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Sessions Case No.30/2021

Exh. 61

Form No.XXXII

Part 'A'

(Title page of Judgment)

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

	IN THE COURT OF SESSIONS JUDGE, YAVATMAL, DISTT. YAVATMAL <i>(Presided over by S. C. Munghate)</i>	
	Sessions Case No. : 30/2021 FIR No. 346/2020 Under Section 304 of the Indian Penal Code, 1973. Police Station, Babhulgaon, District: Yavatmal	
COMPLAINANT	:	State of Maharashtra, Police Station, Babhulgaon, Tq. Babhulgaon, District: Yavatmal
PRESENTED BY	:	APP Shri U. K. Pande
ACCUSED	:	Abhijit Shivdas Raut, Aged 32 Years, Occ. Agriculturist, R/o. Alegaon, Tq. Babhulgaon, Distt. Yavatmal,
PRESENTED BY	:	Adv. Shri N. B. Meshram

Part – 'B'

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

Date of offence	06.09.2020
Date of FIR	11.09.2020
Date of charge Sheet	03.03.2021
Date of framing Charge	14.03.2023
Date of commencement of evidence	12.03.2026
Date on which judgment is reserved	15.05.2026
Date of Judgment	19.05.2026
Date of the 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 Section 428 Cr.PC.
1	Abhijit Shivdas Raut	28.09.2020	09.10.2020	Section 304 IPC	Acquitted	--	--

Part – 'C'

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

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES.

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1- Exh.36	Vaishali Shailesh Rathod	Husband of deceased
PW2- Exh.37	Ajay Madhao Ade	Informant
PW3- Exh.54	Devidas Kotharamji Bijve	Station Diary Officer
PW4- Exh.57	Sandip Atmaram Patil	Investigating Officer

B. Defence witnesses if any.

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

C. Court witnesses if any.

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

LIST OF PROSECUTION /DEFENCE/COURT EXHIBITS**A. Prosecution**

Sr.No.	Exh. No.	Description
1	38	Statement u/Sec. 164 of Cr.PC. of PW. No2. Ajay Ade
2	55	Report
3	56	F.I.R.
4	58 & 59	Letter to JMFC for recording Statement U/sec. 164 Cr. PC.

B. Defence

Sr.No.	Exh.No.	Description
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C. Court Exhibits

Sr.No.	Exh.No.	Description
1	38	Statement u/sec. 164 of Cr.PC. of PW. No. 2 Ajay
2	39	Spot Panchanama
3	40	Sketch map of the spot of the incident
4	41	Inquest Panchanama
5	42	16 number question and answer form
6	43	Summons to relative
7	44	Summons to panch
8	45	Seizure panchanama

9	46	Muddemal Receipt
10	47	Dead body receipt
11	48	Postmortem Report
12	49	Letter to Tahsildar
13	50	7/12 extract
14	51	Letter to MSEDCL Babhulgaon
15	52	Letter from MSEDCL, Babhulgaon
16	53	Arrest Panchanama

D. Material Objects.

Sr.No.	Art. No.	Description
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J U D G M E N T

(Delivered on this 19th day of May, 2026)

1. The accused is charged with the offence punishable under Sections 304 of the Indian Penal Code, 1973.

The prosecution facts, in brief, are as under :

2. Rupchand Sakala Rathod, R/o. Alegaon, Tq. Babhulgaon, District Yavatmal, lodged a report that, on 05-09 2020, at about 6.30 p.m., his son Shailesh along with his friends Atul Atul Kailas Dehankar, Shubham Chavhan and Ajay Madhao Ade had gone on his Honda Dream motorcycle bearing No. MH-29/AS-3190 to a stream in the Dehani area to catch crabs by carrying flat iron strips with them. On that night, his son did not return home therefore, on next in the morning he went to house of his friend who had accompanied him and asked them. They told him that his son had gone to Asegaon for drinking alcohol and asked them to go home. Thereafter, he told him to his another son Kawadu that Shailesh

had not come home since last night. His son had search in the area of Asegaon but did not found. When the village children told him that his motorcycle is parked on the road near the drain in Dehani area. After receiving this information, his son Kawadu went to look for him on the road. When he went to the drain and looked at the field, he saw that deceased Shailesh had lying on the electric wire in the filed of Shivdas Nilkanth Raut and died due to electrocution. The said filed is cultivated by accused Abhijit. Thereafter, he went to the spot of the incident and found the his deceased son lying dead on the electric wire. The said electric wire fencing was installed by accused Abhijit and also supplied electric current in it, in his field to protect his crop knowing that anyone can die if he would touch the said wire. Therefore, he filed report.

3. On the basis of the report of the informant, the offence punishable under Sections 304 of the Indian Penal Code came to be registered vide Crime No.346/2020.
4. Prior to register the crime, A.D. No. 40/2020 was registered. The investigation of A.D. was conducted by Mr. Ashok Gaiki. He visited the place of incident and prepared Spot Panchanama, in presence of panch witnesses. He prepared inquest panchanama. He seized the muddemal from the spot and prepared seizure panchanama. He sent the deceased for postmortem. He recorded the statement of witnesses. Thereafter, further investigated was conducted by API Sandip Patil. He sent the seized muddemal to Chemical Analysis and after completion of the investigation, charge-sheeted the

accused for the offence punishable under Sections 304 of the Indian Penal Code before the learned Judicial Magistrate, First Class, Babhulgaon.

5. The learned Judicial Magistrate Babhulgaon committed the case to sessions Court, Yavatmal as exclusively triable by the sessions Court.
6. My predecessor framed charge against accused at Exh. 09. The contents of charge were read over and explained to him. He denied the charges and claimed to be tried. The prosecution examined in all four witnesses. The defence of the accused is of total denial and false implication.
7. The statement of accused under section 313 of Criminal Procedure Code is recorded at Exh.60.
8. Heard the submissions advanced by learned APP for State and learned advocate for the accused. I have carefully gone through the entire oral and documentary evidence available on record.
9. On the basis of facts and circumstances emerging on record, the following points do arise for my determination and my findings thereon are as follows for the following reasons :

Points

Findings

- 01) Whether prosecution has proved that on or before 05/09/2020 at Dehni Shivar, Tq. Babhulgaon, at the agricultural field, accused dishonestly committed a theft of electric supply

- which interfere electric current and results in a manner whereby electricity is stolen by accused. ... **Yes.**
- 02) Whether prosecution has proved that on same date time and place, accused have floating a electricity current/energy through iron wire of fencing of his agricultural field which is cultivating by accused as such deceased Shilesh came in contact with the iron wire having live current in it, and he died by electrocution as such accused committed an offence of culpable homicidal not amounting to murder ? ... **No.**
- 03) What Order ? ... As per final order.

REASONS

As to point nos.1 to 3 :

10. In order to prove the charges levelled against the accused, the prosecution has examined PW. No.1 Vaishali Shailesh Rathod (Exh.36), PW. No. 2 Ajay Madhao Ade (Exh.37), PW. 3 Devidas Kotharamji Bijve (Exh.54) and PW. No. 4 Sandip Atmaram Patil (Exh.57) the investigation officer.
11. In order to prove the guilt of the accused, prosecution has relied on the oral and documentary evidence. The prosecution is coming with the case that accused have committed theft of electric current and fencing with electric wire of his agricultural land and due this deceased Shailesh was died by electrocution. Considering the charge leveled against accused, let us evaluate the evidence of the witnesses

examined by the prosecution.

12. So far as the death of deceased Shailesh Rathod is due to electrocution, the defence has admitted the death of deceased was caused by electrocution. Further after going through evidence of the witnesses, it is crystal clear that the deceased died to electrocution.

13. Considering the death of deceased, let us now consider whether the field or the fencing by which unauthorised electric current was transmitting, the accused was the owner of the said field or the possessor of the said field. Further, whether the said iron wire fencing was on the field of accused. To substantiate this charge, the prosecution has examined in all four witnesses, so also the defence has admitted some document which are on record, let us not evaluate the evidence alongwith the documents proved and admitted on record.

14. PW. No. 1 Vaishali who is the wife of deceased in her evidence stated that her marriage was solemnized with accused. Her husband died of electrocution in the field of Raut 6 years ago. On prior day of incident, her husband had left home at 6:00 p.m. She was at home that day. Her husband did not come home therefore, she told her father-in-law Rupchand Rathod that her husband did not come home all night. After some time, her father-in-law returned home and told that her husband had died of electrocution. She do not know with whom her husband had gone. During cross-examination, she denied all the question put by defence.

15. Considering the evidence of this witness, this witness is

not eye witness to the incident, she is a hearsay witness and according to her the fact of incident came to her knowledge from her father-in-law Rupchand. Said Rupchand is not been examined by the prosecution as he was died on 26/10/2020, therefore, in my considered view, the evidence of this witness is not helpful to the prosecution, still her evidence can be taken into consideration for corroborating the other evidence if any available on record.

16. P.W. No. 2 Ajay Madhao Ade stated in his evidence that deceased Shailesh Rupchand Rathod is his cousin. He died of electrocution on 05.09.2020. On that day, He alongwith Atul Dehankar, Shubham Chavan and deceased Shailesh went to the river between Dehani and Alegaon on motorcycle of deceased Shailesh to catch crabs. They went into the river, caught crabs and went out of the river. At that time, deceased Shailesh told them that they were going to the village via Shiv Padan's road. They went on foot that road and deceased Shailesh had an iron rod in his hand. When he went near accused Abhijit's field, a spark came out of the iron rod in his hand and deceased Shailesh got electrocuted. He shouted and they ran towards home. Thereafter, in the morning, Atul and he went to see where the incident happened, there, deceased Shailesh was found lying on the wire in dead condition.

17. P.W. No. 2 Ajay further stated that thereafter, they went to the village and informed to brother of deceased Shailesh namely Kavadu Rathod and took him to show him the spot. Thereafter, the people and Police Patil of the village came

there. His statement was recorded by Judicial Magistrate, Babhulgaon and police.

18. P.W. No. 3 Devidas stated in his evidence that on 11/09/2020, Rupchand Saklal Rathod had come to the police station and filed a complaint. He typed his complaint as per his narrations. Thereafter, on the basis of said report Crime No. 346/2020 was registered. The said report is at Exh. 55. Further investigation was done by API Sandeep Patil.

19. P.W. No. 4 Sandip stated in his evidence that on 11.09.2020, the investigation of No. 346/2020 was handed over. Prior to this, AD No. 40/2020 was filed in this case, which was investigated by Ashok Gaiki. He received the documents of the investigation conducted by him and the documents after the registration of the case. He had given a request letter Exh. 58 and 59 to the Judicial Magistrate First Class, Babhulgaon to record the statements of the witnesses. He recorded the statements of the witnesses. As evidence was found against the accused, he filed a charge sheet against him in the court.

20. The prosecution has not examined Atul and Shubham who accompanied with the deceased. On going through the cross-examination of P.W. No. 2 Ajay, he admitted that the incident took place on the track of Ox-cart from Alegaon to Dehani. The place where the incident took place is the field of Annapurna Nilkanth Raut. The incident took place on the footpath road after the boundary of her field. On the opposite side is the field of Bapurao Dasarur Raut. On going through the above admissions, it appears that the accident took place on

the track of ox-card from Alegaon to Dehani.

21. On going through the spot panchanama Exh.39, it appears from the sketch map drawn in the spot panchanama, the dead body was lying near the field of Shivdas Raut and thereafter, the filed of Annapurna is shown. So also this map in spot panchanama corroborates with the panchanama drawn by TILR, Babhulgaon at Exh. 40. Further, after going through the 7/12 extract (Exh.50) of agricultural field Gat No. 243 situated at Dehani, it appears that the said field is in the name of Annapurna Nilkhant Raut, Ashok Raut, Shivdas Raut and Amol Raut.
22. The prosecution itself in the documents placed before this Court has not shown, that the accused Abhijit is the owner of the said property. Therefore, the oral evidence needs to be scrutinized. On going through the oral evidence of P.W.No. 2 Ajay he is only stating that when they reached the field of accused Abhijit, the deceased met with iron fencing and thereby he died. Except this no evidence is on record to show that accused is owner, possessor of the said land.
23. The prosecution has not examined any owner of the said field nor the adjacent land owners to prove the fact that the said land was possess and cultivated by accused. In absence of this, it can not be said that accused was having domain over the said land and he has iron fencing and transmitted electric supply in the said iron fencing over the field. The prosecution has filed a report of Assistant Engineer MSEB, Babhulgaon. This document is admitted by the defence vide Exh. 52. On

going through the said document also the Assistant Engineer opined that the said land was owned by Annapurna Raut.

24. The defence has admitted the spot panchanama Exh.39, inquest Panchanama Exh. 41, seizure panchanamas Exh. 45 and postmortem report Exh.48. But prosecution has failed to establish the guilt of accused by adducing evidence of witnesses.

25. Considering the evidence laid by the prosecution to prove the guilt of the accused, in my view, the prosecution has utterly failed to prove the fact that accused have stolen the electricity and electric current was supplied to wire fencing installed on the spot of the incident. Further the prosecution has failed to prove that accused was cultivating the said land and he had erected iron wire fencing on the said field. Therefore, I answer to point No. 1 and 2 in the negative. In lieu to point No. 3 I pass the following order.

ORDER

- 01) The accused Abhijit Shivdas Raut is hereby acquitted under Section 235(1) of the Code of Criminal Procedure for the offence punishable under Section 304 of the Indian Penal Code, 1860 and 135 of the Electricity Act, 2003.
- 02) The muddemal property being worthless be destroyed after appeal period is over.
- 03) The bail bonds of the accused stands cancelled.
- 04) Accused is hereby directed to furnish his bail bond with surety of Rs.15,000/- as required

..13..

S C No.30/2021
State .vs. Abhijit
Judgment

under Section 437-A of Criminal Procedure Code, to appear before the Hon'ble higher Court as and when such court issues notice in respect of any appeal or petition filed against this judgment.

(Dictated and pronounced in open Court.)

Dated :20/05/2026.

(Shekhar C. Munghate)
Sessions Judge,
Yavatmal.

Certificate

I affirm that the contents of this P. D. F. Judgment/ Order are same word to word, as per the original judgment/ Order.

Name of Stenographer :- R. S. Wanjari,
Stenographer Grade I.
Court name :- Principal District & Sessions Court,
Yavatmal.
Date :- 20/05/2026
Judgment signed by
Presiding officer on :- 20/05/2026
Judgment uploaded on :- 20/05/2026

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