

MHWS080004572009



Presented on : 31/07/2009

Registered on : 31/07/2009

Decided on : 08/06/2026

Duration : Ys. M. Ds.  
16 10 26

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, COURT  
NO. 3, RISOD, DIST.WASHIM.**

(Present: Shri. Kiran D. Lukde)

Date of Judgment : 08/06/2026

**Regular Criminal Case No. 1200099 of 2009**

**Exh. No. 46**

(FIR/Crime No. I-79 of 2009 of Risod Police Station, Dist.  
Washim.)

<b>Prosecution</b>	:	<b>State of Maharashtra,</b> Through -Officer-in-charge of Risod Police Station, Washim. Dist. Washim.
Represented by	:	Shri. M.D.Adkine, Assistant Public Prosecutor
<b>Accused</b>	:	<b>Gajanan Baburao Sarnaik,</b> Age: 35 Yrs, Occ. Agriculturist, R/o. Mali Galli, Tal. Risod, Dist. Washim.
Represented by	:	Smt. Shittal V. Ippar, Advocate for accused.

**Part 'B'**

(Para 44(ii) of Chapter VI of Criminal Manual)

Date of offence	:	22/05/2009
Date of FIR	:	22/05/2009
Date of Charge-sheet	:	31/07/2009
Date of framing of Charge	:	09/02/2012
Date of commencement of evidence	:	03/07/2012
Date on which judgment is reserved	:	28/05/2026
Date of the Judgment	:	08/06/2026
Date of Sentencing order, if any	:	--

**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 purpose of Sec.428 Cr.P.C.
1.	<b>Gajanan Baburao Sarnaik</b>	Dated 22/04/2009	13/07/2009	Section 324,504,506 of Indian Penal Code,1860	Acquitted	--	00

### **JUDGMENT**

(Delivered on: 08/06/2026)

Accused is facing trial for allegedly committing offences punishable under section 324, 504, 506 of the Indian Penal Code (for short 'I.P.C.').

#### **The case of prosecution in brief is as under,**

2. The Pratap Wakale is son-in-law of informant. He is working as a peon in Mahatma Jyotiba Phule School. On 22/05/2009 at 8.30 am in the courtyard of Mahatma Jyotiba Phule School, informant went to the school to look after his lost cow. At the time the Pratap Wakale went inside of the school for his signature, the accused Gajanan came to the school shouting, with an axe in his hand. The accused abused informant and said, "He will kill him." The accused hit informant on his head with a wodden stick, which caused blood flow from informants head. Then after, the accused kicked informant in the back and hit him with a stick. Mr. Vilas Suresh resolved the dispute between the accused and the informant. Thenafter the informant given the report of the incident to Risod Police station.

#### **Investigation:**

3. On the basis of information given by the informant, crime No. I-79/2009 was registered against the accused at Risod police station for offences punishable under section 324, 504, 506 of I.P.C. Police Head Constable, Laxman Kendre and Police Head Constable Prakash Waghade conducted the investigation. After investigation, the I.O. placed the chargesheet against the accused for offences p/u/s. 324, 504, 506 of IPC.

4. My learned predecessor had framed charge of offence against accused at Exh. 10 for offences punishable under section 324, 504, 506 of IPC. Accused pleaded not guilty and claimed to be tried. Hence, as per the provisions of section 242 of Cr.P.C., the trial was commenced.

5. In support of case, prosecution examined 6 witnesses as mentioned above in list provided with Part C. The prosecution evidence was closed by order below Exh.1, dated 17/08/2015 as the prosecution failed to secure the presence of other witness.

6. For enabling accused personally to explain circumstances and evidence against him, he was questioned on said evidence as per section 313(1)(b) of the Code of Criminal Procedure. Defence of accused was of false implication and total denial. By order below Exh.1 dated 13.05.2026 proceeding against the accused initiated according to the provision of section 299 Cr.Pc./356 of BNSS rw. महाराष्ट्र शासन राजपत्र असाधारण भाग चार—अ, ऑगस्ट १४, २०२५/ श्रावण २३, शके १९४७, No. BNSS-0425/CR-47/Spl-9. Accordingly, as per the section 356(3) BNSS Legal Aid Panel Advocate was provided to the accused.

7. I have heard learned additional public prosecutor and learned advocate of accused at length. In view of case of prosecution and particulars framed against accused, following points arose for my determination, the findings on which for reasons, I have recorded below,

<b>Sr.No.</b>	<b><u>POINTS</u></b>	<b><u>FINDINGS</u></b>
1.	Whether the prosecution prove that accused voluntarily caused hurt to the informant on his head by means of stick and thereby committed an offence punishable under section 324 of Indian Penal Code ?	<b>No.</b>
2.	Whether the prosecution prove that, accused insulted informant thereby gave provocation to him intending or knowing it to be likely that such provocation will cause him to break public peace and thereby committed an offence punishable under section 504 of Indian Penal Code ?	<b>No.</b>
2.	Whether the prosecution prove that, accused criminally intimidated the informant by threatening to informant to cause his death and thereby committed an offence punishable under section 506 of Indian Penal Code ?	<b>No.</b>
3.	What order ?	<b>Accused is acquitted.</b>

#### **ARGUMENTS :**

8. Learned A.P.P submitted that evidence of the informant, and other witness is corroborative to each other. The all 6 witnesses have supported the prosecution case. The informant has deposed as per the content of FIR. All essential ingredients of the

offence are satisfied. The prosecution has proved their case beyond reasonable doubt. Hence, prayed for conviction of accused.

9. Per contra, the learned advocate for accused submitted that, there is material discrepancy in the exact time if the incident. All witness are interested witness. The injuries to the victim are not proved. Statement of independent witness are not recorded by police. The present case is filed due to previous enmity between accused and the informant. All ingredients of the sections are not satisfied. There is no injury certificate on record of victim. Therefore, accused be acquitted.

### **REASONS FOR THE FINDINGS**

#### **AS TO POINT NO. 1**

10. It is case of the prosecution that, On 22/05/09 at 8.30 am in the courtyard of Mahatma Jyotiba Phule School. The accused Gajanan came to the school shouting, with an axe's handle in his hand. The accused abused informant. The accused hit informant on his head with a wooden stick, which caused blood to flow from informants head. Thenafter, the accused kicked informant in the back and hit him with a stick.

11. In this regard, it has come in the evidence of Sheshrao (P.W. 1) (Spot Panch) that, he do not know the accused person. He does not know anything about this case. On the say of police he has signed on the spot panchnama. He identified his signature on the spot panchnam however denied the content to be true and correct. He denied all the suggestion put forte by the Ld. APP during

the cross examination. As the panch witness has not supported the case of the prosecution his evidence can not be relied upon.

**12.** The informant Sahebrao Suryabhan Jumde (PW 2) was examined at Exh.28, he deposed that, he know the accused. The accused is present in the court today. He know Pratap Wakale. He is his son-in-law. Pratap working as a peon in Mahatma Jyotisha Phule School. The incident took place on 22/05/09 at 8.30 am in the courtyard of Mahatma Jyotiba Phule School. He had gone to the school to look after his cow because he had lost it. His son-in-law Pratap was sitting there in front of the school. At that time, they were chatting outside. After a while, Pratap went inside of the school to signature. At that time the accused Gajanan Sarnaik came to the school with an axe and a stick in his hand and shouted and said, "Pratap, come out." He abused him and said, "I will kill you." When he tried to save him, the accused hit him on the head with a stick, which caused blood flow from his head. After that, the accused kicked him in the back and hit him with a stick. Vilas Suresh came there and resolved our dispute. At that time, Anandrao Dakhore and Sanap were also present there and on seeing them, accused Gajanan ran away. The report was shown to him, he identified his signature and content to be true and correct. The stick was shown to him, he identify it. He was taken to the government hospital for treatment by police.

**13.** The informant in his Cross-examination admitted that, there was previous enmity between the accused and his son in law Pratap. He also admitted that, he can not state the exact four boundaries of the spot of incident. He cannot state the reason why

his son-in-law Pratap did not file a report against the accused. He denied all the adverse suggestion put by the advocate for the accused.

14. Vilas (PW 3) was examined as a eye witness at Exh. 31, He deposed that, he know the accused, accused is present in the court today. He know the informant. The incident took place approximately five to six years ago at 9.30 am in the courtyard in front of the office of Mahatma Jyotiba Phule Vidyalaya. At that time, he was present at school. Pratap Wakade is our school's peon. When pratap came to the office to sign, the accused Gajanan said, "Come out, I will beat you." After that, Pratap Wakade came and the accused Gajanan went to hit him. At that time, accused Gajanan's was with stick in his hand, when Gajanan was about to hit Pratap, Sahebrao came there. Accused hit the informant with stick on his head, which caused informant head injury. Police has not recorded his statatment.

15. The Vilas (PW.3) in his Cross-examination admitted that, the son in law of informant Pratap, Sanap Dakhore are working in his school. He admitted that, he has not given any document to show that, he was present at school at the time of incident. He admitted that, he never told the police that the incident happened at 9.30 AM. Police has read over the his statement to him. He admitted that, he do not know what the police has recorded in his statement. He admitted that he is having god relation with the informant and his son in law Pratap.

16. Pratap (PW.4) was examined as a eye witness at Exh. 32, he stated that, he know the accused. He is present in court

today. The informant is his uncle-in-law. The incident took place in front of the Mahatma Phule Vidyalaya office at 7.30 am in May 2009. That day, while he was going to school, his uncle-in-law Sahebrao Jumde met him at the Malegaon Fata. From there, they went to the school while talking. After going to school, he went to the office to sign and his father-in-law waited outside. At that time, accused Gajanan Sarnaik came there with a stick in his hand. He hit Sahebrao Jumde on the head with the stick. When Sahebrao Jumde asked Gajanan what happened, Gajanan hit Sahebrao Jumde on the head with a stick. After that, the accused fled from there.

17. The Pratap (PW.4) in his Cross-examination admitted that, he has not submitted any document as to he went to do signature, at the time of incident. He denied all the adverse suggestion put by the advocate for the accused.

18. Sarangdhar (PW.5) was examined as a eye witness at Exh. 33, he deposed that, he know the accused. He is present in court today. He know the informant Sahebrao Jumde. The incident took place in May 2009 between 8 and 8.30 am at Mahatma Phule Vidyalaya. At the time of the incident, he had gone to fetch water. He returned to the school after hearing a noise. At that time, he saw Sahebrao Jumde's head was injured. There, Sahebrao Jumde and our school teacher Suruse Sir were discussing that Gajanan had injured Sahebrao. After that, Sahebrao Jumde told him that accused Gajanan Sarnaik had injured him, the police had recorded his statement.

**19.** The Sarangdhar (PW.5) in his Cross-examination admitted that, he and Pratap are working together in same school. The distance between the Satarkarbaba Math and the school is about half KM. He denied all the adverse suggestion put by the advocate for the accused.

**20.** Prakash Haribhau Waghade (PW.6) was examined as a Investigation officer at Exh.35, he deposed that, On 22/05/2009. he was working as a Police Head Constable at Risod Police Station. On that day, Sahebrao Jumde gave a report and according to his report and on the orders of the Day Officer, a case was registered. The FIR was shown to him, he identified his signature and content to be correct. After that, the HC investigated the crime and prepared a spot report, after which the investigation of the crime came to him. After that, he recorded the statement of the witness. After that, a wooden stick was seized from the accused before the Panchnama and a seizure report was prepared. the seizure report shown to him he identified his signature signature and the content to be correct. After that, the accused was arrested before the court as per the arrest warrant. It was shown to him he identified his signature signature and the content. After that, as evidence was available against the accused, the charge sheet was filed in the court. In Cross-examination He denied all the adverse suggestion put by the advocate for the accused.

**21.** In view of the case of prosecution and the aforesaid evidence of prosecution witnesses, prosecution needs to prove that accused, voluntarily caused hurt to the informant, by means of a wooden stick which if used as a weapon of offence is likely to cause

death. Further, prosecution also needs to prove that informant sustained injuries as a result of alleged assault by the accused.

**22.** In pursuance of the case of prosecution, it is necessary to scrutinize the evidence of informant and his son in law Pratap (PW.4). The evidence of informant shows that he has deposed in his examination-in-chief about being assaulted by accused on his head by means of a wood stick. Thereafter, he took treatment in hospital. In his cross-examination, informant has stated about injury being sustained on the head and he thereafter, been took to hospital by police. Here the evidence of Pratap (PW.4) and Vilas (PW.3) is corroborative in nature as to the injury inflicted by the accused. However there are material discrepancy between the time of the incident between all the witness. The informant stated that incident occurred at 8.30 AM, Vilas (PW.3) at 9.30 AM, Pratap (PW.4) at 7.30 AM, Sanap (PW.5) at 8 to 8.30 AM. Here it is pertinent to note that there are material discrepancy between the witness as to the time of the incident. Moreover the informant in his examination in chief deposed that, he went to the school to look after his lost cow. On the other hand the Pratap (PW.4) in his chief examination deposed that, he and the informant were meet at Malegaon Naka and they walked to the school. Here the version of the informant and the Pratap (PW.5) is all together different.

**23.** The Spot panch to spot panchnama Sheshrao (PW.1), has not supported the case of the prosecution. Further the prosecution has failed to examine the other panch to the spot panchnama. The IO has deposed that, spot panchnama was prepared by him in presence of two Panchas. Here as the spot pancha Sheshrao (PW.1) does supported the case of the

prosecution in such circumstances it can not be said that the prosecution has proved the spot panchnama through IO. The Hon'ble Supreme Court in the case of **Syed Ibrahim versus State of Andhra Pradesh**, reported in (2008) 10 SCC 601, wherein it has been held that,

*"when place of occurrence itself has not been established, it would not be proper to accept the prosecution side."*

24. The Vilas (PW.3) in his evidence stated that he does not know what the police has written in his statement. He admitted that he is having good relation with informant and the Pratap (PW.4). Further he has not submitted any document as to his presence at the time of the incident in the school. Therefore his evidence can not be sole basis to prove the injuries in absence of other corroboration evidence.

25. The Sanap (PW.5) has deposed that, he was fetching water at the time of the incident and he came to know about the incident through the conversation between the Suresh and the Sahebrao informant. Therefore he being the hearsay witness to the incident his testimony cannot be relied on.

26. Here it is pertinent to note that for the offence Section 324 the injuries by the weapon has to be established. However in present case the injuries were caused to the informant. More over the informant stated in chief that police had took him to the hospital. Further the weapon used in crime was not recovered through recovery panchnama.

27. The Hon'ble Supreme Court in the case of **Santosh Singh And Anr vs State Of Bihar on 6 December, 2025, CRIMINAL APPEAL (SJ) No.291 of 2004 Patna High Court**, wherein it has been held that,

*“ 29. So far as the nature of injury, number of injury can be proved on the basis of document exhibited. Here, original injury report is not available and the reason has not been assigned as to why the original injury has not been made available on the record and the doctor has been examined as a factual witness of injury report though doctor is an expert witness. He has to authenticate what is exhibited document of injury. In absence of exhibited document of injury, the examination of doctor is purely a factual witness of the said occurrence which is not suited to the expert witness.”*

28. In present case also the injured and the other witness talks about the injury caused by the accused to the informant. The informant in his chief examination stated that he was taken to the hospital by police for the treatment. However the medical certificate of the injuries sustained by the informant, whether simple or grievous is not on record. Further the prosecution has failed to examine the medical officer inspite of sufficient opportunities.

29. Therefore considering the evidence above it is clear that, the evidence of prosecution witnesses Nos. 2 to 5 have material inconsistencies between their evidence, which does not

help prosecution and which also creates doubt over the presence of eye witnesses at the spot during the alleged incident and the time of the incident and the medical certificate is not on record, it creates doubt over injuries caused. In view of the aforesaid reasons, the ingredients of offences punishable under section 324 of I.P.C. therefore, are not completely proved by the prosecution. Hence, the prosecution has failed to prove the commission of offences punishable under section 324 of I.P.C. beyond the reasonable doubt. Hence, I answer point Nos. 1 in the negative.

**AS TO POINT NO. 2:**

30. The prosecution has alleged that at the time of incident, accused abused and intentionally insulted informant, his son in law Pratap (P.W.4) thereby giving provocation to cause them to break public peace. Upon perusal of evidence of the informant (P.W.2), Vilas (P.W.3), Pratap (P.W.4) and Sanap (P.W.5), it is seen that no specific words in the form of abuse are deposed by the witnesses. What abuse was exactly hurled towards the informant, his daughter and his wife are not deposed by the prosecution witnesses Nos. 2 to 5. Merely deposing that accused abused the informant and his son in law Paratp is not sufficient to prove the ingredients of offence punishable under section 504 of I.P.C. Hence, an offence punishable under section 504 of I.P.C. is not proved. Hence, I answer point No. 2 in the negative.

**AS TO POINT NO. 3:**

31. Prosecution has alleged that accused has threatened the informant and his son in law Paratp and thereby gave criminal intimidation to them. For offence punishable under section 506 of

I.P.C., it is necessary that there must be an intention of the accused to cause fear or alarm to the person threatened. The evidence of prosecution witnesses Nos. 2 and 5 does not mention that accused threatened to kill them. Prosecution witness Nos. 2 and 4 deposed that accused threatened to kill them. However, it is not supported by the evidence of other independent witness. Hence, there are inconsistencies on the point of alleged threat being given by the accused, between the evidence of the prosecution witnesses Nos. 2 to 5. Moreover, use of which words allegedly by the accused, caused alarm to the informant and his son in law Paratp, are not deposed by the prosecution witnesses. Hence, the allegations that accused threatened them to kill are not proved beyond reasonable doubt by the prosecution. Considering such evidence, the act of the accused of giving criminal intimidation to the informant and his son in law Paratp is therefore not proved by the prosecution. Hence, prosecution has failed to prove the offence punishable under section 506 of I.P.C. Hence, I answer point No. 3 in negative.

**32.** In view of my findings to Point Nos. 1 to 3, I hold that prosecution has not proved charge against accused for offences punishable under section 324, 504 and 506 of I.P.C. Therefore, in answer to point No. 4, I pass following order:

**ORDER**

- (i) Accused is acquitted of the offences punishable under section 324, 504, 506 of I.P.C. vide section 248(1) of the Code of Criminal Procedure, 1973.
- (ii) Bail bonds of the accused stand cancelled. They are set at liberty forth with.

- (iii) Accused shall furnish personal bond and surety of Rs. 15,000/- in view of compliance of provision under section 437-A of Cr.P.C.
- (iv) Mudemal one wooden stick being value less be destroyed after appeal period is over.

(Judgment is pronounced in open court.)

**Sd/-**

Place : Risod  
Date : 08/06/2026

( **Shri. Kiran D. Lukde** )  
Judicial Magistrate, First Class,  
(Court No. 3), Risod.

**Part 'C'**

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

**LIST OF PROSECUTION / DEFENCE / COURT WITNESSES**

**A. Prosecution :**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
P.W. 1 -Exh.12	Sheshrao Dhondoji More	Spot Panch witness
P.W. 2 -Exh.28	Sahebrao Surayabhan Jumde	Informant
P.W. 3 -Exh.31	Vilas Namdev Suruse	Eye Witness
P.W. 4 -Exh.32	Pratap Sambhaji Wakde	Eye Witness
P.W. 5 -Exh.33	Sarangadhar Devrao Sanap	Witness
P.W. 6 -Exh.35	Prakash Haribhu Waghade	Investigating Officer

**B. Defence Witnesses, if any :**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
DW	----	----

**C. Court Witnesses, if any :**

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

**LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**

**A. Prosecution :**

Sr. No.	Exhibit Number	Description	Proved by/Attested by
1.	29	Statement of informant	PW-2
2.	13	Spot panchnama (Signature)	PW-1
3.	36	Recovery panchnama	PW-6
4.	37	Arrest panchnama	PW-6

**B. Defence :**

Sr.No.	Exhibit Number	Description
1.	----	----

**C. Court Exhibits :**

Sr.No.	Exhibit Number	Description
1.	----	----

**D. Material Objects :**

Sr.No.	Exhibit Number	Description
1.	Art. A	Wooden stick 27 inch lenth

**Sd/-**

Place : Risod  
Date : 08/06/2026

( **Shri. Kiran D. Lukde** )  
Judicial Magistrate, First Class,  
(Court No. 3), Risod.