce licence, and the hostile conduct of the accused. However, PW-2 is also a police witness and part of the duty team. His evidence, while corroborative of PW-1, remains that of an interested witness from the same team.

PW-3 : Raju Kantlal Vasave, Police Constable, Kopri Traffic Branch.

PW-3 also corroborated the depositions of PW-1 and

PW-2. He deposed about the accused's entry into the no-entry zone, refusal to pay fine, the jammer incident, and the attempt to move the vehicle towards the police. He further deposed that information was passed to the control room and the Beat Marshal arrived at the spot thereafter.

Relevance: PW-3's evidence is relevant for corroboration, but as with PW-2, he is a member of the same police team on duty. The absence of any independent public witness alongside this trio of police witnesses is a significant gap also no explanation of its non examination given by prosecution.

PW-4 : Vishwas Baliram Kaule, Police Officer, Kopri Police Station

PW-4 was called to Kopri Traffic Branch on 15.08.2018 for panchanama purposes. He deposed that Police Inspector Sherekar (PW-1) was present, and that the jammer was produced before him during the panchanama. The jammer was seized under the panchanama (Exhibit P-1/PW. 4).

Relevance: PW-4's evidence is relevant to the chain of custody of the jammer. However, the panchanama of the jammer was done on 15.08.2018 — three days after the incident of 12.08.2018. No explanation has been furnished as to why the jammer was not immediately seized on the date of the incident itself. This delay in seizing the key muddemal article raises doubt about its integrity as evidence.

PW-5 : Laxmi Gautam Sapkale, Police Sub-Inspector
(IO)

PW-5 deposed that she conducted part of the investigation in Crime No. I-87/2018. She took charge of the case documents, issued notice to the accused under Section 41-1 Cr.PC., and filed the chargesheet. The jammer was exhibited as Article M.O. 1 during the investigation. She confirmed that the jammer (Article M.O. 1) was in her custody and was produced before the Court.

Relevance: PW-5's evidence is relevant to prove the formal aspects of investigation — notice, chargesheet, and custody of the muddemal article. However, she conducted only a partial investigation. The critical aspect of whether the jammer was broken is not conclusively established through her deposition.

PW-6 : Suresh Laxmi Mahadev Atigre, Police Inspector
(subsequent IO)

PW-6 deposed that he took over the investigation from PW-5. He conducted further investigation, recorded statements of witnesses, got the jammer panchanama conducted (Exhibit P-1/PW. 4), and wrote to the RTO to ascertain the name of the registered owner of vehicle MH-04-DR-0618. The RTO response (Article A) confirmed the vehicle's registration. The chargesheet was filed before the Court.

Relevance: PW-6 establishes the link between the vehicle and the accused through the RTO records. He also deposes about the complete chain of investigation. The RTO document (Article A) is relevant to prove that the vehicle in question was owned/used by the accused on the date of incident.

PW-7 : Ganesh Pandurang Koli, Police Constable (spot panchanama witness)

PW-7 was the Thane Police Ammaldar (constable on duty) on 12.08.2018. On the complaint of PW-1, the FIR (Crime No. I-87/2018) was registered. He conducted the spot panchanama on 12.08.2018 from 10:30 a.m. to 11:30 a.m. [Note: The panchanama appears to have been conducted the next morning i.e., 13.08.2018 or at 10:30 a.m. as recorded. This aspect needs verification from the panchanama exhibit.] The spot described in the panchanama is the area from Dr. Babasaheb Ambedkar Chowk to Fataka Market, bounded on all four sides by PWD road, Ambedkar Chowk on the west, and towards Thane Railway Station on the south. The panchanama is at Exhibit P-1/PW. 7.

Relevance: PW-7's evidence is relevant to establish the spot of the incident and the geographical layout. However, as will be discussed in the analysis section, PW-7 makes no reference to the existence of any no-entry board at the spot, which is a critical omission.

STATEMENT OF ACCUSED UNDER SECTION 313 Cr.PC.

9. The accused was examined under Section 313 of the Code of Criminal Procedure. The accused's statement was recorded on 10.08.2026 before this Court. The accused denied all the incriminating circumstances brought against him and stated as follows:

In answer to Question No. 1, the accused stated that he heard and understood the prosecution evidence (answered 'Ho/Yes').

In answer to Question Nos. 2 to 15 (relating to the specific depositions of PW-1 to PW-7 on the incident, the jammer, the no-entry restriction, the conduct at the police station, the seizure panchanama, and the RTO records), the accused consistently answered 'खोटे आहे' (It is false). He denied entering any restricted zone unlawfully, denied misbehaving with police officers, denied using force or criminal force against them, and denied that any jammer was placed on his vehicle on the date of the incident.

In answer to Question No. 12 (regarding investigation by PW-5 and Section 41-1 notice), the accused answered 'माहित नाही' (Not known).

In answer to Question No. 14 (regarding the RTO letter confirming his vehicle), the accused answered 'माहित नाही' (It is known), thereby admitting ownership of the vehicle MH-04-DR-0618.

In answer to Question No. 16, the accused stated that

the prosecution witnesses (specifically PW-1) are deposing falsely against him. He stated that PW-1 but are now falsely testifying against him. All witnesses are colleagues of pw no.1.

In answer to Question No. 17 (whether he wishes to examine himself or call any defence witnesses), the accused answered 'नाही' (No).

In answer to Question No. 18 (any additional statement), the accused stated:

"The entry to the spot was not restricted. Witness No. 1 demanded money from me and when I refused, she lodged a false complaint. I told her I would take action against her, so she filed this case. Witness No. 1 is my adversary. Even other witnesses are colleagues of witness no.1."

Thus, the accused's defence is essentially one of total denial coupled with an allegation of false implication on account of a prior monetary dispute with PW-1.

ARGUMENTS ON BEHALF OF THE PROSECUTION :

10. The learned APP Shri. R.P. Patil, for the State, submitted the following arguments in support of the prosecution case:

The prosecution examined seven witnesses, all of whom are official witnesses on duty at the time of the incident. Their depositions are consistent, corroborative, and mutually supporting. There is no material contradiction in their

evidence on the core aspects of the charge.

It was submitted that PW-1 to PW-3 are eye-witnesses to the incident and have consistently deposed about the accused's vehicle entering the no-entry zone, refusal to produce driving licence, abusive language used by the accused, and the force exerted by driving the vehicle towards police personnel.

On the charge under Section 353 IPC, it was contended that the accused used criminal force by driving his vehicle towards the police personnel who were on duty, fully knowing that they were police officers, with the intent to deter them from performing their duty of enforcing the no-entry restriction. The act of driving a vehicle towards standing police officers constitutes criminal force within the meaning of the section.

On Section 112, Mumbai Police Act: The accused caused obstruction in a public place — Dr. Babasaheb Ambedkar Chowk — by (a) driving his vehicle into the no-entry zone, thereby blocking the road against the traffic restriction in force; (b) stationing his vehicle at a restricted place and refusing to remove it when directed by the police; and (c) accelerating the vehicle while the jammer was on it, thereby causing the jammer to fall and creating further obstruction. These acts constitute causing obstruction in a public place within the meaning of Section 112 MPA.

On **Section 117, Mumbai Police Act**: The accused contravened the provisions of the Mumbai Police Act and the orders/directions of the police officer in connection with traffic regulation and maintenance of public order at the spot, rendering him liable under the general penalty provision.

On **Section 130(1), Motor Vehicles Act**: PW-2 and PW-3, police officers in uniform, demanded that the accused produce his driving licence. The accused refused outright. This refusal, in the face of a lawful demand, is a direct violation of the mandatory duty cast upon every driver under Section 130(1) of the MV Act.

On **Section 177, Motor Vehicles Act**: The accused entered a no-entry zone in violation of the traffic restriction in force, which constitutes contravention of provisions of the MV Act, rendering him liable under the general penalty provision of Section 177.

The prosecution argued that the RTO records (Article A) conclusively prove that vehicle MH-04-DR-0618 belongs to the accused, which the accused himself admitted in his Section 313 statement. The jammer (Article M.O. 1) was lawfully seized under panchanama. The spot panchanama fixes the scene.

The defence plea of false implication is a bald denial unsupported by any evidence. No witness was examined in defence and no contemporaneous document supports the claim of any monetary dispute with PW-1.

The learned APP submitted that the Jammara (Article M.O. 1) was seized by panchanama (Exhibit P-1/PW-4), identified in Court, and its chain of custody was established. The RTO records confirm that the vehicle belongs to the accused. The spot panchanama (Exhibit P-1/PW-7) fixes the location. The FIR (Exhibit P-1/PW-1 and P-2/PW-1) was promptly registered.

As regards the defence of false implication, the learned APP submitted that the accused has not led any evidence to substantiate his claim of monetary dispute with PW-1. A bald denial in the Section 313 statement without supporting defence evidence cannot be accepted. The accused chose not to examine himself or any defence witness.

ARGUMENTS ON BEHALF OF THE ACCUSED :

11. The learned Advocate Shri. Sandeep Yeole for the accused raised the following contentions:

The prosecution has failed to prove that the road in question was under a valid and lawful no-entry restriction on 12.08.2018. No notification, Government Resolution, or official order authorizing the imposition of no-entry

restriction on the said road for the said time has been produced or exhibited before the Court. Without proof of a valid restriction, the foundational premise of the prosecution case collapses.

Even PW-7, who conducted the spot panchanama, has nowhere in his deposition or in the panchanama itself stated that there existed a no-entry board or signage at the relevant spot on the date of the incident. If a no-entry restriction were truly in force and enforced by police, its physical marking at the spot would be the minimum expectation.

The prosecution has failed to examine any independent witness from the public, despite the incident allegedly occurring at a busy public square (Dr. Babasaheb Ambedkar Chowk, Kopri). All seven prosecution witnesses are police personnel who are employees of the same department and were part of the same duty team or investigation chain. They are interested witnesses and their testimony, without independent corroboration, cannot safely sustain a conviction.

No prosecution witness has specifically deposed that the jammer alleged to have been used was a 'broken jammer'. The jammer was introduced in evidence (as Article M.O. 1) only after three witnesses had been examined. When shown to witnesses examined thereafter, none identified it as broken. There is a material inconsistency in the evidence regarding the condition of the jammer.

The Jammara(जॅमर) was not seized on the day of the incident (12.08.2018) but only on 15.08.2018 — three days later. This delay in seizing the primary material object raises serious doubt about the integrity of the muddamal and whether the article produced in Court is indeed the jammer allegedly used in the incident.

The charges under Sections 353 IPC require proof of criminal force applied to the body of the public servant.

The accused has given a consistent and plausible explanation — that PW-1 had a monetary dispute with him and lodged a false complaint out of grudge. This explanation has not been disproved by the prosecution.

Regarding Section 130(1) MV Act — the prosecution has not established through any positive evidence that the police officers who made the demand for driving licence were in uniform at the relevant time. Section 130(1) specifically requires the demand to be made by a police officer *in uniform*. Mere assertion without proof of this precondition is insufficient.

Regarding Section 112 Mumbai Police Act — the prosecution has failed to prove that the accused actually caused any obstruction in a public place by placing any object or improperly parking his vehicle. The accused's vehicle had entered from a no-entry zone, which has not been proved to be validly restricted. There is no evidence that the vehicle

blocked traffic or caused any measurable obstruction to the public or to other vehicles at the spot. Regarding Section 117 Mumbai Police Act — the prosecution has not identified the specific provision, rule, or order under the Mumbai Police Act which was allegedly contravened by the accused.

Regarding Sections 112 and 117 Mumbai Police Act — the prosecution has not established that the police officers were acting under specific lawful orders or directions which the accused contravened. The bare assertion of traffic duty without a documented lawful order/direction is insufficient to sustain the charges under the Mumbai Police Act.

POINTS FOR DETERMINATION

12. Following points arise for my determination. I recorded my findings in respect of each point for the reasons given below.

S.No.	<u>Points</u>	<u>Findings</u>
1.	Whether the prosecution proves beyond reasonable doubt that on 12.08.2018 at about 8:00 p.m. near Dr. Babasaheb Ambedkar Chowk, Kopri, Thane, there existed a valid and lawful no-entry restriction on the road in question?	...In the negative.
2.	Whether the prosecution proves beyond reasonable doubt that the accused used assault or criminal force	..In the negative.

	on police officers PW-1 to PW-3 while they were discharging their duty, so as to make him liable under Section 353 IPC?	
3.	Whether the prosecution proves that the accused caused obstruction in a public place and/or contravened the provisions of the Mumbai Police Act, making him liable under Sections 112 and 117 of the Mumbai Police Act, 1951?	..In the Negative
4.	Whether the prosecution proves beyond reasonable doubt that the accused failed to produce his driving licence on demand by a police officer in uniform, making him liable under Section 130(1) of the Motor Vehicles Act, 1988?	..In the Negative
5.	Whether the prosecution proves beyond reasonable doubt that the accused contravened the provisions of the Motor Vehicles Act, 1988, making him liable under Section 177?	..In the Negative
6.	What order?	Accused is acquitted.

REASONS

AS TO POINT No. 1 — Proof of valid no-entry restriction:

13. The foundational premise of the prosecution's entire case is that a lawful no-entry restriction was in force on the road from Dr. Babasaheb Ambedkar Chowk to Fataka Market, Kopri, at 8:00 p.m. on 12.08.2018. If this premise fails, the charges under Sections 112 and 117 Mumbai Police Act (which require the police to have been acting in execution of a *lawful* duty), Section 177 MV Act (which requires a violation of a provision of the Act), and even Sections 353 IPC (which require the public servant to have been executing their *lawful* duty), are directly impacted.

14. Under the Motor Vehicles Act, 1988, read with relevant State/Traffic rules, a no-entry restriction on a public road can only be imposed by a competent authority. Such a restriction is effected through an official order or notification, which must be backed by a lawful authority and properly notified or signposted. The prosecution, when relying on such a restriction as the *sine qua non* of its case, is obliged to prove the existence of a valid order through documentary evidence.

15. In the present case, the prosecution has produced **no notification, no official order, no traffic regulation gazette, and no document** from the relevant traffic authority authorising the no-entry restriction on the said road at the said time. The entire evidence on this point is restricted to

oral assertions by PW-1, PW-2 and PW-3 — all police officers who were themselves parties to the incident.

16. Crucially, the spot panchanama (Exhibit P-1/PW-7) conducted by PW-7 — the objective, contemporaneous record of the scene — **contains no mention whatsoever of the existence of a no-entry board, traffic sign, or road marking at the relevant spot.** A spot panchanama is specifically designed to document the physical features of the scene as they exist. The total silence on any no-entry signage in this document significantly undermines the prosecution's case on this foundational aspect.

17. The prosecution has not proved the lawful existence of a no-entry restriction on the relevant road on the date and time in question. Hence, I answered point no. 1 **in the negative.**

Point No. 2 — Section 353 IPC (Criminal force to deter public servant):

18. Section 353 IPC provides:

"Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or 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 imprisonment of either description for a term which may extend to two years, or with fine, or with both."

19. The essential ingredients of Section 353 IPC are: (i) the victim was a public servant; (ii) the public servant was in execution of his/her *lawful* duty; (iii) the accused assaulted or used criminal force upon such person; and (iv) such assault/criminal force was intended to prevent/deter discharge of duty or was a consequence of lawful acts by the public servant.

20. There is no dispute that PW-1 to PW-3 are public servants. The critical issue is whether they were in execution of a *lawful* duty. As found under Point No. 1, the prosecution has failed to establish the legal basis of the no-entry restriction. Where the lawfulness of the duty being enforced is not proved, the charge under Section 353 IPC cannot stand on a firm foundation.

21. Further, the oral evidence of PW-1 to PW-3 — that the accused drove his vehicle towards them — is the testimony of three interested police witnesses from the same duty team. No independent public witness has corroborated this serious allegation. No injury report or medical certificate has been produced. The prosecution has not demonstrated

that the vehicle actually made contact with or came in dangerous proximity to the body of any police officer in a manner constituting 'criminal force' within the meaning of Section 350 IPC. Hence, I answered Point No. 2 **in the negative.**

As to point no. 3:

22. **Sections 112 and 117, Mumbai Police Act, 1951 (Obstruction of public place / General penalty):**

Section 112 of the Mumbai Police Act, 1951 deals with obstruction of traffic and public places. It provides:

"No person shall, in any public place or public road cause any obstruction to the free passage of persons, traffic, or animals, whether by improper parking or stationing of a vehicle, by placing any object, or by any other means; or, having caused such obstruction, fail or refuse to remove the same when required to do so by a police officer or other competent authority. A person who contravenes this section shall be liable to a fine or such other penalty as may be prescribed under the Act."

23. Section 117 of the Mumbai Police Act, 1951 is the general penalty clause:

"Whoever contravenes any provision of this Act or any rule or order made thereunder for the contravention of which no penalty is specially provided, shall, on conviction, be

punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both."

24. The essential ingredients of Section 112 MPA are: (i) the accused was in a public place or public road; (ii) the accused caused obstruction to the free passage of persons, traffic, or animals — whether by improper parking or stationing of a vehicle, by placing objects, or by any other means; and (iii) where directed by a police officer to remove such obstruction, the accused failed or refused to do so. Section 117 MPA is the general penalty clause which applies to contraventions of any provision of the Act or any rule or order made thereunder for which no specific penalty is provided.

25. On the facts of the present case, the prosecution's case under Section 112 MPA is essentially that the accused (a) drove his vehicle into a restricted/no-entry zone constituting obstruction of the road; and (b) refused to move/remove his vehicle when directed to do so by the police. The prosecution must establish both the physical act of obstruction and the refusal to comply with the police direction to remove it.

26. On ingredient (i) — Dr. Babasaheb Ambedkar Chowk and the road leading to Fataka Market are admittedly public roads. This ingredient is not in dispute.

27. On ingredient (ii) — The prosecution must prove that the accused caused obstruction to the free passage of traffic or persons. PW-1 to PW-3 have deposed that the accused drove his red Swift car into the no-entry zone thereby entering a restricted area. They have also deposed that the accused stationary his vehicle at the spot when stopped by PW-2, and thereafter accelerated it. However, the prosecution has not led any evidence — through any witness, including the independent spot panchanama witness PW-7 — to show that the accused's vehicle actually blocked or impeded the free passage of other vehicles or members of the public on the road. PW-7's spot panchanama (Exhibit P-1/PW-7) confines itself to describing the geographical boundaries of the spot and does not record any obstruction caused to traffic or members of the public.

28. On ingredient (iii) — The prosecution must establish that the accused refused to remove the obstruction when directed to do so by the police. PW-1 to PW-3 have deposed that the accused refused to pay the fine and argued, and ultimately his vehicle was taken into custody. However, the accused in his Section 313 statement denies the entire incident, and no independent corroboration of the refusal-to-remove aspect has been placed on record.

29. Even assuming that the accused's vehicle was present on the road, the prosecution has failed to produce

any independent evidence that it caused obstruction to the free passage of traffic or persons. Section 112 MPA is a specific provision targeting obstruction of public movement. The mere entry into a no-entry zone — especially where the lawfulness of the no-entry restriction itself has not been proved does not automatically constitute an 'obstruction' within the meaning of Section 112 MPA. The prosecution has neither identified what specific traffic or public movement was obstructed, nor produced any independent witness to speak to the obstruction. Courts have consistently held that to sustain a charge of causing obstruction in a public place, the prosecution must prove, through positive evidence, that actual obstruction to the free passage of traffic or persons was caused. A bare allegation by interested police witnesses, unsupported by independent evidence, does not suffice.

30. Regarding Section 117 MPA: As the general penalty clause, Section 117 requires the prosecution to identify the specific provision, rule, or order under the Mumbai Police Act that was contravened by the accused. The prosecution has not pointed to any specific provision of the Mumbai Police Act (other than Section 112, which is being considered separately) that the accused violated on 12.08.2018. Without identifying the specific rule or order contravened, the charge under Section 117 MPA as a standalone charge cannot be sustained. Section 117 is a residual provision and cannot substitute for the prosecution's

failure to prove a primary contravention.

Where the lawfulness of the underlying traffic restriction is not proved, the accused cannot be said to have unlawfully occupied or obstructed a public place by driving through it. For the above reasons, Point No. 3 (Sections 112 and 117 MPA) is answered **in the negative**.

As to Point No. 4 — Section 130(1), Motor Vehicles Act, 1988
(Failure to produce driving licence on demand):

31. Section 130(1) of the Motor Vehicles Act, 1988 provides:

"The driver of a motor vehicle in any public place shall, on being so required by a police officer in uniform or an officer of the Motor Vehicles Department, produce his licence for examination and allow the name and address of the holder of the licence and the date of issue of the licence to be noted or, if the licence is not then in his possession, state his name and address and the place where the licence is, and allow the officer to note such information."

The ingredients of Section 130(1) MV Act are: (i) the accused was the driver of a motor vehicle in a public place; (ii) he was required by a **police officer in uniform** to produce

his driving licence; and (iii) the accused failed to produce his licence or to state his name, address and the place where his licence is.

32. On the first ingredient — the accused has himself admitted in his Section 313 statement (Q.No. 14) that vehicle MH-04-DR-0618 belongs to him. PW-1 to PW-3 have deposed that the accused was driving the said vehicle at the relevant time in the public road at Kopri. This ingredient is thus proved.

33. On the second ingredient — PW-2 specifically deposed that he was in uniform as a Police Naik on traffic duty at the relevant time. PW-3 also deposed that he was in uniform on duty. The uniform status of PW-2 and PW-3 who made the demand is thus deposed to and not specifically challenged in cross-examination. But, no evidence is filed on record to show that the prosecution witnesses were on duty during the relevant time on the spot of incident.

34. On the third ingredient — PW-1, PW-2 and PW-3 have all consistently deposed that the accused flatly refused to produce his driving licence and also refused to pay the challan. The accused, in his Section 313 statement, while generally denying the incident, has not put forward any explanation as to why he could not produce the licence, such as not carrying it on that day, the licence being at a particular location, or any other valid reason.

35. However, even on this charge, the Court notes the following: First, the three witnesses on this point are all from the same duty team (interested witnesses). Second, the accused's general denial, while weak, has not been dislodged by any independent public corroboration. On the available evidence, which consists solely of interested police witnesses without any independent corroboration, this Court finds that, applying the standard of proof beyond reasonable doubt, the charge under Section 130(1) MV Act, has not been proved to the requisite standard. Hence, Point No. 4 is accordingly answered **in the negative**.

Point No. 5 — Section 177, Motor Vehicles Act, 1988

(General penalty for contravention):

36. **Section 177 of the Motor Vehicles Act, 1988** provides:

"Whoever contravenes any provision of this Act or of any rule, regulation or notification made thereunder or any condition of a permit, licence or certificate of registration, shall, if no penalty is provided for the offence, be punishable for the first offence with a fine which may extend to five hundred rupees, but shall not be less than one hundred rupees, and for any subsequent offence with a fine which may extend to one thousand five hundred

rupees, but shall not be less than five hundred rupees."

37. Section 177 MV Act is a general/residual penalty provision. It applies where a person contravenes a *provision of the MV Act, or any rule, regulation, or notification* made thereunder, for which no specific penalty is elsewhere provided. In the present context, the prosecution appears to invoke this section for the accused's alleged contravention of a no-entry restriction imposed under the relevant traffic rules.

38. For an offence under Section 177 MV Act to be made out, the prosecution must prove: (i) the existence of a specific provision, rule, regulation, or notification under the MV Act; (ii) that the accused contravened it; and (iii) that no separate specific penalty is prescribed for such contravention.

39. On ingredient (i) — As discussed at length under Point No. 1, the prosecution has not produced the relevant traffic regulation or notification imposing the no-entry restriction on the road in question at the relevant time. **Section 177 MV Act cannot operate in a vacuum.** Without identifying and proving the specific provision, rule, or notification that was allegedly violated, the charge under Section 177 MV Act cannot be sustained. The prosecution must point to the exact rule or notification that the accused contravened; a general oral assertion that 'no-entry was in

force' by the enforcing officers is insufficient to ground the charge.

40. Accordingly, since the foundational ingredient — proof of the specific provision or notification violated — has not been established, Point No. 5 is answered **in the negative**.

Non-examination of independent witnesses:

41. Before recording the final conclusion, this Court takes note of the consistent failure of the prosecution to examine any independent public witness. The incident allegedly occurred at Dr. Babasaheb Ambedkar Chowk, Kopri, a busy public junction in Thane city at 8:00 p.m. on a weekday. There is no suggestion that the area was deserted at that hour. Despite this, not a single member of the public was examined by the prosecution.

42. It is a well-settled principle of criminal law, repeatedly affirmed by the Supreme Court and High Courts, that where a prosecution relies exclusively on official/interested witnesses for a serious allegation occurring in a public place, and fails to examine independent public witnesses without reasonable explanation, the Court is entitled to draw an adverse inference. The absence of independent corroboration creates a reasonable doubt which must be resolved in favour of the accused.

43. Taking a holistic view of the evidence on record, the arguments of both sides, and the analysis of each charge against the relevant statutory provisions, this Court is of the considered opinion that the prosecution has **failed to prove the charges against the accused beyond reasonable doubt.** Hence, point no. 1 to 5 are in the negative and point no. 6, I proceed to pass following order.

ORDER

1] Accused Rajkumar Pesumal Ailani is hereby acquitted of the offence punishable u/s 353 of the Indian Penal Code and Section 112 punishable under section 117 of the Mumbai Police Act and section 130(1) punishable under section 177 of Maharashtra Motor Vehicles Rules vide Section 235(1) of the Code of Criminal Procedure, 1973.

2] Bail bonds of accused are hereby cancelled.

3] Muddemal if any, be destroyed after appeal period is over.

4] Accused shall furnish a P.R. bond of Rs.50,000/- for compliance of the provisions of Sec.437-A of Code of Criminal Procedure.

(Judgment is dictated and pronounced in open Court.)

Thane
Date- 10.04.2026.

(V. L. Bhosale)
Additional Sessions Judge,
Thane.