

<u>CNRNo.MHWR040011102018</u> 	Received on	:	07/08/2018
	Registered on	:	07/08/2018
	Decided on	:	18/06/2026
	Duration	:	YY MM DD 07 10 11

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS
SELOO : AT WARDHA
(Presided over by : Shailesh. R. Satbhai)

<u>S.C.C. No. 810 of 2018</u>		<u>Exh.No.21</u>
<u>Particulars of offence</u>	C.R. No. 445/2018 registered with Seloo Police Station for offence punishable under sections 295 and 504 of Indian Penal Code.	
<u>Prosecution</u>	State of Maharashtra , Through the Officer-in-charge, Seloo Police Station, Wardha.	
<u>Represented by</u>	Smt. V.M. Gajbhiye, A.P.P.	
<u>Accused</u>	1.	Sanjay Dadarao Ganjare , Age - 32 Years, Occupation- Laboure, R/O- Wadgaon (Jangali), Tal- Seloo, Dist-Wardha.
<u>Represented by</u>	Shri. R.S. Lilhare	

<u>Particulars of offence</u>		
<u>Date of offence</u>	:	16.07.2018
<u>Date of F.I.R.</u>	:	17.07.2018
<u>Date of Charge-sheet</u>	:	07.08.2018
<u>Date of Charge</u>	:	25.09.2019
<u>Date of commencement of evidence</u>	:	02.08.2023

<u>Date on which judgment is reserved</u>	:	---
<u>Date of the Judgment</u>	:	18.06.2026
<u>Date of the sentencing order, if any</u>	:	---

<u>Details of Accused</u>							
Sr. No.	Name of accused	Date of Arrest	Date of released on Bail	Offences Charge with	Whether Acquitted or Convicted	Sentence imposed	Period of Detention Undergone
1.	Sanjay Dadarao Ganjare	17.07.2018	17.07.2018	Sec. 295 and 504 of IPC	Acquitted	N.A	N.A

J U D G M E N T (Delivered on 18/06/2026)

The accused is facing trial for the offences punishable under Sections 295 and 504 of the Indian Penal Code, 1860 (hereinafter referred to as “the I.P.C.”).

2. *The case of the prosecution in brief –*

On 16/07/2018 at about 8:00 to 8:30 p.m., at Buddha Vihar, Wadgaon (Jangali), Tq. Seloo, Dist. Wardha, the accused Sanjay Dadarao Gajare allegedly came near the Buddha Vihar on a motorcycle and shouted that the Naga deity idol which was previously kept at that place had been removed and the Buddha idol had been installed there. It is alleged that the accused abused the members of the Rahate family and thereafter entered the

Buddha Vihar and knocked down the Ashtadhatu idol of Gautam Buddha kept on a cement platform. Nalubai Rahate informed the informant Vinod Vitthalrao Rahate about the incident. The informant then went to the Buddha Vihar, saw the accused abusing and thereafter went to Seloo Police Station and lodged report. On the basis of said report, Crime No. 445/2018 for offences punishable under Sections 295 and 504 of the IPC came to be registered against the accused.

3. Accordingly, Crime No. 445/2018 for the offences punishable under Sections 295 and 504 of the IPC came to be registered with Seloo Police Station against the accused. Investigation was entrusted to PSI Shri. Saurabh Chandrakant Gharde. During the course of investigation, he visited the spot of incident, prepared the spot panchanama and recorded the statements of witnesses. After completion of investigation, he filed charge-sheet (Exh.1) against the accused.

4. My learned predecessor took cognizance of the offences punishable under Sections 295 and 504 of the IPC and issued process against the accused. Pursuant thereto, the accused appeared before the Court. My learned predecessor recorded the particulars against the accused at Exh.03 for the offences punishable under Sections 295 and 504 of the IPC. The contents of the particulars were read over and explained to the accused in vernacular. The accused did not plead guilty and claimed to be

tried. His plea came to be recorded accordingly.

5. The statement of the accused was recorded under Section 313(1)(b) of the Code of Criminal Procedure. His defence is that of total denial and false implication in the case. The specific defence of the accused is that the Buddha idol was installed after removing the Naga deity idol from the said place without informing the worshippers of the Naga deity and the present complaint has been filed against him due to the dispute regarding removal of the Naga idol.

6. I have gone through the record carefully. Considering the charge and arguments, following points arise for my determination and I have recorded my findings thereon with reasons as follows :

Points	Findings
1. Does prosecution prove that on 16/07/2018 at about 8:00 to 8:30 p.m., at Buddha Vihar, Wadgaon (Jangali), Tq. Seloo, Dist. Wardha, the accused damaged the idol of Gautam Buddha kept in Buddha Vihar with intention to insult the religion of Buddhist community or with knowledge that such act was likely to be considered as an insult to their religion and thereby committed an offence punishable under Section 295 of the Indian Penal Code?	No
2. Does prosecution further prove that on the above said date, time and place, the accused intentionally insulted the complainant side by	No

giving abuses and thereby gave provocation intending or knowing it to be likely that such provocation would cause breach of public peace or commission of any other offence and thereby committed an offence punishable under Section 504 of the Indian Penal Code?

3. What order ?

As per the
final order.

REASONS

7. Heard learned APP for state Smt. V.M. Gajbhiye. She has submitted the prosecution has proved the incident through the evidence of P.W.1 to P.W.6. He submitted that all these witnesses are residents of the same village and they have supported the prosecution case. According to him, the act of the accused in entering the Buddha Vihar and throwing down the idol of Gautam Buddha, which is a sacred object of the Buddhist community, itself shows his intention to insult the religion. He further submitted that the prosecution has duly proved the F.I.R. and spot panchanama. He argued that the accused also abused the wife of the brother of the informant and thereby committed offence under Section 504 of the I.P.C. He submitted that minor contradictions in the evidence are not sufficient to discard the prosecution case. Therefore, he prayed for conviction of the accused. Therefore, he has prayed to convict the accused.

8. Heard learned Advocate Shri. R.S. Lilhare for the accused. He has submitted that the prosecution case is false and

has arisen out of an old dispute between the parties regarding the religious idols. He submitted that, according to the prosecution witnesses themselves, the complainant side had removed the Nagdevta idol, which was worshipped by the accused's family, and installed the Buddha idol at that place without informing or taking consent of the Nagdevta worshippers. He further submitted that PW.1 is not an eyewitness and all the alleged eyewitnesses are interested witnesses belonging to the same community. It is also submitted that there was no light in the Vihar at the time of incident, as admitted by the witnesses themselves. The spot panchanama was prepared after one day of the incident. No muddemal article such as the idol or broken pieces thereof was seized by police. The panch witness also belongs to the same community as the complainant side. The Investigating Officer has not been examined by the prosecution. The learned Advocate further submitted that the prosecution has failed to prove the intention required under Section 295 of IPC. According to him, even if any incident took place, it arose out of anger regarding removal of the Nagdevta idol and not out of intention to insult the Buddhist religion. So far as Section 504 IPC is concerned, he submitted that no specific abusive words are stated or proved by the prosecution. Therefore, he prayed for acquittal of the accused.

As to point Nos. 1 to 2 :-

9. As these points are inter-connected with each other, to

avoid repetition and for the sake of brevity, they are taken together for discussion.

10. Before adverting towards the merits of the case, it will be proper to see the relevant legal provisions.

11. In order to prove the offence punishable under Section 295 of IPC, the prosecution must prove beyond reasonable doubt that there existed a place of worship or an object held sacred by any class of persons, the accused destroyed, damaged or defiled such place of worship or sacred object and such act was done with intention to insult the religion of any class of persons, or with the knowledge that such act was likely to be considered as an insult to their religion.

12. In order to prove the offence punishable under Section 504 of IPC, the prosecution must prove that the accused intentionally insulted any person and thereby gave provocation intending or knowing it to be likely that such provocation would cause breach of public peace or commission of any other offence.

13. Keeping in mind the above legal position, let us see the evidence available on record. It is not seriously disputed that the Ashtadhatu idol of Gautam Buddha installed in Buddha Vihar was an object held sacred by the Buddhist community. Therefore, the first ingredient of Section 295 IPC stands established. However, the

second ingredient, whether the accused committed the alleged act, is sought to be proved by the oral evidence of PW.1 to PW.6 and one panch witness PW.7. Admittedly, none of these witnesses is an independent witness from outside the informant's community. Therefore, their evidence needs careful scrutiny.

14. Vinod Vitthalrao Rahate (PW.1), the informant, deposed that at the relevant time he was at his house and his sister-in-law Nalu Rahate (PW.5) informed him that the accused had thrown the Buddha idol from the Vihar. Thereafter, he went towards the Vihar and lodged report. Thus, PW.1 is admittedly not an eyewitness to the actual act. In his cross-examination, he admitted that earlier a Nagdevta idol existed at the place where the Buddha idol was installed and that the Buddha idol was installed after removal of the Nagdevta idol.

15. Nalu Pramod Rahate (PW.5), who is the alleged source of first information, admitted in her cross-examination that informant Vinod (PW.1) was not present at the spot at the time of incident. She also admitted that the Nagdevta idol earlier existed at the same place and that there was dispute regarding its removal. However, she denied that there was no light in the Vihar at the relevant time.

16. Baban Devidas Rahate (PW.2) deposed that he heard abuses from his house and thereafter the accused entered into the

Vihar and the Buddha idol fell down. He further stated that the father of the accused came to the spot, pacified the accused, picked up the Buddha idol, placed it back on the platform and took the accused away. However, during his cross-examination, he admitted that the Nagdevta idol earlier existed at the same place and that the Buddha idol was installed there after removal of the Nagdevta idol. He further admitted that there was darkness at the place of incident at the relevant time and that he had not actually seen the exact incident. Therefore, his evidence does not fully support the prosecution case regarding the actual manner of occurrence.

17. Savita Bondade (PW.3) and Jaya Nagrale (PW.4) deposed that the accused slapped the Buddha idol and threw it down. However, during cross-examination, both admitted that there was darkness in the Vihar at the relevant time. They further admitted that important facts stated by them in Court were not recorded in their police statements. They also admitted that about five months prior to the incident, the Buddha idol was installed at the same place after removal of the Nagdevta idol. PW.4 further admitted that she does not know whether the accused was worshipper of Nagdevta.

18. Dhanraj Rajkumar Rahate (PW.6), who is the cousin brother of the informant PW.1, deposed that on 16.07.2018 at about 08:00 p.m., the incident took place at Buddha Vihar situated

near his house. According to him, the accused came near the Buddha Vihar and started abusing the persons present there, saying that their Nagdevta idol was not visible and asking where it had gone. He further deposed that thereafter the accused entered the Vihar, lifted the Buddha idol and threw it down, thereby causing desecration of the idol. However, during his cross examination, he admitted that the complainant Vinod Rahate is his cousin brother. He admitted that before installation of the Gautam Buddha idol, a Nagdevta idol was situated at the same place and that the said Nagdevta idol had been removed. He further admitted that the accused had come to the spot to enquire as to why the Nagdevta idol had been removed. He denied the suggestion that there was no light in the Vihar at the time of the alleged incident.

19. Kailas Nimbaji Bondade (PW.7), the panch witness, deposed that on 17.07.2018 police called him as panch witness to the Buddha Vihar in the village. He stated that police prepared the panchanama in his presence and after reading over its contents to him, obtained his signature thereon. He identified his signature on the spot panchanama. However, during his cross-examination, he admitted that he, the informant Vinod Rahate, Baban Rahate, Dhanraj Rahate, Savita Bondade, Jaya Nagrale and Nalu Rahate belong to the same community. He admitted that police had not given him any notice for acting as panch witness. He further admitted that police came for drawing panchanama on the next

day of the alleged incident. He further admitted that at the time of alleged incident there was no roof over the Vihar.

20. On careful appreciation of the entire prosecution evidence, certain material circumstances emerge. PW.1, the informant himself, is admittedly not an eyewitness to the actual act and his knowledge is based on what was told to him by PW.5. PW.5 admitted that PW.1 was not present at the spot at the relevant time. PW.2 admitted that he had not actually seen the exact incident. PW.3 and PW.4 admitted omissions in their police statements regarding important facts now stated before the Court. Thus, the evidence regarding the actual manner of occurrence is not free from doubt.

21. It has consistently come on record from the evidence of PW.1 to PW.6 that before installation of the Buddha idol, a Nagdevta idol existed at the same place. Several witnesses admitted that the Buddha idol was installed after removal of the Nagdevta idol. PW.6 further admitted that the accused had come to the spot to enquire why the Nagdevta idol had been removed. Therefore, the prosecution evidence itself establishes existence of a prior dispute regarding the religious idols.

22. It has further come on record from the evidence of PW.2 and PW.4 that there was darkness at the place of incident. Though some witnesses denied the suggestion regarding absence

of light, the admitted night time incident and inconsistent versions of witnesses create doubt regarding their opportunity to clearly observe the alleged occurrence.

23. It is true that the evidence of related or interested witnesses cannot be discarded merely on the ground of relationship. However, such evidence requires careful scrutiny. In the present case, all material witnesses admittedly belong to the same community and no independent witness from the village has been examined, though neighbouring houses are situated near the Buddha Vihar.

24. The spot panchanama was admittedly prepared on the next day of the incident. No muddemal article such as the idol, broken pieces thereof, photographs of alleged damage or expert opinion regarding damage to the idol has been produced by the prosecution. The Investigating Officer has also not been examined. Therefore, important aspects of investigation remain unexplained.

25. In order to constitute an offence under Section 295 IPC, prosecution must prove not only damage or defilement of a sacred object but also intention to insult religion or knowledge that such act was likely to be considered as an insult to religion. In the present case, the prosecution witnesses themselves admitted that the accused had come to question the removal of the Nagdevta idol. Thus, the evidence on record gives rise to another possible

view that the incident, if at all occurred, arose out of grievance regarding removal of the Nagdevta idol.

26. There is no evidence on record of any prior threat by the accused against the Buddhist community, no derogatory words against Buddha or Buddhism, no evidence of pre-planning and no subsequent conduct showing religious animus. On the contrary, PW.2 stated that the father of the accused picked up the idol and placed it back on the platform immediately after the incident. Therefore, the specific intention required under Section 295 IPC is not proved beyond reasonable doubt.

27. So far as offence under Section 504 IPC is concerned, prosecution has alleged that the accused abused the informant. However, no witness has reproduced the actual abusive words allegedly used by the accused. PW.1 was admittedly not present at the spot. There is no clear evidence of intentional insult likely to cause breach of public peace. Therefore, the essential ingredients of Section 504 IPC are also not proved.

28. It is well settled that suspicion, however strong, cannot take the place of proof. In a criminal trial, if two views are possible from the evidence, the view favourable to the accused must be adopted. Considering the admitted prior dispute, absence of independent corroboration, deficiencies in investigation, non-examination of Investigating Officer and failure to prove the

required intention under Section 295 IPC, I am of the considered opinion that the prosecution has failed to prove its case beyond reasonable doubt. Hence, considering the overall evidence on record, I answer point Nos. 1 and 2 in the negative and record my findings accordingly.

As to point No. 3 :-

29. In view of the above discussion, the accused is entitled to be acquitted. In view of the directions of the Hon'ble Bombay High Court, a copy of the judgment is required to be forwarded to the District Magistrate for communicating the informant vide section 365 of the Code of Criminal Procedure, 1973. Hence, in answer to point No. 4, the following order is passed:

ORDER

1. The accused **Sanjay Dadarao Ganjare**, is acquitted of the offences punishable under Sections 295 and 504 of the Indian Penal Code, vide section 248(1) of the Code of Criminal Procedure.
2. His bail bonds are cancelled and he is set at liberty.
3. The accused shall furnish fresh bail bonds of Rs. 15,000/- with one surety of the like amount as per the provisions of Section 437-A of the Code of Criminal Procedure. The bail and bonds shall remain in force for six months from today.

4. The copy of this judgment be sent to the District Magistrate, Wardha, for communicating the informant vide section 365 of the Cr.PC.

[Dictated and pronounced in the open court]

Date: 18/06/2026

(**Shailesh R. Satbhai**)
Judicial Magistrate First Class
Seloo

Part 'C'
Appendix
(Para 44(iii) of Chapter VI of Criminal Manual)

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution :

RANK	NAME	EXH.	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW 1	Vinod Vitthalrao Rahate	3	Informant
PW 2	Baban Devidas Rahate	3	Witness
PW 3	Savita Kailasrao Bondade	3	witness
PW 4	Jaya Vilas Nagrale	3	Witness
PW 5	Nalu Pramod Rahate	3	Witness
PW 6	Dhanraj Rajkumar Rahate	3	Witness
PW 7	Kailas Nimbaji Bondade	3	Panch Witness

B. Defence Witnesses, if any :

RANK	NAME	EXH.	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	Nil		

C. Court Witnesses, if any :

RANK	NAME	EXH.	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1	Nil.		

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution :

Sr. No.	Exhibit Number	Description
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1	6	Oral Report / Tondi Report
2	7	FIR
3	9	Spot panchanama
4	3	Particulars

B. Defence :

Sr. No.	Exhibit Number Admitted by Defence	Description
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C. Court Exhibits

Sr. No.	Exhibit Number	Description
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D. Material Objects :

Sr. No.	Exhibit Number	Description
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Date: 18/06/2026

(Shailesh R. Satbhai)
Judicial Magistrate First Class
Seloo

CERTIFICATE

I affirm that the contents of this P.D.F. file is same, word to word as per the original.

(R. M. Khan)
Stenographer (Grade-III)