

MHWR010001502021



Presented on : 19-01-2021
 Registered on : 19-01-2021
 Decided on : 30-07-2026
 Duration : 05 Years, 06 Months, 11 days.

Sessions Case No.07/2021
 (CNR:MHWR010001502021)

Exh. 103**Form - 'A'**

IN THE COURT OF ADDITIONAL SESSIONS JUDGE (COURT NO.2)
WARDHA, DISTRICT WARDHA.

(Presided over by S.A.S.M. Ali, Additional Sessions Judge)

{FIR No.724/2019, U/s 353, 332, 294 of the Indian Penal Code of Police Station, Seloo}.

<u>COMPLAINANT</u>	: The State of Maharashtra, Through Police Station, Wardha, Tah. & Dist.Wardha.
REPRESENTED BY	: Shri. V.R. Ghude Learned Additional Public Prosecutor.
<u>ACCUSED</u>	: Pradipsingh Ujagarsingh Thakur Age : 55 years, Occ.: President N.P. Wardha. R/o. Tukaram, Ward No.11, Wardha, Tah. & Dist.Wardha.
REPRESENTED BY	: Learned Advocate Shri. V. P. Vaidya.

Form- 'B'

Date of offence	: 16.05.2019
Date of FIR	: 16.05.2019
Date of Charge-sheet	: 28.01.2021
Date of Framing of Charges	: 22.10.2021

Date of commencement of evidence	:	05.01.2022
Date on which judgment is reserved	:	23/07/2026
Date of the judgment	:	30/07/2026
Date of the Sentencing Order, if any	:	As per the final order.

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 the purpose of section 428 Cr.P.C.
	Pradipsingh Ujagarsingh Thakur	07/12/2019	23/05/2019 Interim bail	353, 332, 294 of IPC.	Acquitted	--	--

Form 'C'**LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES****A] Prosecution:**

RANK	NAME	NATURE OF EVIDENCE	EXHIBITS
------	------	--------------------	----------

		(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)	
PW1	Shantun Nagesh Devaika	Informant/victim	22
PW2	Chetan Mohan Kahate	Spot Panch	35
PW3	Swapnil Vijarao Khandare	Eyewitnesses	39
PW4	Ramesh Chandrabhan Wagh	Photographer	55
PW5	Dr. Shailja Madhukar Kale	Medical officer	65
PW6	Bipin Ashokro Gotekar	Seizure Panch	69
PW7	Akshay Nameorao Raut	Police witness	80
PW8	Balaji Ramji Devdhe	Investigating officer	87

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS.

A. Prosecution:

Sr. No.	Exhibit Number	Description
1]	Exhibit 23	Report.
2]	Exhibit 24	First Information Report.
3]	Exhibit 25	Statement of Informant u/s. 164 Cr.P.C.
4]	Exhibit 32	Copy of attendance -book of informant
5]	Exhibit 33	Copy of appointment letter of informant
6]	Exhibit 36	Intimation letter
7]	Exhibit 37	Spot panchanama
8]	Exhibit 56	Certificate u/s. 65-B

9]	Exhibit 66	Requisition letter
10]	Exhibit 67	Injury report
11]	Exhibit 70	Pendrive Seizure panchanama
12]	Exhibit 71	Certificate u/s. 65-B
13]	Exhibit 72	Envelope
14]	Exhibit 81	Letter for drawn of hash value
15]	Exhibit 82	Hash value certificate
16]	Exhibit 83	PDF print
17]	Exhibit 88	Letter to Nagar Parishad Wardha for keeping C.C.T.V. footage.
18]	Exhibit 89	Letter for issuing copy of attendance-book
19]	Exhibit 90	Copy of attendance book
20]	Exhibit 91	Letter to N.P. Wardha for issuing C.C.T.V. footage of incident.
21]	Exhibit 92	Letter to N.P. for taking footage in pen-drive.
22]	Exhibit 93	Letter from N.P. with pen-drive.
23]	Exhibit 94	Hash value panchanama.
24]	Exhibit 95	Arrest form.
25]	Exhibit 96	Statement of PW3

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
------	------	--------------------

		(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
-	-	-

A] Defence :

Sr. No.	Exh. Number	Description
Nil	Nil	Nil

B] Court :

Sr. No.	Exh. Number	Description
Nil	Nil	Nil

C] Material Objects:

Sr. No.	Material Object Number	Description
1]	Article 1, 2	Two photographs

2]	Article A-1 & 2	Two photographs
----	-----------------	-----------------

JUDGMENT

(Delivered on this 30th day of July, 2026)

The accused is prosecuted for the offences punishable under Sections 353, 332, 294 of the Indian Penal Code.

Case of the prosecution, in a nutshell, is as under:

2] The informant Shantnu Nagesh Dewaikar, a public servant working in Town Planing Department, of Municipal Council, Wardha. On 16/05/2019 at about 11.00 a.m. when he was working in his office, the accused who was then President of Municipal Council, Wardha at that time called upon the informant through his peon. When informant went into the cabin of accused, accused asked him about the proceedings pending in the office. So also he was asked by the accused about the action taken against constructions of Kruplani and Shri Khangar. The informant answered that he has already issued legal notice to recover the penalty. But, the accused started abusing him in filthy language and asked as to why he has not answering query properly. Not only that the accused also threw diary towards the informant and then took out shoe and threw it towards the informant which struck on his eye due to which he suffered injury. The informant informed this fact to his superior Chief Executive Officer and then lodged report at police Station Wardha city. The offence punishable under sections 353, 332 and 294 of I.P.C. came to be registered against the accused. Spot panchanama was prepared by P.C. Gahukar.

3] The investigation is taken up by PSI Balaji Devdhe. The informant was referred for medical examination. Letter was issued to Chief Officer, Municipal Council, Wardha for providing the C.C.T.V. footage. The investigating officer viewed it and transferred the data in pen-drive. The hash value was drawn. After the detail investigation charge-sheet is laid down. The offence under Section 353 of the Indian Penal Code being exclusively triable by the Court of Session, the learned Magistrate committed the case to the Court of Sessions for trial.

4] My learned predecessor framed charge against the accused vide Exhibit 8. The accused pleaded not guilty and claimed to be tried. The defence of the accused is of total denial and false implication.

5] The prosecution closed its case by filing pursis (Exhibit 97). After the closure of prosecution evidence, the accused was examined under Section 313 of the Code of Criminal Procedure. He denied the entire prosecution case. It was contended that he had made complaint of informant before the Chief officer, therefore, informant lodged false report against him in the present case. However, the accused did not lead any defence evidence.

6] I have heard Shri. V.R. Ghude the learned Additional Public Prosecutor for the State, and Shri V.P Vaidya, the learned Advocate for the accused. Having regard to the submissions made at bar, the following points arise for my determination and findings thereon are recorded as under for the reasons to follow :

Sr. No.	Points		Findings
1]	Does the prosecution prove that on	..	No.

	16/5/2019 at 11.00 a.m. in the Nagar Parishad Office, Wardha, accused assaulted or used criminal force and abused complainant Shantun Devaikaar, Asstt. Town Planner & Swapnil Vijayrao Khandare, Jr. Clerk, office of Nagar Parishad, Wardha, the public servants in the execution of their duty as such public servants from discharging of their duty ?		
2]	Does the prosecution prove that on the aforesaid date, time and place, the accused voluntarily caused hurt to Shantun Devaikaar, a public servant, while discharging his duty as such public servant?	..	No.
3]	Does the prosecution prove that on the same date, time and place, accused did an obscene act i.e. uttered the words “साले मादरचोद, बहेनचोद, तू येथून निघून जा, यानंतर मला तुझे तोंड दाखवू नको”, in public place i.e. in the office of Nagrar Parishad, Wardha and that such an act of uttering words was obscene and that it caused annoyance to others?	..	No.
4]	What offence, if any, is proved against the accused?	..	No offence proved.
5]	What order?	..	As per the final order.

REASONS

As to Points No.1 to 4 :

7] The prosecution in order to prove its case mainly relied on the evidence of PW1 informant and PW3 Swapnil Khandare who was also

the colleague of the informant. As regards the status of the informant as public servant, there is no serious dispute on behalf of the accused. PW1 himself has stated that on 10/12/2018 he was working as Planning Assistant at Nagar Parishad, Wardha and it is corroborated by PW3.

8] Now, as regard the occurrence, it is alleged that on 16/05/2019 the accused called upon the informant through one peon and when the informant went there, Suresh Patewar and Swapnil Khandare PW3 were already present there. First of all the accused discussed with the informant about illegal constructions of Shri Kriplani and Shri Khangar and the informant reply that he has already issued notice to them. However, the accused enraged by the answers started abusing him as ‘‘साल्या मादरचोद, बहेनचोद’’. So also he threw the case paper on the person of Swapnil Khandare and threw the diary towards the informant and also his shoe. It is also alleged that due to which informant sustained injury and his spectacle also fell down. Report was lodged, the statement of the informant was also recorded by Id. Judicial Magistrate Wardha. During the cross-examination, the informant admitted that, accused is selected as Vice President of Municipal Council Wardha and being representative of the general public, the public used to approach him and put up their grievance before him. He also admitted that if there is any grievance, the member of the Municipal Council used to call him in respect of his official duty. He has also admitted that Suresh Patewar had made complaint for the encroachment before the accused. He also admitted that his job includes sanctioning of the map. Further, the witness denied the suggestion that there were allegations against him about corruption and under the fear that he will be transferred, he filed false report by taking advantage of the injury which was caused earlier.

9] During the cross-examination, various omissions were brought on record. It appears that various averments which the witness has stated before the Court does not found in the statement before the Magistrate recorded under section 164 of Cr.PC.

10] From the bare perusal of the evidence, it appears that the incident is not occurred on the table of the informant, but in the chamber of the accused. In the entire FIR as well as the evidence before the Court, the witness i.e. informant has not state any single word that due to the act of the accused he could not discharge his office duty or he restrained from doing so. During cross-examination, PW1 has also admitted that he also know that apart from the present, one another case is pending against the member of Municipal Council.

11] Considering the omissions on the record it is necessary for the prosecution to corroborate the testimony of PW1. The prosecution in that regard has examined PW3 who was also present on the spot according to the prosecution. However, PW3 comes with the complete different story. PW3 corroborated the testimony of the PW1 only to the extent of discussion between PW1 and the accused. However, PW3 specifically denied that the accused threw a diary or shoes towards the informant, due to which he has sustained injury. On the contrary, PW3 stated that the accused was not pleased with the manner in which informant is performing his duty. It is specifically deposed by PW3 that when accused asked him about the action taken against the construction of one Khangar and Kruplani the informant gave evasive answers and therefore, accused got angry and state that ‘‘तुमचे काम धीमे गतीने चालत आहे, या खुर्चीवर तुम्ही बसले आहेत याचा गैरफायदा घेत आहेत, तुमचेकडून कामे होत नाहीत’’.

Therefore, there is clearly discrepancy in the evidence of PW1 and PW3. Evidence of PW1 is not at all corroborated on material particular.

12] PW3 has not stated a single word about the allegation of assault and abusive language. Therefore, there creates a doubt in testimony of PW1 as to whether the incident as deposed by him is really happened. Furthermore, PW1 or PW3 have not stated that the accused by has action tried to deter the public servant i.e. PW1 in performing his duty. The evidence of PW3 clearly shows that the accused is asking about the public function which is supposed to carry out, but not carried out in accordance with law.

13] It is also relevant to note that the incident is occurred in the public office and according to the informant himself, at the relevant time, the person namely Raju Samudre, Ashok Singhaniya, Mohammad Sheikh, Sudhakar Srate, Prashant Khode, Dhananjay Khadse, Vijay Kingaonkar and Nitin Lohave were inquired by the police and even their statement also came to be recorded. It is necessary for the prosecution to examine these independent witnesses particularly those who were present on the spot. PW8 PSI Balaji Devadhe has admitted that he has not recorded the statement of Suresh Pattewar. PW1 has specifically stated that Suresh Pattewar was very much present in the cabin of the accused. Under these circumstances, it was very much necessary for the prosecution to examine Suresh Pattewar. It is settled position of law that if the investigating officer has recorded the statement of witness that it is the duty to produce the statement along with charge-sheet or else adverse inference drawn against him. The examination of all these independent witness could have given the picture more clear. However, non-

examination of these witnesses is very much fatal to the case of prosecution particular when these witnesses were present on the spot.

14] It is also relevant to note that there was animosity in between the informant and accused. In this regard PW3 admitted in his cross-examination that prior to the incident the accused has already made a complainant against PW1 about his nonperforming the duty before the Chief Executive Officer, Municipal Council Wardha and President Atul Tarale. He further admitted that after the incident about 36 members of Municipal Council made complaint before Collector that the false offence is registered against the accused. He also admitted that the informant was not pleased as the accused made complaint against him.

15] It is relevant to not that the accused being the representative of the general public used to put up their problems before him and the accused used to consult the informant about those grievances and it is already come on record that the relation between the accused and informant were not cordial. Therefore, possibility of false implication cannot be ruled out.

16] PW2 Chetan Kahate is the witness on spot panchanama and whose presence the photographs snapped. There is no dispute the spot of occurrence.

17] Prosecution also relied upon the electronic evidence and it is contended that the C.C.T.V. footage was collected by the investigating officer in the pen-drive. In this regards evidence of PW6 is laid by the prosecution. However, it appears in the examination-in-chief itself that the witness admitted that he do not know from which camera the

footage was drawn. Even he did not remember as to whether in his presence the police has taken C.C.T.V. footage in the pen-drive or not.

18] It is also relevant to note that during the examination-in-chief the C.C.T.V. footage pen-drive was played before the Court and there were 10 files count, but since the witness had not viewed any file during the investigation, those files were not played during his examination-in-chief. The fact remains that there no electronic evidence filed on record to show the incident as narrated by PW1. So on the point of electronic evidence also the prosecution case fails.

19] Now, I turned towards the medical evidence, the prosecution relied upon the testimony of PW5 Dr. Shailja Kale who has examined the informant after the incident. According to her, she found contusion with redness of conjunctiva of left eye and it was caused by hard and blunt object. She proved injury report at Exh.67. However, during the cross-examination, she has admitted that in her report, it is stated that as per history given by patient that assault made by someone yesterday. She also admitted that the injury mentioned in report can be caused several reasons like going of dust, insect in the eye. Although, she stated if a shoe is thrown on person, such injury is possible. But during the trial neither the shoe nor the diary was seized or shown to the witness by which it is alleged that the accused assaulted the informant. The prosecution also failed to clear the doubt as to why it is mentioned in Exh.67 as to that assault is made by someone yesterday. So no seizure of shoe and injury can be caused of several reasons tents me to hold that the prosecution failed to show the injury took place of the assault made by the accused.

20] In order to offence punishable under section 353 and 332 of IPC, it is necessary that the act of the accused must be made with an intent to deter the public servant from discharging his public duty or the intention of preventing him from doing his official duty. In the present case it appears that the informant was called upon by him, accused is also under respondent responsibility to check as to whether the public duty is properly perform or not. Moreover, neither in the report nor in the evidence of PW1 stated that due to the act of the accused, he could not perform his public duty or he was prevent from doing so.

21] The Hon'ble Bombay High Court in case of ***Balasaheb Nivruti Jagtap Vs. State of Maharashtra 2018 SCC Online Bombay 372***, while dealing with the offences under section 323, 332 and 353 of IPC observed in para-9

According to the prosecution the accused that obstructed a public servant while discharging the duty. section 332 IPC refers to voluntarily causing hurt to deter public servant from his duty and section 353 of IPC relates to the offence assaulting or using criminal force to deter a public servant discharge of duty. Applying the evidence on record it cannot be said that the prosecution has been able to establish its case for the said charge against the accused. Alleged incident in question is not connected with the discharge of duty by the complainant. The cause of incident is also not on account duty perform by the complainant. The motive attributed to the accused for committing alleged crime is that the accused had questioned the complainant about lodging of some complaint against him by the complainant. There is no evidence to indicate that the alleged act was committed to deter a public servant to discharge his duty.

It is further held, it is also not proved that the assault or criminal force was used against the complainant being a public servant while execution of his duty with intent to prevent or deter him from discharging his duty as public servant or in consequence of anything done or attempted to be done by such person in lawful discharge of his duty as public servant.

22] Moreover, his testimony is not corroborated on the material by the other witness i.e. PW3. The ld. Counsel for the accused has also brought on record the enmity in between informant and the accused. The prosecution also failed to examine independent witnesses. Although incident took place in public office, the cumulative effect of all those aspect is that the prosecution failed to prove the guilty of accused beyond reasonable doubt.

23] The accused is also charged with allegation that he is uttered obscene word on public place and therefore, offence under section 294 is made out. No doubt the obscene words are mentioned by informant in his evidence, but it is not dispute that the obscene words are uttered in the personal chamber of accused, which cannot be said to be a public place. That apart the other ingredient i.e. causing annoyance to other is also absent. In the present case even PW3, who was very much present on the spot has not corroborated the version of PW1 about the obscene words, nor he stated any annoyance was caused to him. As such, offence under section 294 of IPC is not made out. Hence, Accordingly, I answer Points No.1 to 4 in the “negative”, , and proceed to pass the following order :

Order

(i) Accused **Pradipsingh Ujagarsingh Thakur** acquitted of the offence punishable under Sections 353, 332 and 294 of the Indian Penal Code, in view of Section 235(1) of the Criminal Procedure Code.

(ii) The PR and SB bonds of the accused stand cancelled.

(iii) The seized muddemal property be preserved for one years and if no appeal is filed it be disposed off according to law.

(iv) The accused shall comply with the provisions of Section 437A of the Criminal Procedure Code by furnishing PR and SB bonds of Rs. 15,000/- each for their appearance before the Hon'ble High Court of Bombay, if an appeal is preferred against this judgment and order.

(Judgment dictated and pronounced in open Court.)

Place: Wardha.
Date : 30.07.2025

(S.A.S.M. Ali)
Additional Sessions Judge,
(Court No.2), Wardha.

CERTIFICATE

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

(Anil N. Nakhate)
Stenographer Gr.-I,