

MHWR080013162022 	Received on	-	26.05.2022		
	Registered on	-	26.05.2022		
	Decided on	-	20.03.2026		
	Duration	-	YY	MM	DD
			03	09	22
<u>Part 'A'</u> [Para 44 (i) of Chapter VI of Criminal Manual]					
<u>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, COURT NO.1, ARVI.</u>					
	Present : Smt. M. G. Hinganghate Date of Judgment : 20.03.2026 Regular Criminal Case No.115/2022 Exhibit No.38				
	FIR/Crime No. : 890/2021, Police Station : Arvi, Tahsil Arvi, District Wardha.				
Complainant (Prosecution)		State Of Maharashtra Through Police Station Officer, Police Station Arvi, Tahsil Arvi, District Wardha. Original complainant : Subhash Fattuji Jadhav, R/o. Pachod, Tahsil Arvi, District Wardha.			
Represented by		Smt.V.S.Shende (Wahane), Learned Assistant Public Prosecutor			
Name of Accused		1) Sheshrao Kallu Chavhan, Age- 35 years, Occu.-Labour, R/o. Pachod, Tah. Arvi, Dist. Wardha. 2) Sau. Bali Subhash Chavhan, Age- 35 years, Occu.-Labour, R/o. Pachod, Tah. Arvi, Dist. Wardha.			

Represented by		Shri.A.H.Gurunasinghani
<u>Part 'B'</u> [Para 44 (ii) of Chapter VI of Criminal Manual]		
Date of Offence		14.11.2021
Date of FIR		14.11.2021
Date of Charge-sheet		26.05.2022
Date of Framing of charges		07.02.2024
Date of Commencement of Evidence		28.11.2025
Date on which judgment is reserved		17.03.2026
Date of Judgment		20.03.2026
Date of the sentencing order, if any		20.03.2026

ACCUSED DETAILS

Rank	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
A1	Sheshrao Kallu Chavhan	Released on Information Letter	19.11.2021	324, 504, 506 r/w 34 of I.P.C.	Acquitted	N.A.	N.A.
A2	Sau. Bali Subhash Chavhan,	Released on Information Letter	28.01.2022	324, 504, 506 r/w 34 of I.P.C	Acquitted	N.A.	N.A.

Part 'C'

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

LIST OF PROSECUTION WITNESSES

Rank	Name	Nature of evidence
PW-1	Chandrasingh Savaisingh Jadhav (Exh.No.21)	Spot Panch
PW-2	Subhash Fattuji Jadhav (Exh.No.23)	Informant
PW-3	Dr.Sachin Vijay Gulhane (Exh.No.27)	Doctor
PW-4	Radheshyam Laxamnrao Tembhare (Exh.No.31)	Filing Officer

PW-5	Anil Shankarrao Raut (Exh.No.32)	Investigating officer (I.O.)
------	----------------------------------	---------------------------------

LIST OF DEFENCE WITNESSES

Rank	Name	Nature of evidence
DW-1	N.A.	N.A.

LIST OF COURT WITNESSES

Rank	Name	Nature of evidence
CW-1	N.A.	N.A.

LIST OF PROSECUTION EXHIBITS

Sr. No.	Exhibit Number	Nature of Evidence
1	Exh.No.22	Spot Panchanama
2	Exh.No.24	Oral report
3	Exh.No.25	F.I.R.
4	Exh.No.28	Request Letter
5	Exh.No.29	MLC report
6	Exh.No.30	Query report

DOCUMENTS ADMITTED BY DEFENCE

Sr. No.	Exhibit Number	Nature of Evidence
1	Nil	Nil

LIST OF DEFENCE EXHIBITS

Sr. No.	Exhibit Number	Nature of Evidence
1	Nil	Nil

LIST OF COURT EXHIBITS

Sr. No.	Exhibit Number	Nature of Evidence
1	Nil	Nil

MATERIAL OBJECTS

Sr. No.	Material Object No.	Description
1	Article-A	A piece of brick

J U D G M E N T

(Delivered on 20th March, 2026)

The accused stands prosecuted for the offence punishable under Sections 324, 504, 506, r/w 34 of the Indian Penal Code. (Hereinafter referred as "I.P.C").

Prosecution case in nutshell is as follows:

2. The informant lives with his family and works as a labor for his livelihood. Accused No.1 is his neighbor and accused No.2 is his wife. According to him, his wife (accused No.2) had illicit relationship with accused No.1, which caused frequent quarrels between him and his wife (accused No.2).

3. On 14/11/2021 at about 5.00 p.m., the informant returned at his home from work, had dinner and later went to attend Bhagvat (religious programme) in village. At about 8.00 p.m., he returned to home for using toilet and found door of toilet was bolted from inside. When the door was opened, he allegedly saw his wife accused No.2 and neighbor accused No.1 were coming out from toilet. When he questioned them about their presence, they argued with him. During altercation accused No.1 assaulted him by hitting him on the head with a brick. Accused No.2 also assaulted him. Both accused abused and threatened to kill him. Thereafter, he lodged report in the police station.

4. On the basis of said report, FIR was registered vide Crime No.890/2021 against the accused for the offence

punishable under Sections 324, 504, 506 r/w Section 34 of The Indian Penal Code. The investigation was handed over to A.P.I. Anil Raut. During the investigation, he conducted spot and seizure panchnama. The statements of witnesses were recorded, medical certificate of injured was collected and the charge-sheet was filed against the accused.

5. The charge was framed at Exh.15, for the offence punishable under Sections 324, 504, 506 and 34 of The Indian Penal Code. It was read over and explained to the accused in Marathi. The accused pleaded not guilty and claimed to be tried. The statements of both accused under **Section 313(1)(b) of Cr.P.C.** have been recorded by putting all the incriminating circumstances appearing against them in the evidence led by the prosecution. The defence of both accused were of false implication and previous enmity.

6. The points for determination along with my findings thereon are as follows:

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1.	Does the prosecution prove that both accused in furtherance of their common intention voluntarily caused hurt to the informant by means of a brick which is known as dangerous weapon?	No
2.	Does the prosecution prove that both accused in furtherance of their common intention insulted the informant and thereby gave provocation to him intending	

	or knowing it to be likely that such provocation will cause her to break public peace?	No
3.	Does the prosecution prove that both accused in furtherance of their common intention threatened the informant and thereby committed offence of criminal intimidation?	No
4.	What order?	Accused are acquitted

ARGUMENTS

7. Learned advocate for the accused tried to bring on record some pre-incidental facts in order to discredit prosecution witnesses. According to him, there was previous enmity between the informant and accused No.1. Further he was having quarrels with his wife i.e. accused No.2. Therefore, they are falsely implicated in said crime. He further submitted that, there exist material discrepancies in the version of all witnesses. Therefore, their testimony cannot be relied upon. Hence, prayed to acquit the accused.

8. Learned A.P.P. submitted that though there exist discrepancies in the testimony of all witnesses, but those are minor one. Merely on the account of trifle disparity, the substantial evidence cannot be rejected. According to him, evidence of all witnesses on the point of happening of incident is cogent and corroborating with each other. Hence, prayed to convict the accused.

REASONS

9. In order to prove the charge levelled against the accused in prosecution has examined total five witnesses: Informant (P.W.2/Exh.23), Panch Witness Chandrasing (P.W.2/Exh.21), Medical Officer (P.W.3/Exh.27), Radheshyam (P.W.4/Exh.31), Investigating Officer (P.W.5/Exh.32). The prosecution has relied on the documents, Spot panchnama (Exh.22), First Information Report (Exh.25), Request Letter (Exh.28), Medico Legal Certificate (Exh.29), Query report (Exh.30). Evidence of prosecution witness has been closed by passing order below Exh.1. The accused has not examined any witnesses in support of his defence.

AS TO POINT NO.1:

10. In Criminal case basic rule of presumption of innocence until proven guilty, is very significant. In criminal trial entire burden is on prosecution to prove the charge that too, beyond reasonable doubt and this can be traced from **Section 3 (first part) of the Indian Evidence Act, 1872** as it requires belief of the Court that fact exists. Therefore, standard of proof should be higher in such cases. In process of proving charge, prosecution has to prove all essential ingredients of charge leveled against the accused.

11. In order to bring home the charge leveled against the accused under **Section 324 of I.P.C.**, the prosecution has to

establish following ingredients beyond reasonable doubt.

1. *The accused must cause some hurt i.e., bodily pain, disease or infirmity.*
2. *The hurt must be caused voluntarily*
3. *The hurt must be caused by dangerous weapon or means which includes an instrument of shooting, cutting or stabbing*

12. On the basis of the above ingredients this Court will scrutinize the evidence filed on record.

13. The **Informant (PW-2/Exh.23)** deposed that, on the relevant day at about 05:30 PM to 06.00 PM he returned to home from his farm and thereafter had been to village for attending Bhagvat a religious programme. At about 8.00 to 8.30 PM, he came back to home for nature's call. He saw that the door of toilet was bolted from inside, he knocked the door but no one opened it. Therefore, he sent his daughter to take torch. Meanwhile, accused No.1 and 2 came out of the toilet. Accused No.2 assaulted him by hitting a stone on his head. Thereafter, he had been to police station and lodged report at police station, Arvi. The informant affirmed the contents of FIR at Exh.25. He further identified the article by which he was assaulted.

14. During his cross-examination, he admitted that, he can not identify the brick by which he was assaulted. According to him, blood stains were apparent on the piece of brick by which he was assaulted. He further admitted that, there are 3 toilets on the spot of incident. Stones and rocks were their lying

over the spot of the incident at the time of incident.

15. Heard Ld. Advocate for both parties. Perused documents filed on record. During chief examination of this witness he deposed that, accused No.2 assaulted him with the stone and inflicted injury over his head. Whereas, at the time of lodging First Information Report (Exh.25) he has mentioned that accused No.1 has assaulted him with brick and accused no.2 has assaulted him with fist and blow. During examination of this witness he did not depose anything about role of accused No.1 on the point of causing injury. This shows material discrepancy in the version of informant.

16. This witness has deposed that, he was assaulted by the stone whereas at the time of lodging FIR he deposed that he was assaulted by a piece of brick. He further deposed that blood stains were apparent on the article-A by which he was assaulted whereas no such blood stains are found over the article-A.

17. Ld. APP submitted that, though the article-A by which the informant was assaulted is in question but at the same time the injury of the informant cannot be denied. Ld. Advocate for accused has submitted that the informant has himself admitted that he sometimes he consumes liquor. He further admitted that there is previous enmity between him and accused No.1 and he always used to have quarrel with his wife (accused No.2). Therefore, this informant has falsely involved this accused in said crime.

18. After considering the arguments of learned advocates of both sides, it is necessary to mention here that, dispute or previous enmity is double edged weapon. On the one side it can be said that one may lodge false report to harass the accused while on the other, most of the time previous enmity becomes the cause or motive to commit an offence. The accused in his statement under **Section 313 of the Code of Criminal Procedure**, took defence of previous enmity or dispute. Therefore, in order to ascertain the fact it will be necessary analyses the evidence of other witnesses also.

19. In order to support the contention of the informant the prosecution has examined **Medical Officer, Dr. Sachin Gulhane (PW3/Exh.27)** who deposed that, on the day of the incident he examined the informant. He was having history of assault he found three injuries over the body of the informant and accordingly issued medico legal certificate. He further examined brick and opined that, the injury inflicted on the body of the informant are possible by brick (article-A) he duly proved Medico Legal Certificate and Query Report at Exh.29 and 30 respectively.

20. During his cross-examination, he admitted that he did not observe any blood marks or stains over the 'article-A'. He further admitted that he had not mentioned colour of the injury over the the Medico Legal Certificate. Suggestion was put forth to this witness that said injury was possible by falling on pile of stones, he admitted the same.

21. Ld. Advocate for accused submitted that, the informant has deposed that there were blood marks apparent on the piece of brick. Whereas, Medical Officer has affirmed that when he analyze article-A he did not found any blood stains over it. Further, when the article-A was produced in the Court it was identified by the informant. But, no such blood stains were found over the article-A. This creates doubt on the testimony of the informant.

22. In order to prove the spot of the incident and seizure panchnama, the prosecution has examined **Chandrasingh (PW1/Exh.21)** who is panch witness. He deposed that he was called by police at police station and there they took his signature. He showed his unawareness about contents of the panchnama. This witness has not supported the panchnama. Therefore, the prosecution has examined Investigating Officer.

23. **Investigating Officer, Anil Shankarrao Raut (PW5/Exh.32)** deposed that, he carried out the spot and seizure panchnama, recorded the statement of witnesses, received Medico legal Certificate and Query report and filed charge-sheet in the Court. During his cross-examination, he admitted that, there is one toilet over the spot of the incident. Whereas the informant during his cross-examination has deposed that there are three toilets on the spot of the incident. Further, after analysing the spot panchnama (Exh.22)it seems that the Investigating Officer has shown 1 toilet on the spot of the

incident. He further admitted that, he has not mentioned anything about blood stains apparent over article-A in his seizure panchnama.

24. The Investigating Officer during his cross examination has admitted that the spot of incident is surrounded by various houses. But the Investigating Officer failed to record the statement of even a single resident of the premises. Further it was the story of the informant that he along with his daughter had been to the place of the incident and thereafter his daughter went to take a torch.

25. Ld. Advocate for the accused submitted that the prosecution should have examined the daughter of the informant or the residents of the premises of the spot where incident took place as they were material witnesses in the present case. Ld. APP has submitted that it is not necessary to examine a particular number of witnesses. The only requirement is the material should be examined. Therefore, though the resident of the premises and daughter of informant has not examined it does not fatal the prosecution case.

26. As per **Section 134 of the Indian Evidence Act, 1872**, No particular number of witnesses shall, in any case, be required for the proof of any fact. But in the present matter it was necessary to examine the daughter of the informant because she was a material witness who was present immediately before the

incident. Here though this witness has not seen the incident directly but she was acquainted with the fact before happening of the incident. This shows lacuna in the investigation of the Investigating Officer.

27. **Radheshyam Tembhare (PW4/Exh.31)** deposed that on 14.11.2021 at about 09.00 pm he took the informant to the hospital. He was having bleeding injury over his head. During his cross-examination, nothing material has been brought on record on the point of incident.

28. Learned A.P.P. submitted that though there exist discrepancies in the testimony of all witnesses, but those are minor one. Merely on the account of trifle disparity, the substantial evidence cannot be rejected. According to her, evidence of all witnesses on the point of happening of incident is cogent and corroborating with each other. Hence, prayed to convict the accused.

29. Ld. Advocate for accused has submitted that the discrepancies are not trifle discrepancies. There is discrepancy on the point of person whom assaulted the informant, material by which the informant was assaulted. There is discrepancy on the point of spot of the incident. Material witnesses are not examined. This creates doubt on the prosecution case. Hence prayed to release give benefit of the doubt to the accused.

30. Generally, in criminal cases, discrepancies in evidence of witness are bound to happen because there would be considerable gap between date of incident and time of deposing evidence before Court, but if this contradiction creates some serious doubt in the mind of Court about truthfulness of witnesses and it appears that there are clear improvements, then it is not safe to rely on such evidence. In the case at hands, evidence of witnesses is filled with material discrepancies, contradiction and improbable version which led to irresistible conclusion that, evidence of witnesses cannot be basis to convict the accused. When variations and contradictions are found in testimony of all witnesses, latches are found in the investigation, unnecessary delay found in lodging FIR, discrepancy on the point of person who inflicted injury, delay in the recovery of weapon, then that definitely goes to the root of the matter and the accused gets benefit of doubt.

31. Keeping in view the facts and circumstances of the case, this Court holds that the prosecution was not able to establish the guilt of the accused under Section 324 of I.P.C. beyond reasonable doubt. Hence, this Court answers **point No.1** in negative.

AS TO POINT NO. 2 & 3 :-

32. Both points are interconnected with each other. So, I took them for discussion under common heading to avoid

repetition of evidence and discussion. In order to prove Section 504 and 506 of the I.P.C. following ingredients are required to be proved.

Section 504 of the I.P.C.

- i) The accused insulted some person intentionally,*
- ii) The intention must be such as to give provocation to the person insulted,*
- iii) The accused must intend or know that such provocation would cause the person to break the public peace or to commit an offence.*

Likewise in order to prove Section 506 of the I.P.C. following ingredients is required to be proved.

Section 506 of the I.P.C.-

- 1) Accused threatened a man with some injury to his person, reputation, or property, or to the person, reputation, or property of another in whom the person was interested;*
- 2) The accused did so with intent to cause alarm to that person;*
- 3) To cause that person to do any act which he was not legally bound to do.*

33. This Court has carefully gone through evidence of prosecution. It is the case of the informant that the accused abused him, but neither a single abusive word or any threatening or intimidating language is mentioned in the

testimony of any witnesses which will attract offence punishable under Sections 504 and 506 of I.P.C. Therefore, this Court answers **Point No. 2 and 3 in Negative.**

AS TO POINT NO. 4 :-

34. Having regard to the factual and legal position of the prosecution case, it does not inspire confidence of the Court. The prosecution evidence has serious infirmities as pointed out regarding causing of injury, use of abusive and intimidating language by the accused. As the prosecution could not establish its case beyond reasonable doubt, accused deserve to be acquitted. Therefore, as answer to point No.4, this Court proceed to pass following order:

ORDER

- 1) The accused namely **Sheshrao Kallu Chavhan, Bali Subhash Chavhan** are hereby acquitted from the offence punishable under Sections 324, 504 and 506 r/w. 34 of the Indian Penal Code, 1860 vide Section 248(1) of Code of Criminal Procedure, 1973.
- 2) Both accused and their sureties are discharge from existing bail bonds.
- 3) The Accused No.1 and 2 shall execute bond of Rs. 15,000/- and surety of like amount in view of Section 437-A of Code of Criminal Procedure, 1973.

- 4) The Seized brick (Article-A) be destroyed after appeal period is over.

(Order dictated directly on computer and pronounced in open Court)

Date:- 20/03/2026

Sd/-
(Smt. M. G. Hinganghate)
Judicial Magistrate First Class,
Court No.1, Arvi.

CERTIFICATE

I hereby certified that the contents of this copy of judgment are same, as per original judgment.

Date:- 20/03/2026

Sd/-
(M. G. Hinganghate)
Judicial Magistrate First Class,
Court No.1, Arvi.