

CNR No.MHOS1600-0438-2024.



Received on : 27.09.2024
Registered on : 27.09.2024
Decided on : 27.07.2026
Duration : Y. M. D.
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IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE,
AT KALLAM, DIST. OSMANABAD.
(Before : V. K. Mande, B.A.LLM.)

Cri. Appeal No.13/2024.

Exh.20

Ashwini w/o Sandip Chorghade,
Age- 34 years, Occu.- House wife,
R/o Borgaon(Dh.), Tq.Kallam,
Dist. Dharashiv, at present Kallam,
Tq.Kallam, Dist.Dharashiv(Osmanabad).

... Appellants

Versus

1. Laxman s/o Pandhari Chorghade,
Age- 60 yrs., Occu.-Agri.,
R/o Borgaon(Dh.), Tq.Kallam,
Dist.Dharashiv (Osmanabad).
2. Ashabai w/o Laxman Chorghade,
Age- 55 yrs., Occu.-Household,
R/o as above.
3. The State of Maharashtra,
Through : A.G.P., Kallam,
Tq.Kallam, Dist.Dharashiv.

...Respondents

**Appeal under Section 419 r/w section 413
of BNSS Act.**

Mr.D.N.Gond, Advocate for appellants.
Mr.S.M.Dhepe, Advocate for respondent no.1 & 2.
Mr. A. S. Kulkarni, APP for respondent no.3.

J U D G M E N T

(Delivered on : 27.07.2026)

The appellant/complainant calls in question an impugned judgment and order in RCC No.56/2017 passed on 29.08.2024 by Ld. Judicial Magistrate First Class, Kallam acquitted them for an offence punishable u/sec.324,323,504,506 r/w 34 of the Indian Penal Code (In short “IPC”).

2- The parties to the appeal are referred as per their original status in the case.

In narrow compass, the complainant's case is as follows :

3- Informant Ashwini Sandip Chorghade lodged complaint before Washi police station alleging therein he resides at Borgaon (Dh.), Tq.Kallam. Her marriage was performed in the year 2011 with Sandip Chorghade, then in the year 2015 she had lodged complaint against her husband and parents u/sec. 498(A) of the IPC, since then she was residing in the house of her father-in-law who is accused no.1 in his house and her husband was residing at Mumbai. On 18.02.2017 at about 10.00 am she was present in her house, her father-in-law and mother-in-law had came towards her and they told you give divorce to their son and left the house. She denied the same. Her father-in-

law caught-hold her two hands and her mother-in-law assaulted to her by means of stone on her head and they also threatened to kill her and abused in filthy language.

4- On the basis of complaint, concern PSO registered crime No.40/2015 under sec.323,324,504,506 r/w 34 of the IPC against accused no.1 and 2 who are father-in-law and mother-in-law of the informant and further investigation was carried out. During investigation I.O. recorded statement of witnesses and after completion of investigating I.O. filed charge-sheet against the accused before J.M.F.C. Kallam.

5- Ld. Judicial Magistrate First Class framed charge vide Exh.12. It was explained to accused in vernacular. They have pleaded not guilty, therefore case is tried against them.

6- Prosecution examined witnesses, submitted the documents on record, statement of accused u/sec. 313 of the Criminal Procedure Code are recorded. Accused have denied all the allegations against them.

7- Ld. Judicial Magistrate First Class after considering the prosecution evidence came on record acquitted the accused no. 1 & 2 for the offences punishable u/sec.323,324,504,506 r/w 34 the Indian Penal Code.

8- Being dissatisfied with the impugned judgment and order

of acquittal passed to the accused No.1 & 2, informant preferred present appeal on the ground that the learned trial Court has not appreciated oral evidence on record, properly, judiciously and drawn wrong conclusion. So, approach of the Ld. Trial Court is not just and proper one. So, the judgment and order of the Ld. Trial Court is erroneous and against the principle of criminal jurisprudence.

9- Perused the impugned judgment and order of conviction, documents placed on record and on perusal of proceeding of Ld. Trial Court, following points arise for my determination and I have recording my findings for the reasons stated herein below.

Sr. No.	POINTS	FINDINGS
1.	Whether prosecution proves that on 18.02.2017 at about 10.00 hours in village Borgaon (Dh.), Tq.Kallam, Dist.Dharashiv accused no.1 and 2 in furtherance of their common intention voluntarily caused hurt to informant by means of stone ?	Not proved.
2.	Whether prosecution proves that on the same date, time and place accused no.1 and 2 in furtherance of their common intention voluntarily caused hurt to the informant ?	Not proved.
3.	Whether prosecution proves that on the same date, time and place accused no.1 and 2 in furtherance of their common intention intentionally insulted to the informant and gave him provocation intending or knowing it to be likely that such provocation will cause him to break public peace or to commit any other offence ?	Not proved.

4.	Whether prosecution proves that on the same date, time and place accused no.1 and 2 in furtherance of their common intention committed criminal intimidation by threatening informant with injury to his person with intent cause alarm to him ?	Not proved.
5.	Whether an impugned judgment and order needs interference ?	No.
6.	What Order ?	As per final order.

REASONS

As to Point Nos. 1 to 6 :

10- All these points are interlinked to each other, so with a view to avoid repetition of facts, they are discussed and decided in common discussion.

11- I have gone through the evidence of prosecution which is on record, recorded by the Ld. Trial Court. Perused impugned judgment and order of acquittal passed by the Ld. J.M.F.C. Kallam. Heard Ld. Adv.D.N.Gond for appellant, Ld.Adv.S.M.Dhepe for respondent nos.1 and 2 and Ld. A.P.P. Shri.A.S.Kulkarni for State, at length.

12- Ld.Adv. Appearing on behalf of appellant submitted that the Ld.Trial Court have not properly considered oral and documentary evidence on record and wrongly come to the conclusion and acquitted to both accused. Ld.Trial court ought to have considered the sole testimony of informant but without considering the same acquitted to

both accused. So he relied on the case, **Namdeo Vs State of Maharashtra; Cri.A.No.914 of 2006; D.On 13.03.2007**; Wherein Hon'ble Apex Court pleased to observe and held that, "a conviction can rest solely on a single credible, reliable witness, even uncorroborated, quality of evidence prevails over quantity, unless statute dictates otherwise". So, relying on this authority he submitted that Ld.Trial Court ought to have considered the sole testimony of the informant and therefore he prayed accused no.1 and 2 liable to be convicted for the offences levelled against them.

13- In reply, Ld.Adv. For respondent Shri.Dhepe submitted that the Ld.Trial Court considering the evidence of prosecution witnesses total in all 08 witnesses are examined and considering their evidence Ld.Trial Court acquitted to the accused persons from the offences levelled against them. So also, Ld.Trial Court properly appreciated evidence of prosecution on record and passed legal, just and proper order and it does not require any interference.

14- However, I have gone through the thoughtful submission of both advocates and on perusal of evidence of prosecution which is on record, recorded before Ld.Trial court. Firstly it appears that complainant specifically stated in her complaint, her marriage performed with Sandip Chorghade in the year 2011, in the year 2015 she lodged complaint against her husband, mother-in-law and father-in-law u/sec. 498-A of the IPC and since then she was residing in house of accused no.1. She has not stated in her complaint in which place accused no.1 and 2 were resided and she was stated she was

alone resided in the house which is standing in the name of accused no.1. On 18.02.2017 accused no.1 who is her father-in-law caught-hold her hand and accused no.2 assaulted to her by means of stone and therefore she sustained head injury.

15- Further she deposed that on 18.02.2017 at about 10.30 am she was alone present in her house, accused no.1 and 2 had came towards her and they told you lodged the case against them and same be withdrawn. But in complaint she stated accused told to her give a divorce to her son and assaulted to her. So, the word used by the accused are inconsistent in her complaint and in her testimony. She also deposed both accused assaulted to her by means of kick and hand blow but same is not stated in her complaint. She deposed accused no.1 caught-hold her hand and accused no.2 assaulted to her by means of stone on his head and they threatened to kill her but reason of assault as stated in the complaint is inconsistent in her testimony.

16- Further it appears that during her cross-examination she stated no any one had came on spot at the time of incident but incident took place in Rural area in house of accused no.1 and there are surrounding houses. So, certainly when there is quarrel, neighbourers might have came on the spot of incident. But she stated no anyone had came at the time of incident. Further she denied after lodging the complaint u/sec. 498(A) of the IPC she was residing at village Borgaon (Dh.) and she denied the same. But it is pertinent to note that when her husband was residing at Mumbai and case u/sec. 4989A) of the IPC lodged against the accused persons including her

husband. So, she residing in house of accused no.1 appears to be doubtful as no any neighbourer deposed informant was residing on the day of incident in the house of accused no.1.

17- Secondly, it appears that the prosecution has examined PW2 Shrikrishna Nilkanth Chandanshiv who is brother of informant, his evidence is hearsay as he was not present on spot at the time of incident as per testimony of complainant. The prosecution has examined PW3 Nilkanth Chandanshive who is father of informant and he deposed on 18.12.2017 accused persons assaulted to informant but he came to know said information on mobile. So, testimony of PW3 is also hearsay one.

18- Thirdly, it appears that prosecution has examined PW4 Shesherao Chorghade. He deposed that he knows to the informant and accused and his house is adjacent to house of accused no.1. But he do not know about the incident. So, PW4 who is neighbourer of the house of accused no.1 in which place incident was took place turn hostile and has not supported to the case of prosecution. Not only this prosecution has examined PW5-Daivshala Chorghade, she also residing adjacent to the house of accused no.1 and she do not know about the incident. So, both these independent witnesses has not deposed that the at the time of incident informant was residing in the house of accused no.1.

19- Fourthly, it appears that prosecution has examined PW6 Subhash Tupare who is spot panch witness, he deposed on 20.02.2017 police had called to her in house of accused no.1 and

prepared spot panchnama. But he has not deposed any stone is seized on spot of incident. Further it appears that prosecution has examined PW7 Dr.Radha Shelgikar, her evidence purports to show that on 18.02.2017 she examined to the informant and found abrasion on occipital area of scalp. The nature of injury was simple, caused by hard and blunt object. She issued injury certificate which is below Exh.34. Further it is not suggested by Ld.APP injury sustained to informant likely to be caused stone by showing stone to the expert witness. Prosecution has examined PW8 Mahadeo Raut who is IO of this case. He visited spot prepared spot panchnama, then he recorded statement of witnesses and after completion of investigation he filed charge-sheet, but he has not specifically deposed whether he seized alleged stone or not which was used by the accused no.2. So the said stone is not seized by the I.O. So, considering all these things as discussed above it creates doubt about the guilt of accused persons. So, the judgment passed by the Ld.Trial Court is just and proper one, it does not requires any interference. So, I answer point nos.1 to 5 in the negative accordingly. Hence, I proceed to pass the following order.

ORDER

- 1) Appeal is hereby dismissed.
- 2) Impugned judgment and order of acquittal passed in Regular Criminal Case No.56/2017 dated 29.08.2024 passed by Ld. Judicial Magistrate, First Class, Kallam is hereby confirmed.

- 3) Bail bonds of accused Nos.1 and 2 stands cancelled.
- 4) The record and proceeding be remitted to the Trial Court.

(Dictated and pronounced in open Court)

Date : 27.07.2026.

(V. K. Mande)
Addl. Sessions Judge, Kallam.

CERTIFICATE

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

Name of Stenographer	: S.R.Ghadge, Stenographer(Grade-I)
Court Name	: Addl. Sessions Court, Kallam.
Date	: 27.07.2026
Order signed by the P.O.on	: 27.07.2026
Order uploaded on	: 27.07.2026