



Presented on : 21/02/2019.

Registered on : 21/02/2019.

Decided on : 12/06/2026.

Duration : 07 Y. 03M. 22 D.

THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,

AT., SAMUDRAPUR:-

(Presided by P. L. Patil)

R. C. C. No. :-16/2019

Exh.No. :- 46.

(CNR No. MHWR-050002572019)

The State of Maharashtra.
Through P S.O. Police Station.
Samudrapur, Tq. Samudrapur,
Dist. Wardha.

... Prosecution

- Versus -

1. Suresh Nanaji Bhole,
Age : 50 years, Occ.: Agri.,
2. Jitendra @ Golya Vinodrao Bhole,
Age : 29, years, Occ.: Agri.,
3. Mahendra Vinodrao Bhole,
Age : 31, years, Occ.: Agri.,
4. Satish Janbhaji Bhole,
Age : 32, years, Occ.: Agri.,
All R/o. Vaigaon (H.)
Tq. Samudrapur, Dist. Wardha.

... Accused.

**FOR OFFENCES PUNISHABLE UNDER SECTION 324,
504 R/W SECTION 34 OF THE INDIAN PENAL CODE, 1860.**

Appearance:-

Learned APP for State :- Shri. A.A. Chavre.
Learned Advocate for accused :- Shri. S.O.Dhumale

J U D G M E N T

(Delivered 12-06-2026)

Accused are facing trial for the offences punishable under Section 324, 504 read with Section 34 of The Indian Penal Code, 1860. (Herein after it is referred as I.P.C.).

2. **It is the case of prosecution that :-**

Informant Gopala Timande contended that, on 14-10-2018, at about 8.00 p.m., accused were celebrating birthday of grand-daughter of accused Suresh Bhole. At that time, one glass from the slab (Roof of house) of accused was fell on the head of informant. Therefore, informant said to accused that why they are throwing glass, there on accused Suresh Bhole abused to informant. Thereafter, accused Suresh Bhole, Gotya Bhole, Mahindra Bhole and Satish Bhole came to the house of informant, they started to quarrel with him. Accused assaulted informant by fist and blows in front house of informant. Thereby informant sustained bleeding injury to his nose and injury to eyes and to ribs of left side. The wife of informant intervened. However, accused pushed her. Therefore, informant lodged report against accused persons.

3. On the basis of report, crime bearing C.R. No. 556/2018 came to be registered against accused persons for offences punishable under Sections 324, 504 read with Section 34 of The

Indian Penal Code, 1860. Investigation officer Shri. Gajanan Koparkar on completion of investigation submitted charge-sheet against accused persons.

4. Learned predecessor of this court framed charge against accused persons below Exh. 03 for offences punishable under Sections 324, 504 read with Section 34 of the Indian Penal Code, 1860. Contents of charge were read over and explained to accused persons in vernacular. They pleaded not guilty and claimed to be tried.

5. Prosecution to prove its case has examined in all Seven witnesses, i.e.

- A) PW No.1 Gopal Mahadev Timande, Exh.9, (Informant)
- B) PW No.2 Ranjit Narayan Bhute Exh.11, (Spot Panch)
- C) PW No.3 Gangubai Gopal Timande, Exh.13, (Eye witness)
- D) PW No.4 Manik Ganpatrao Zibal, Exh.14, (Witness)
- E) PW No.5, Dr. Fajla Farin, Exh.26, (Medical officer)
- F) PW No.6 Uttam Rambhau Ghongade, Exh.31, (Eye witness)
- G) PW No.7 Gajanan Devraoji Koparkar, Exh.43, (Investigating Officer).

6. Prosecution has relied on document viz. Report (Exh.10), Spot panchanama (Exh.12), Letter to Medical officer (Exh.27), Injury certificate (Exh.28) and Letter to Medical officer (Exh.44).

7. On completion of prosecution evidence, statement of

accused as per Section 313 of Criminal Procedure Code, 1973 are recorded below (Exh.45). Defence of accused is of total denial. Accused contended that, informant and witnesses are deposing falsely against them as there is dispute between them.

8. On perusal of oral and documentary evidence on record and after hearing arguments of both the parties, following points arise for my determination. I have recorded my findings thereon for the reasons given below :-

Sr. No.	<u>POINTS.</u>	<u>FINDINGS.</u>
1)	Does prosecution prove that on 14-10-2018 at about 8-00 pm, at village Vaiygaon Haldya, Tal. Samudrapur, Dist. Wardha in the front of informant's house on public road, accused No. 1 to 4, in furtherance of their common intention, voluntarily caused hurt by means of dangerous weapon viz. by kicks and blows which is used as weapon of offence and is likely to cause death and thereby they have committed an offence punishable under Section 324 read with Section 34 of the Indian Penal Code, 1860 ?	.. Section 323 r.w. 34 of I.P.C. is proved against accused persons.
2)	Does prosecution prove that on aforesaid mentioned date, time and place all accused in furtherance of their common intention insulted informant intentionally and thereby gave provocation to him, intending or knowing that such provocation will cause him to break public peace or to	

Sr. No.	<u>POINTS.</u>	<u>FINDINGS.</u>
	commit any other offence and thereby they have committed an offence punishable under Section 504 read with Section 34 of the Indian Penal Code, 1860 ?	..In Negative.
3)	What order ?	... AS PER FINAL ORDER.

:- REASONS :-

9. Admittedly, in a criminal prosecution, the prosecution has to prove its case beyond reasonable doubt. Further, Case is to be decided on material available on record. It is settled principle that, court should not go beyond the record and the case must be read in whole. By keeping this aspects in mind I am appreciating evidence as under,

10. **As to Point Nos. 1 :-**

Prosecution has to prove below mentioned essential ingredients of offence punishable under Section 324 of Indian Penal Code, 1860.

For offence punishable under Section 324 the essential ingredients are

Whoever, voluntarily causes hurt

- a) by means of any instrument for shooting, stabbing or cutting etc. or by means of fire or any hearted substance

b) is likely to cause death.

11. Informant set the criminal law in motion. However, what he deposed in his evidence is material. Therefore, informants evidence needs to be firstly considered. Informant deposed that, on 14-10-2018 at about 08.00 pm informant was in yard at that time, a glass falls on informant. Thereon informant said to accused why they have thrown glass towards him. Thereafter, accused came in front of his house. They drove informant out of his house and assaulted him with the help of kicks and blows.

12. Learned advocate for accused cross examined informant at length. Informant admitted that, police have not read the report to him. He further admitted that, he did not read the report. Therefore, learned advocate for accused submitted that, the contents of report are not proved. Learned Assistant Public Prosecutor for state submitted that, accused have not put question to informant that the contentions in the report are not as per his say. He submitted that, accused have not brought on record to show that, the report at Exh. 10 was not given by informant. Therefore, learned Assistant Public Prosecutor for state submitted that, it is just not proper to conclude that, the report is not as per the say of informant.

13. Learned advocate for accused submitted that, there are material improvements in the evidence of informant therefore, he submitted that, the evidence of informant is not reliable. It is the contentions of accused that, informant made improvement that, accused drove him out of house. In report informant stated that,

accused assaulted him in front of his house. In evidence informant deposed that, accused assaulted with kicks and blows on road. However, informant stated in report that accused assaulted with the help of fists and blows. Learned Assistant Public Prosecutor for state submitted that, the alleged improvements are not material so as to distrust or disbelieve the evidence of informant.

14. It is the contentions of accused that, there is dispute in between accused and informant in respect to the some portion viz wall. Therefore, he submitted that informant is deposing falsely against accused persons. Learned Assistant public prosecutor for state submitted that, in cross examination informant deposed that, there was dispute between him and accused. He submitted that, accused have not brought evidence on record to show at the time of incident there is dispute in between informant and accused persons. He submitted that, accused have not brought anything on record to show that, due to said dispute informant is deposing false. He submitted that, merely because there was dispute between informant and accused is not ground to disbelieve the evidence of informant.

15. It is defence of accused that, informant is habitual drunker. At a relevant time, informant was in drunken state, he fell on road and therefore, he sustained injuries. Informant has specifically denied that, he is habitual drunker. He further, denied that, he fell on road in drunken state therefore, he sustained injuries. Learned A. P. P. for state submitted that, there is no any evidence on record to show that, informant is habitual drunker. Learned A. P. P. for state submitted that, accused have not produced any evidence on

record to show that, at a relevant time informant was in drunken state. It is not just and proper to rely on bare oral contentions of accused that informant is drunker person. However, it is necessary to see whether other witnesses are corroborating to the prosecution case or not.

16. P. W. No. 03 Gangubai is wife of informant. She deposed that, on 14-10-2018 at about 08.00 pm the incident took place. At that time the glass was thrown by accused and the same was fell on informant. Thereon husband of P. W. No. 3 said to accused that, they should not throw the glass towards him. Thereon accused came to the house of informant. They drag informant out of house. Accused assaulted her husband by kicks and blows. Thereby he was sustained injury to his eyes, head, and legs. Learned advocate for accused cross examined witness P. W. No. 03 at length. She deposed that, accused Suresh was came first in her house. He drags her husband on road. She denied that, she does not know what was happened on road. Learned A. P. P for state submitted that, from the cross examination of P. W. No. 03 it appears that, P. W. No. 03 is corroborating to P. W. No 01. He submitted that, the cross examination of P. W. No. 03 in supporting to prosecution case.

17. Learned advocate for accused submitted that, P. W. No. 03 admitted in cross examination that, there is dispute in between accused and her in respect to the wall of house. Therefore, he submitted that, PW No. 3 is deposing falsely against accused persons. Learned A. P. P for state submitted that, accused have not brought anything on record to show that, the dispute in between accused and

P. W. No. 03 is to the such extent that she is deposing false against accused. He submitted that, mere oral contentions about dispute in between P. W. No. 03 and accused is not sufficient to come to conclusion that, P. W. No. 03 is deposing falsely against accused persons.

18. Learned advocate for accused submitted that, P. W. No. 01 & 3 are husband and wife however, he submitted that PW No. 3 is interested witness. Therefore, he submitted that the evidence of P. W. No. 03 is not reliable. Learned APP for state submitted that, interested witness is one who is interested in to the conviction or punishment of accused person. Learned A. P. P. for state submitted that, merely because P. W. No. 01 & 3 are husband and wife is not ground to disbelieve their evidence. He submitted that, the evidence of P. W. No. 01 & 03 are to be scrutinized strictly. He submitted that, there is no any evidence on record to show that, P. W. No. 01 and 03 are interested for sentencing the accused persons. Learned A. P. P. for state submitted that, the witness may be called interested only when he or she has derived some benefit from seeing an accused person punished. Considering the evidence of PW No. 3 there is no anything on record from which it can be gathered that she is interested in the conviction or punishment of accused persons. However, there is no merit in the submission that, informant and PW No. 3 are husband and wife and therefore, there evidence is not reliable.

19. According to the prosecution case P. W. No. 04 & 06 are eye witnesses of the incident. However, prosecution has examined P. W. No. 04 & 06. It appears that, they are not supporting to

prosecution case. Therefore, learned advocate for accused submitted that, no any independent witness is corroborating to the evidence of P. W. No. 01 and P. W. No. 03. Learned A. P. P for state relied on Section 134 of Indian Evidence Act, 1872, wherein it is stated that, "No particular number of witnesses shall in any case be required for proof of any fact." He submitted that, it is to be seen whether the witness deposing is trustworthy and reliable or not. He submitted that, there is no anything on record to show that, the P. W. No. 01 & 03 are deposing false. The alleged incident took place in the evening at about 08.00 pm. P. W. No. 3 has deposed that store situated in front of her house was closed therefore peoples were not gathered at the time of incident. However, learned APP for state submitted that, presence of independent witness at that time was difficult. Therefore, he submitted that, the contentions of learned advocate for accused that, the evidence of P. W. No. 01 & 03 are not corroborated by any independent witness could not be taken into consideration.

20. Learned advocate for accused submitted that, P. W. No. 02 is nephew of informant however, the evidence of P. W. No. 02 is not reliable. Therefore, learned advocate for accused submitted that, prosecution has not proved spot Panchanma and its contents. Learned A. P. P for state submitted that, there is no anything in the evidence of P. W. No. 02 to show that he is deposing false. P. W. No. 01 and P. W. No. 03 specifically deposed that, police were came on a next day to conduct the Panchnama. P. W. No. 01 deposed that, he showed spot of incident to police. Learned A. P. P for state submitted that, P. W. No. 02 is in Nephew of informant is not ground to disbelieve his evidence. On the other hand, he submitted that, P. W.

No. 01 & 03 are corroborating to the evidence of P. W. No. 02. Therefore, learned A. P. P for state submitted that, prosecution has proved spot panchanama and its contents.

21. Learned A. P. P for state submitted that, the prosecution has examined P. W. No. 05 medical officer at Exh. 26. She has specifically stated about to the injuries sustained by P. W. No. 01. Accordingly, she issued injury certificate at Exh. 28. Learned advocate for accused asked to PW No. 5 the question about to the diabetes of informant. It appears that no any question was put to informant during his cross examination about to alleged diabetes. However, there is no evidence on record to show that informant is diabetes patient. However, bare oral contention about to alleged diabetes of informant is not reliable. P. W. No. 05 has specifically stated that, the injuries of informant are not possible if person fell on the road. Learned A. P. P for state submitted that, there is no any evidence on record to disbelieve the evidence of P. W. No. 05. He submitted that, the evidence of P. W. No. 05 is corroborating to the evidence of P. W. No. 01.

22. Considering aforesaid mentioned facts and circumstances of case it appears that, PW No. 1, informant and PW No. 3 are husband and wife. They were in their yard of house. Accused were celebrating the birthday of granddaughter of accused no. 1. At that time a glass was fall on the informant. Therefore, informant said to accused persons that why they are throwing glass. Thereafter, accused came to the informant's house. Accused drove informant out of house. Accused in furtherance of their common intention

assaulted informant by kicks and blows thereby he sustained injury to his Neck, chests, eyes. On perusal of evidence of evidence of PW No. 3, it appears that she has specifically deposed that accused No. 1 came to her house firstly. She has deposed that, all four accused persons came to her house. PW No 1 and 3 have specifically deposed that all four accused persons assaulted informant by kicks and blows. They have specifically deposed that the incident took place in front of their house. PW No. 3 has specifically deposed about incident. She is corroborating to informant specifically. On perusal of evidence of PW No, 1 and 3 it appears that, no anything came on record to show that informant and PW No. 3 are disposing false because they have dispute with the accused persons about to wall. PW No. 2 has deposed about spot of incident specifically. He is corroborating to PW No. 1 and 3 about to the spot of incident. PW No. 3 deposed that the store in front of her house was closed therefore, peoples were not gathered at the time of incident. The incident was taken place in the evening at about 8 PM therefore there are less chances about presence of any independent person at the time of incident. The evidence of PW No. 5 is corroborating to PW No. 1. It appears that, informant was sustained injuries.

23. As per the prosecution case accused No. 1 to 4, in furtherance of their common intention, voluntarily caused hurt by means of dangerous weapon which is used as weapon of offence and is likely to cause death and thereby accused have allegedly committed offence punishable under Section 324 of Indian Penal code, 1860. Learned advocate for accused submitted that, kicks and blows are not the dangerous weapon. He further submitted that, the

alleged injuries to informant are not on vital part so as to cause the death of informant. Therefore, he submitted that the essential ingredients of offence punishable under Section 324 of Indian Penal code, 1860 are not satisfied against accused persons. It appears that the essential ingredients of offence punishable under Section 324 of Indian Penal code, 1860 are not satisfied against accused persons. However, learned APP for State relied on Section 222 of Cr.P.C. He submitted that prosecution has made out case against accused persons for offence punishable U/s.323 r.w. 34 of I.P.C.

24. However, considering aforesaid mentioned discussion it is clear that evidence of PW 1 & 3 is corroborating to each other on material particulars of incident. The evidence of aforesaid prosecution witnesses is supporting to prosecution case entirely. From the entire discussion supra, I have no hesitation to conclude that the evidence on record is corroborating to each other. As the incidence is old one, minor discrepancies are bound to occur, however, they are not so severe to harm prosecution case in any manner. Nothing is on record to distrust the prosecution witnesses and even prosecution story.

25. However, acts of accused persons itself shows their guilty mind or *mens rea* and their common intention. There is absolutely no doubt that the prosecution has proved that accused persons in furtherance of their common intention assaulted informant with help of kicks and blows and thereby he sustained injury. Prosecution has proved its case for offence punishable under section 323 read with section 34 against accused persons. Resultantly, I answer to point No.

1 accordingly.

26. **As to Point No. 2 :-**

Prosecution has to prove the below mentioned essential ingredients of offences punishable under Section 504 of Indian Penal Code, 1860.

- H) For offence punishable under Section 504 the essential ingredients are
 - a) intentional insult
 - b) the insult must be such as to give provocation to the person insulted
 - c) Intention that such provocation should cause or knowledge that such provocation was likely to cause the person so insulted to break the public peace or to commit any other offence.

27. Informant stated in report and in his evidence that, accused used filthy language. However, report at Exh. 26 and evidence of PW No. 1 does not contain any words of abusing nature. No any witness deposed that, accused used filthy language. PW No. 1 and 3 have not deposed that, accused persons had used such and such insulting words against informant. Learned advocate for accused submitted that, bare oral contention of PW No. 1 that, accused used filthy language to him is not sufficient. Evidence of PW No. 1 is not specific. The essential ingredients of Section 504 read with Section 34 of Indian Penal Code, 1860 are not satisfied. Resultantly, I record my answer to point No. 2 in negative.

28. **As to Point No. 3:-**

In pursuance to finding of point No.1, I hold accused persons are guilty for commission of offence punishable under Section 323 read with Section 34 of Indian Penal Code 1860. Now, while imposing the sentence upon accused, it will be appropriate to hear accused persons, their learned advocate and learned A.P.P. on the point of quantum of sentence.

29. Heard accused persons, their learned advocate and learned A.P.P. on the point of quantum of sentence. Accused submitted that, they are agriculturist. They are only bread earners of their family. The entire family depends upon them. Therefore, they prayed for leniency. Learned advocate for accused submitted that, it is first offence. No other case is pending against accused. Accused are agriculturists. They have no criminal antecedent. Therefore, he prayed for leniency. He further prayed for benefit of Probation of Offenders Act, be given to accused. Learned APP for state submitted that, the offence is serious. Therefore, he prayed for accused be sentenced as per law.

30. Considering the discussion supra, Informant was in his yard with his wife. A glass was fell on informant. Therefore, informant just said to accused why they are throwing glass. There on they came to the house of informant. Accused drove informant out of his house. They beat informant with the help of kicks and blows. There was no reason for accused to come to the house of informant and assault informant in front of his house. Informant is 70 years

old person. Accused assaulted informant in furtherance of there common intention thereby he sustained injury. Thus, the act of accused is came within serious offence. Therefore, I am not inclined to grant the benefit of The Probation of Offenders Act to accused persons.

31. Considering the aforesaid discussion, I am inclined to impose three months imprisonment to accused persons for the offence punishable under section 323 read with Section 34 of Indian Penal Code 1860.

32. Accused were not behind the bars. Therefore, there is no question of granting the benefit of set-off as per section 428 of Cr.P.C. Hence, I pass the following order ;

ORDER

1. Suresh Nanaji Bhole, Age : 50 years, Occ.: Agri., 2. Jitendra @ Golya Vinodrao Bhole, Age : 29, years, Occ.: Agri., 3. Mahendra Vinodrao Bhole, Age : 31, years, Occ.: Agri., 4. Satish Janbhaji Bhole, Age : 32, years, Occ.: Agri., All R/o. Vaigaon (H.), Tq. Samudrapur, Dist. Wardha are convicted vide section 248 (2) of Criminal Procedure Code, 1973 for the offence punishable under Section 323 read with Section 34 of Indian Penal Code, 1860 and they are sentenced for said offence, to suffer imprisonment for three months each.

2. Suresh Nanaji Bhole, Age : 50 years, Occ.: Agri., 2. Jitendra @ Golya Vinodrao Bhole, Age : 29, years, Occ.: Agri., 3. Mahendra

Vinodrao Bhole, Age : 31, years, Occ.: Agri., 4. Satish Janbhaji Bhole, Age : 32, years, Occ.: Agri., All R/o. Vaigaon (H.)Tq. Samudrapur, Dist. Wardha., are not found guilty vide section 248 (1) of Criminal Procedure Code, 1973 and therefore they are acquitted for the offences punishable under section 504 read with 34 of Indian Penal Code, 1860.

3. Accused persons, were not behind the bars, therefore no set-off of any period as per Section 428 of The Code of Criminal Procedure, 1973.

4. Accused shall surrender to their bail bonds and their sureties stands discharged.

5. Copy of this judgment be given to accused persons forthwith and free of cost.

(JUDGMENT DICTATED AND PRONOUNCED IN A OPEN COURT.)

Date: 12.06.2026.
Place: Samudrapur.

(Prakash L. Patil)
Judicial Magistrate First Class,
Samudrapur.

CERTIFICATE

“I affirm that the contents of this PD.F. judgment/order file are same word for word as per it's original judgment/order.”

Name of the Steno : A. A. More,
Stenographer, L.G.-III.

Name & Designation of the : P. L. Patil,
Court Judicial Magistrate First Class,
Samudrapur.

Date of order : 12.06.2026.

Date of order signed by
Presiding Officer : 12.06.2026.

Date of Upload : 12.06.2026.