

(Judgment)

(1)

S.C.C./ 1854 / 2021

State Vs. Hukumsinh Thakur

MHND030051052021



Received on : 12/11/2021

Registered on : 12/11/2021

Decided on : 07/08/2026

Duration : 04Y 08M 25D

Part 'A'

(Title part of Judgment)

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

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS (COURT NO.4), NANDED Before : Shri. R. M. Kayastha (Date of Judgment - 07/08/2026)		
<u>S.C.C. / 1854 / 2021</u>		<u>Exh. No.46</u>
Details of FIR Crime No.175/2021 Police Station - Itwara		
Complainant	State of Maharashtra Through Police Station Officer, Police Station Itwara, Dist. Nanded.	
Represented by	Ld. A.P.P. Smt. S. R. Jaiswal	
Accused	1.	Hukumsinh Dayalsinh Thakur, Age - 51 years, Occ. : Business,
	2.	Bablu @ Hanumansinh Hukumsinh Thakur, Age - 30 years, Occ. : Business,
	3.	Bajarang Omsinh Thakur, Age - 18 years, Occ. : Business, All R/o. Lohar Galli, Itwara, Nanded.
Represented by	Shri. T. N. Patil, Ld. Advocate for accused	

Part 'B'

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

Date of offence	19/07/2021.
Date of FIR	20/07/2021.

(Judgment)

(2)

S.C.C./ 1854 / 2021

State Vs. Hukumsinh Thakur

Date of charge-sheet	12/11/2021.
Date of framing of charges	04/12/2024.
Date of commencement of evidence	19/04/2025.
Date on which judgment is reserved	--
Date of the Judgment	07/08/2026.
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.
1)	Hukumsinh Dayalsinh Thakur	22/07/2021.	22/07/2021.	Sec. 294, 323, 506 r/w of I.P.C.	Acquitted	--	--
2)	Bablu @ Hanumansinh Hukumsinh Thakur	22/07/2021.	22/07/2021.		Acquitted	--	--
3)	Bajarang Omsinh Thakur	22/07/2021.	22/07/2021.		Acquitted	--	--

Part 'C'

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

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution :

Rank	Name	Nature of Evidence
PW-1	Ravindra Dilipsinh Thakur	Informant
PW-2	Hanumansinh Babusinh Thakur	Eye Witness
PW-3	Taimursinh Balawantsinh Thakur	Spot Panch
PW-4	Nagesh Ganpatrao Wadiya	Investigating Officer

B. Defence Witnesses, if any :

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

C. Court Witnesses, if any :

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

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

Sr. No.	Exhibit Number	Description
1)	Exh.1	Charge-sheet
2)	Exh.23/PW-1	Report
3)	Exh.24/PW-1	F.I.R.
4)	Exh.35/PW-3	Spot Panchanama
5)	Exh.38 to 40/PW-4	Notices U/sec. 41(A) of CrPC

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1	Exh.42 to 44	Statement of accused U/sec. 313 of CrPC

D. Material Objects :

Sr. No.	Material Object No.	Description
1	Nil	--

: J U D G M E N T :(Delivered on this 7th day of August, 2026)

1. Accused Nos.1 to 3 are prosecuted for the offence punishable under sections 294, 323, 506 r/w. Section 34 of the Indian Penal Code.

PROSECUTION CASE :-

2. The informant Ravindrasinh Dilipsinh Thakur lodged a report that on 19/07/2021, at about 2:30 p.m., he was

standing on the open plot situated in front of his house. At that time, accused Nos. 1 to 3 came there and abused him on the count of dispute over plot by saying "तेरी माँ की च्युत, तेरी मा का भोसडा". At that time his wife was tried to convince them, but accused Nos. 1 and 3 beat her. All the accused also threatened to kill them.

3. On the basis of the aforesaid report, Crime bearing No. 175/2021 came to be registered at Itwara Police Station, Nanded under sections 294, 323, 506 r/w. 34 of the Indian Penal Code. The investigating officer then interrogated the witnesses, recorded their statements, prepared spot panchanama and as the investigation revealed that the accused committed the offences punishable under aforesaid sections, the investigation officer filed report u/s. 173 of Cr.PC against the accused in this Court.

4. My learned Predecessor framed charge against accused Nos. 1 to 3 at Exh.15, for the offence punishable under sections 294, 323, 506 r/w. 34 of the Indian Penal Code. The particulars of the charge were read over to the accused in vernacular to which they pleaded not guilty and claimed to be tried.

5. In order to prove its case, the prosecution examined total four witnesses as mentioned in Part C-A. The prosecution relied on the documentary evidence as mentioned in list of prosecution exhibits mentioned above in Part C.

6. I have recorded the statement of accused Nos. 1 to 3 under section 313 of the Code of Criminal Procedure vide Exh.42 to 44. The defence of the accused is that false report is lodged against them.

7. The points for determination alongwith my findings thereon are as under :-

Sr.No	Points	Findings
1)	Does the prosecution prove that on 19/07/2021, at about 2:30 p.m in front of the house of informant Ravindrasinh Dilipsinh Thakur situated at Chirag lane, Nanded, accused Nos. 1 to 3 in furtherance of their common intention, uttered obscene words as "तेरी माँ की च्युत, तेरी मा का भोसडा" to the informant on public road and caused annoyance to him ?	No.
2)	Does the prosecution further prove that, on the aforesaid date, time and place, accused Nos.1 and 3 in furtherance of their common intention with accused No.2, voluntarily caused hurt to the wife of informant by beating her ?	No.
3)	Does the prosecution further prove that, on the aforesaid date, time and place, accused Nos.1 to 3 in furtherance of their common intention, committed criminal intimidation by threatening the informant and his wife to kill them ?	No.
4	What order?	As per final order.

REASONS**AS TO POINT NOS. 1 TO 3:-**

8. All these points are inter linked with each other, therefore, to avoid repetition of discussion of evidence, I have discussed them together.

9. The prosecution examined the informant Ravindrasinh (PW.1) at Exh.22. He deposed that on 19/07/2021, at about 2-30 p.m., in front of his house situated at Chirag lane, the accused abused him by using obscene words. When his wife came on the spot of incident, the accused abused and threatened to kill them. Thereafter, he lodged report (Exh.23) against the accused.

10. During the cross-examination, the informant admitted that the suit in respect of plot is pending in Nanded Court. He also admitted that accused No.1 Hukumsinh lodged report against him and others at Itwara police station. However, he denied the suggestion given on behalf of the accused that to give the counter blast to the said report, he lodged the present report against the accused. He further stated that he did not lodge report against the accused on 19/07/2021. He also admitted that the accused Hukumsinh lodged report against them on 20/07/2021, therefore he lodged the present report against them at 6-30 p.m.

11. The prosecution examined the eye witness of the incident namely Hanumansinh (PW2) at Exh.30. He deposed

that incident occurred on 19/07/2021 at about 2-30 p.m. On that day, quarrel took place between the informant, his wife and accused in Chirag lane on the count of dispute over plot. The accused threatened to kill the informant and his wife. Except that, nothing else happened. He intervened the quarrel.

12. During the cross-examination, he admitted that informant had no concern with the disputed plot. He further admitted that on 20/07/2021 the brother of accused No.1 namely Omsinh Dayalsinh Thakur lodged report against him and others regarding preparing forged documents at Vazirabad police station and in the said case, he was acquitted. He further admitted that appeal filed against the said case is pending. He stated that police recorded his statement on 19/07/2021.

13. To prove the spot panchanama, the prosecution examined the panch witness Taimursinh (PW3). He deposed that on 21/07/2021 police called him in front of the house of informant situated at Chirag lane for preparing the spot panchanama (Exh.35). The panchanama was prepared between 8-30 a.m and 9-00 a.m. While preparing the panchanama, one Durgesh was also present with him. During the cross-examination, he admitted that the panchanama was already written by police and they told him to sign and he signed over it. He did not read the contents of the spot panchanama. He further stated that it did not happen that he narrated the contents of panchanama to police and police written down accordingly.

14. Lastly, there is evidence of investigating officer Nagesh (PW4). During his evidence, he stated about the investigation carried out by him. During cross-examination he stated that he investigated the crime registered on 20/07/2021 on the report of accused No.1. He further stated that he did not record the statement of the wife of informant.

15. Heard the arguments of the learned A.P.P and Advocate Shri T.N. Patil. The learned A.P.P argued that the evidence of the informant remained intact. No omission and contradictions are brought on record. Hanumansinh (PW2) corroborated the evidence of the informant. Taimursinh (PW3) corroborated the prosecution case about preparation of the spot panchanama (Exh.35). Therefore, the spot of incident is proved. The evidence of all the witnesses are consistent. The prosecution proved the ingredients of Section 506 of the Indian Penal Code. All the witnesses deposed about threatening to kill the informant and his wife. The prosecution proved its case beyond reasonable doubt. Hence, she prayed to convict the accused persons.

16. The learned Advocate for the accused argued that the evidence of the prosecution witnesses is inconsistent with each other. The statement of the important witness i.e wife of the informant is not recorded by the investigating officer nor examined by the prosecution. Hanumansinh (PW2) not stated what incident took place. Taimursinh (PW3) who is the spot panch is the relative of the informant. During the cross-

examination, the panch witness admitted that the panchanama was already written by police, they told him to sign and he signed over it. He further stated that he did not read the contents of the spot panchanama. Therefore, the prosecution failed to prove the spot panchanama. The informant lodged report against the accused persons to give the counter blast to the report lodged by accused No.1. The witnesses have not stated the exact words of abuses hurled by the accused. The evidence of the prosecution witnesses is vague and it cannot be relied upon. The prosecution failed to prove the ingredients of the offence beyond all reasonable doubt. Therefore, the accused persons be acquitted.

17. It is a settled principle of law that the burden lies entirely upon the prosecution to establish the guilt of the accused beyond all reasonable doubt. The accused are entitled to the benefit of every reasonable doubt arising from the evidence on record.

18. The prosecution case mainly rests upon the evidence of the informant Ravindrasinh (PW1) and the alleged eye witness Hanumansinh (PW2). Before appreciating their evidence, it is necessary to note that the admitted background of the case is that there is a long-standing civil dispute regarding the plot between the parties. The informant Ravindra (PW1) himself admitted that a civil suit regarding the plot is pending before the Court at Nanded. He also admitted that accused No.1 had lodged a criminal report against him and others. Thus, previous enmity between the parties is an

admitted fact. Though mere enmity is not a ground to discard the prosecution case, it equally provides a motive for false implication. Therefore, the evidence of the prosecution witnesses requires careful scrutiny.

19. According to the FIR, the accused abused the informant in obscene language and when the wife of the informant intervened, accused Nos.1 and 3 assaulted her and all the accused threatened to kill both of them. However, while deposing before the Court, informant Ravindra (PW1) merely stated that the accused abused him and thereafter abused and threatened to him and his wife. He has not stated in his evidence that accused Nos.1 and 3 assaulted his wife, though such allegation forms a material part of the First Information Report. This omission is significant because the prosecution had also charged the accused for the offence punishable under Section 323 of the Indian Penal Code. Thus, the evidence of informant Ravindra (PW1) does not support the allegation of voluntarily causing hurt.

20. Another important circumstance is that the wife of the informant, who was the alleged victim of assault and one of the persons allegedly threatened by the accused, has neither been examined by the prosecution nor even her statement was recorded during investigation. The Investigating Officer Nagesh (PW4) candidly admitted in his cross-examination that he did not record her statement. No explanation whatsoever is forthcoming from the prosecution for withholding this material witness.

21. The wife of the informant was the most natural and material witness to prove the alleged assault and criminal intimidation. In the absence of her evidence, the prosecution withheld the best available evidence. Such omission assumes importance because the allegations of assault are specifically attributed to accused Nos.1 and 3 against her. An adverse inference can therefore legitimately be drawn against the prosecution.

22. The evidence of Hanumansinh (PW2) also does not materially advance the prosecution case. Though he stated that a quarrel took place and that the accused threatened the informant and his wife, he did not describe the actual incident. He has not stated who abused whom, what words were uttered, which accused gave threats, or in what manner the threats were administered. His evidence is extremely general and vague in nature.

23. Further, during cross-examination, Hanumansinh (PW2) admitted that the informant had no concern with the disputed plot. He also admitted that a criminal case regarding forged documents had been lodged against him and others by the brother of accused No.1 and that the appeal arising therefrom is pending. These admissions indicate that Hanumansinh (PW2) was not an independent witness but was also involved in litigation against the accused side. Therefore, his testimony requires corroboration from independent evidence, which is absent in the present case.

24. The prosecution has also relied upon the spot panchanama (Exh.35). However, the evidence of panch witness Taimursinh (PW3) itself demolishes its evidentiary value. PW3 categorically admitted that when he reached the spot, the panchanama had already been written by the police and he merely signed it. He further admitted that he neither narrated the contents of the panchanama nor read them before signing. Thus, the preparation of the spot panchanama in the manner required by law becomes doubtful. In any event, the spot panchanama merely shows the place of occurrence and does not establish the commission of the alleged offences.

25. The evidence of PW1 further creates doubt regarding the very genesis of the prosecution case. Initially, he denied the suggestion that he lodged the report as a counter blast to the report lodged by accused No.1. However, in the same cross-examination he admitted that he did not lodge the report on 19/07/2021 and that accused No.1 had lodged a report against him on 20/07/2021, whereafter he lodged the present report at about 6.30 p.m. This admission probabilities the defence contention that the present prosecution was initiated after the registration of the case against the informant. The prosecution has not satisfactorily explained this circumstance.

26. So far as the offence punishable under Section 294 of the Indian Penal Code is concerned, the prosecution has failed to establish its essential ingredients. Though the FIR mentions certain abusive words, the prosecution witnesses have

not deposed about the exact obscene words allegedly uttered by the accused. More importantly, there is no satisfactory evidence to show that the alleged utterances amounted to obscene acts in or near a public place causing annoyance to others, which is an essential ingredient of Section 294 of the Indian Penal Code. Mere exchange of abuses during a quarrel does not automatically constitute an offence under Section 294 IPC unless all the statutory ingredients are proved.

27. Likewise, the ingredients of Section 323 of the Indian Penal Code are also not proved. There is absolutely no medical evidence on record to establish that any hurt was caused to the wife of the informant. The alleged injured herself has not entered the witness box. Even informant Ravindra (PW1) omitted to depose that accused Nos.1 and 3 assaulted his wife. Thus, the allegation of voluntarily causing hurt remains unsubstantiated.

28. Regarding the offence punishable under Section 506 of the Indian Penal Code, both informant Ravindra (PW1) and Hanumansinh (PW2) have generally stated that the accused threatened to kill the informant and his wife. However, except this bald assertion, there is no convincing evidence regarding the nature of the threat, the words used, or the circumstances indicating that the threat was intended to cause alarm to the informant. Mere use of the expression "threatened to kill" without proving the intention to cause alarm or the actual effect thereof is insufficient to constitute criminal intimidation. In the backdrop of admitted civil litigation and previous disputes

between the parties, such vague and omnibus allegations do not inspire confidence.

29. The prosecution evidence also suffers from lack of independent corroboration. Though the alleged incident occurred in front of the house of the informant in a residential locality during daytime, no independent neighbour or resident of the locality has been examined. The prosecution has relied only upon interested or related witnesses. Though conviction can be based upon the testimony of interested witnesses if found reliable, in the present case their evidence suffers from material omissions, inconsistencies and admitted background of hostility.

30. The learned A.P.P argued that though the witness Hanumansinh (PW2) is interested witness, it cannot be said that he is interested witness and his evidence is not admissible. His evidence is trustworthy and consistent and conviction can safely be based upon it. In support of her contentions, she relied on the case law of Hon'ble Supreme Court in case of **Ramji Singh vs. The State of Uttar Pradesh, reported in AIR 2020 Supreme Court 169**, wherein it is held that “ *The testimony of a related or interested witness is not inadmissible. It must be carefully scrutinized, and if it is found to be natural, trustworthy and consistent, conviction can safely be based upon it. Relationship by itself is not a ground to discard otherwise reliable evidence*”.

31. After going through the facts of the above case law, it appears that in the said case two witnesses have corroborated

on all counts. In the present case, Hanumansingh (PW2) did not corroborate the evidence of the informant (PW1). Moreover, the evidence of the informant himself was vague. Therefore, the case law cited by the learned A.P.P is not helpful for the prosecution to prove its case against the accused persons.

32. It is a settled principle that the prosecution is required to prove the guilt of the accused beyond reasonable doubt. Where two views are reasonably possible from the evidence on record, the one favourable to the accused must be adopted. Upon an overall appreciation of the oral and documentary evidence, it is evident that the prosecution has failed to prove beyond reasonable doubt that the accused intentionally uttered obscene words so as to constitute an offence under Section 294 of Indian Penal Code, voluntarily caused hurt punishable under Section 323 of Indian Penal Code, or committed criminal intimidation punishable under Section 506 of Indian Penal Code. Consequently, the accused are entitled to the benefit of doubt and deserve to be acquitted. Hence, I answer point Nos. 1 to 3 in the negative.

AS TO POINT NO.4:-

33. The cumulative effect of the aforesaid discussion is that the prosecution failed to prove the offence punishable under section 294, 323, 506 r/w. Section 34 of the Indian Penal Code beyond reasonable doubt. Therefore, in view of my negative findings as to point Nos. 1 to 3, the accused deserve to be acquitted. In the present case, nothing is recovered by the

investigating officer during investigation. Therefore, no order is passed about the muddemal property. Hence, I proceed to pass the following order -

ORDER

- 1) The accused No.1 Hukumsinh Dayalsinh Thakur, No.2 Babalu @ Hanumansinh Hukumsinh Thakur and No.3 Bajarangsinh Omsinh Thakur are hereby acquitted of the offences punishable under sections 294, 323, 506 r/w. Section 34 of the Indian Penal Code vide Section 255(1) of the Code of Criminal Procedure.
- 2) The bail bonds of accused Nos.1 to 3 stand cancelled.
- 3) Accused Nos. 1 to 3 shall shall furnish their personal bonds and surety bonds of Rs. 15,000/- each, as per Section 437-A of the Code of Criminal Procedure, 1973.

Date : 07/08/2026

(M. R. Kayastha)
Judicial Magistrate, F. C.,
(Court No.4) Nanded.

(Judgment)

(17)

S.C.C./ 1854 / 2021

State Vs. Hukumsinh Thakur

Certificate

I affirm that the contents of this PD.F file Judgment are same word to word, as per the original Judgment.

Court Name

M. R. Kayastha

4th Jt.C.J.J.D & J.M.F.C, Nanded

Date

- 07/08/2026

Order signed by the presiding officer on

- 07/08/2026

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