

MHCC020110042019



Presented on : 19.07.2019  
 Registered on : 19.07.2019  
 Decided on : 20.06.2026  
 Duration : 06 Y, 11 M, 01 D

Exhibit-33

Form No.XXXII

Part 'A'

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

IN THE COURT OF SESSION AT GREATER BOMBAY

(Presided over by Umesh K. Sorte, Additional Sessions Judge)

(Court Room No.17)

(JO CODE: MH03513)

NEW SESSIONS CASE NO.1093 OF 2019

[Date of the Judgment: 20<sup>th</sup> JUNE, 2026]

Details of FIR/Crime Number and Police Station	: Crime No.128 of 2016 of Mankhurd Police Station, Mumbai.
Prosecution	: <b>The State of Maharashtra</b> through Police Station Officer, Mankhurd Police Station, Mumbai.
Represented by	: Ld. APP Mr. D. M. Lade for the State.
Accused	: <b>1. Mohd. Idris Abdul Hamid Khan ,</b> Age: 28 years, Occu: Nil, R/at: Janta Nagar, Durgamata Mandir Road, Mandala, Mankhurd, Mumbai. <b>2. Alimmuddin Shamsujoha Khan,</b> Age; 23 years, Occu: Nil, R/at: Janta Nagar, Behind Madina Masjid, Mandala, Mankhurd, Mumbai-43.

Represented by	: Ld. Advocate Dr. Pradeepkumar Pardesi (State Appointment) for the Accused A1 and A2.
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**Part 'B'****[Para 44(ii) of Chapter VI of Criminal Manual]**

Date of offence	: 07.04.2016
Date of FIR	: 08.04.2016
Date of Chargesheet	: 18.05.2016
Date of committal	: 23.04.2019
Date of Framing of Charges	: 14.08.2024
Date of Commencement of Evidence	: 15.01.2018
Date on which judgment is reserved	: 10.06.2026
Date of the Judgment	: 20.06.2026
Date of the Sentencing Order, if any	: Nil.

**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. P. C.
A1.	<b>Mohd. Idris Abdul Hamid Khan</b>	08.04.2016	10.06.2016	U/s.353, 504, 506 r/w. 34 of IPC	Acquitted	N.A.	N.A.
A2.	<b>Alimmuddin Shamsujoha Khan</b>	08.04.2016	10.06.2016	U/s.353, 504, 506	Acquitted	N.A.	N.A.

				r/w. 34 of IPC			
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### JUDGMENT

(Delivered on this 20<sup>th</sup> day of June, 2026)

The accused A1 and A2 are prosecuted for the offence punishable under Sections 353, 504 and 506 read with Section 34 of Indian Penal Code (In short "IPC").

#### The prosecution case, in nutshell is as follows:-

2. On 07.04.2016 at about 20:20 hours, the informant, Naik Police Constable (NPC) Chandrakant Ghadge left Mankhurd Police Station for patrolling duty along with PC Chavhan, PC Mohit and PC Diwate. During patrolling, they received a secret information regarding the accused in Crime No. 56/2016 registered under Sections 457 and 380 of the IPC. While searching the accused, at around 21:15 hours, both accused A1 and A2 were found shouting near Jagdish Lime Depot on 30 Feet Road, Mandala, Mankhurd, Mumbai. The police personnel informed them to maintain peace and order. However, the accused persons rushed on police personnel and abused them in filthy language. The accused A2 caught hold of the collar of the informant, while the accused A1 threatened the informant and the police squad by saying "वापस मंडाला में आयेँगे तो हम तुमको नही छोडेँगे". Despite repeated instructions to maintain peace, the accused continued to abuse them and threaten the police personnel. By their acts, they obstructed public servants from performing their lawful duties. Both accused were apprehended and took to the police station. Then, the informant lodged report against

them at Mankhurd police station.

3. On the basis of the report lodged by the informant, the police registered the present crime for offences punishable under Sections 353, 504 and 506 read with Section 34 of IPC.

4. The investigation was entrusted to Woman Police Sub-Inspector (WPSI) Maya Gaikwad (Patil) (PW-5). During investigation, PSI Gaikwad arrested the accused and prepared arrest cum surrender forms. Later, PSI Pravin Bhosale (PW-6) recorded the statement of witnesses. After completion of investigation, he filed charge-sheet against both accused in the Court of learned Metropolitan Magistrate, 52<sup>nd</sup> Court, Kurla, Mumbai (Ld. MM) for the offences punishable under Sections 353, 504 and 506 read with Section 34 of IPC.

5. Ld. MM framed charge for the offences supra against both the accused and recorded evidence of the informant, NPC Chandrakant Ghadge (PW-1).

6. Owing to the Maharashtra (Amendment) Act 40 of 2018, offence punishable under Section 353 of IPC is made exclusively triable by Court of Session. Therefore, Ld. MM committed the case to the Court of Session as per Section 323 of the Code of Criminal Procedure, 1973 (Cr. P. C.) vide order dated 23.04.2019, which came to be assigned to this Court.

7. My learned Predecessor has framed the charge against both accused on 14.08.2024 at Exh. 06 for the offence punishable under Sections 353, 504 and 506 of IPC read with Section 34 of IPC. Their pleas were recorded at Exh. 07 and 08. The contents of charge were

read over and explained to them in vernacular to which they pleaded not guilty and claimed to be tried.

8. To substantiate its case against both accused, the prosecution has examined six witnesses. The oral as well as documentary evidence of the prosecution and defence is shown in Part-C, appended to the judgment as directed in para 44(iii), Chapter VI of the Criminal Manual. The prosecution and the defence has filed joint pursis at Exh.13 and adopted the evidence of the informant (PW-1) recorded by the ld. MM. The prosecution has closed its evidence by filing pursis at Exh.25.

9. As there is incriminating evidence against the accused, their statements came to be recorded under Section 313(1) (b) of Cr.PC. at Exh.26 and 27. Both accused has filed additional written statements (Exh.28 and 29).

10. Both the accused neither stepped into the witness box to testify themselves nor led any evidence in their defence. Their defence, as seen from the cross-examination and statement under section 313(1) (b) of Cr.PC. is of total denial and false implication.

11. Heard the learned APP, Mr. D. M. Lade for the prosecution and the learned Advocate, Mr. Pradeepkumar Pardeshi for the accused A1 and A2. Perused the notes of argument filed by the defence at Exh. 30.

12. Considering the charge against the accused, material evidence on record, the statement of the accused under section 313(1) (b) of Cr.PC. and rival submissions of the prosecution and the defence,

following points arise for my determination along with my findings thereon are as under:

Sr. No.	Points	Findings
1.	Does the prosecution prove that on 07.04.2016 at 21.15 hrs. at Vikas Mandal, 30 feet road, in front of Jagdish Lime Depot, Mankhurd, Mumbai, accused A1 and A2, in furtherance of their common intention, assaulted or used criminal force to the informant NPC Chandrakant Ghadge and other police personnel, being public servants in execution of their duty as such public servants, or with intent to prevent or deter them from discharging their duty as such public servants?	No
2.	Does the prosecution prove that on the aforesaid date, time and place, in furtherance of their common intention both accused, intentionally insulted to the aforesaid informant and witnesses by abusing them in filthy language and thereby gave provocation to them with intent that such provocation would cause them to break public peace?	No
3.	Does the prosecution prove that on the aforesaid date, time and place, both accused in furtherance of their common intention, threatened to the aforesaid informant and witnesses to cause injury to their person?	No
4.	What order?	The accused A1 and A2 are acquitted as per final order.

**REASONS**

**As to Point Nos. 1 to 3:**

13. The evidence on these points is common and interlinked with each other, therefore, they are discussed together to avoid repetition and for brevity.

14. It is settled principle of law that in criminal trials, prosecution is always bears burden to prove the guilt of accused beyond reasonable doubt. So as to discharge said burden, in the present case, the prosecution has examined in all six witnesses.

15. The informant, NPC Ghadge (PW-1) deposed that on 07.04.2016, while on patrolling duty, he received the information that the accused was going to arrive at 30 Feet Road. On reaching the spot, he noticed both accused were shouting near Jagdish lime depot. He advised them to maintain peace. At that time, the Accused A2 caught hold of his collar, while the accused A1 questioned him as to why he had come there and what is to be done there. He tried to pacify them but they continued their acts. Then he lodged report against both accused. He proved FIR (Exh.18).

16. During cross examination of the defence, the informant, NPC Ghadge (PW-1) admitted that before going to patrolling duty, he made a station diary entry. He stated that he was engaged in patrolling as well as searching for the accused. At the relevant time, he was not in proper uniform. PC Divate (PW-2), PC Mohite (PW-3) and PC Chavhan were present with him. They did not carry police sticks. The duty chart is not filed on record. The market is situated near the spot of incident.

17. The prosecution witness PC Divate (PW-2) deposed that on 07.04.2016, he was on duty alongwith NPC Ghadage (PW-1), PC Mohite (PW-3) and PC Chavhan searching for the accused in Crime No. 56/2026 in Mandala area. At around 9:00 p.m., on the 30 feet road, near Durga Mata Temple, Mandala, both accused arrived there and told NPC Ghadge, “तुम इधर आओ मत, निकल जाओ यहासे”. Then, the accused A1 caught hold of the informant’s collar, pushed and assaulted him. They apprehended both accused and took them to the police station.

18. During cross examination of the defence, PC Divate (PW-2) admitted that he had not handed over any document to the investigation officer to show that he was on duty on the day of incident. He further admitted that it is necessary to make an entry in concerned register before going to patrolling duty.

19. The eye witness PC Mohite (PW-3) has stated that on the day of incident, he was on patrolling duty along with the informant and PC Chavan on 30 feet road, Mandala, Mankhurd. The accused A2 caught hold of the informant’s collar and abused him. When they asked both accused to maintain peace they scuffled. The accused A1 threatened by saying “मानखुर्द में मत यांना वरणा देख लुंगा”. They took both accused to the police station.

20. During cross examination of the defence, PC Mohite (PW-3) admitted that it is necessary to make entry in the station diary before proceeding to for patrolling. He had not given any documentary evidence to the investigation officer to show that he was on duty on the

day of incident. He also admitted that at the relevant time, 4-5 persons were present on the spot.

21. The prosecution examined to the preliminary investigation officer, WPSI Gaikwad (PW-5). She deposed that on the day of the incident, the informant came to the police station alongwith his colleagues and accused. The informant narrated the incident and she registered the FIR (Exh.18). She arrested the accused under arrest-cum-surrender forms (Exh.20 and Exh.21). During cross examination of the defence, she admitted that she did not visit the spot of the incident.

22. The investigation officer, API Bhosle (PW-6) who conducted further investigation, deposed that he recorded the statements of the witnesses and filed chargesheet against the accused. During cross examination of the defence, he admitted that the spot of incident is crowded public place. He recorded the statement of PC Divate (PW-2) on 11.04.2016 and PC Mohite (PW-3) on 18.04.2016, i.e. four and eleven days after the incident, respectively even though they were available at the police station. He did not visit to the spot of incident. He further admitted that PC Divate (PW-2) had stated that the accused A1 told to the informant (PW-1) “तुम इधर आओ मत, निकल जाओ यहासे”. He also admitted that no documentary evidence is produced to show that the informant (PW-1), PC Divate (PW-2) and PC Mohite (PW-3) were on patrolling duty on the day of incident.

23. To bring home an offence under Section 353 of IPC, the prosecution is required to prove beyond reasonable doubt that the informant was a public servant, he was acting in the discharge of his

official duty at the relevant time, the accused assaulted or used criminal force against him and such assault or use of criminal force was with the intention of deterring or preventing him from discharging his official duty.

24. In the present case, it is the contention of the learned APP that the informant and police staff were discharging their official duties at the spot of incident. The learned advocate for the accused has opposed this contention and argued that no documentary proof has been submitted by the prosecution to establish that fact. On careful perusal of the prosecution evidence, it shows that there is no dispute that the informant (PW-1), PC Divate (PW-2) and PC Mohite (PW-3) were police personnel. The informant (PW-1) admitted that before leaving for patrolling duty he had made an entry in the station diary and that he had not produced the station diary entry. Further, the informant (PW-1) admitted that he was not in proper uniform at the relevant time. The prosecution has not produced any duty roster, deployment order, patrolling register or any other official document to corroborate the claim that the informant (PW-1) was discharging official duty at the alleged spot.

25. Moreover, PC Divate (PW-2) and PC Mohite (PW-3) also admitted that they had not supplied any station diary entry or documentary proof showing that they were on duty on the date of the alleged incident. The station diary entry being the best available documentary evidence to establish the presence of police personnel on official duty. Ordinarily, whenever police personnel are deputed for specific duty, a station diary entry is made or a duty chart is prepared

to reflect their deployment. In the present case, although the prosecution has asserted that the informant and police staff were on official duty at the relevant time, neither the station diary entry nor the duty chart has been produced or proved on record. The absence of such documentary evidence creates a serious doubt regarding the prosecution's claim, particularly when such records are normally maintained in the regular course of police work. In these circumstances, I find substance in the contention of the learned advocate for the accused that the prosecution has failed to prove that the informant and police personnel were discharging their official duty at the time of the incident.

26. The evidence regarding the alleged use of criminal force or assault is also inconsistent. The eye witness, PC Divate (PW-2) stated that accused A1 caught hold of the collar of the informant (PW-1) and pushed him. However, the informant (PW-1) and PC Mohite (PW-3) attributed the act of holding informant's collar to accused A2. Thus, there is inconsistency on a material aspect of the incident. The prosecution has failed to explain this contradiction. This contradiction goes to the root of the prosecution case because the identity of the person who allegedly used criminal force is itself uncertain.

27. The evidence of Abdul Hakim Idrisi (PW-4), projected as an independent eye witness, does not support the prosecution case. He merely stated that he had seen a quarrel between both accused were fighting with each other and thereafter he left the spot. He specifically denied material portions attributed to him and even stated he does not

know what happened thereafter. Consequently, his evidence does not establish any assault or use of criminal force by either accused.

28. The investigation also suffers from serious deficiencies. WPSI Patil (PW-5) admitted that she never visited the spot of the incident. API Bhosale (PW-6) admitted unexplained delays in recording statements of material witnesses despite their availability. Such lapses further weaken the reliability of the prosecution case. Thus, the evidence regarding the alleged obstruction and use of criminal force or assault rests solely upon the interested testimony of police witnesses, which suffers from material contradictions, omissions and lack of corroboration.

29. So far as charge under section 504 of IPC is concerned, it is required to prove that the accused must have intentionally insulted the informant by abusing him and thereby gave provocation to him, intending or knowing that such provocation would cause him to break public peace. It is the case of the prosecution that accused abused to the informant and police personnel who were on duty. The informant (PW-1) and PC Mohite (PW-3) have deposed that the accused abused the informant. However, they failed to provide specific details of the alleged abuse. Moreover, the eye witness PC Divate (PW-2) remained silent about any abuse attributed to the informant and police personnel. There is no consistent and reliable evidence regarding the exact words allegedly used by the accused. The alleged utterances are not consistently spoken by the witnesses. There is absolutely no evidence on record to show that the accused abused to the informant, and they gave provocation to him intending or knowing it to be likely that such

provocation will cause to break public peace. Accordingly, it may be conclusively inferred that the record does not reflect any instance wherein the accused used abusive language to the informant and the police personnel with the intent to insult or demean them.

30. To attract Section 506 of IPC, the prosecution must prove that the accused threatened the informant with injury to his person, reputation or property and intended to cause alarm. It is case of the prosecution that accused threatened the informant (PW-1). However, during examination-in-chief, he did not mention anything about being threatened. This silence is important because if the threat was a serious part of the case, the informant would be expected to speak about it during his testimony. His failure to do so raises doubt as to whether the threat actually occurred. The evidence regarding the alleged words spoken by the accused is also not free from doubt. PC Divate (PW-2) admitted that accused A1 told the informant (PW-1), “तुम इधर आओ मत, निकल जाओ यहा से” However, investigation officer, API Bhosale (PW-6) admitted that PC Divate had not stated these words in his statement recorded during investigation. This omission amounts to a material contradiction and creates doubt about the truthfulness of the improved version given before the Court. Also, PC Mohite (PW-3) improved his version by saying that accused A1 threatened “मानखुर्द में मत यांना वरणा देख लुंगा”. When a key witness does not support a major allegation, it weakens the prosecution’s case and may suggest that the claim of threat was either exaggerated or unfounded. There is no evidence on record to show that accused threatened the informant with intention to cause hurt to him.

31. Thus, in my opinion, the prosecution has failed to establish the charges for offences punishable under Sections 353, 504 and 506 read with Section 34 of IPC against the accused with clear, strong, and trustworthy evidence. The evidence of the prosecution does not inspire the confidence and meet the standard required for conviction. The benefit of doubt necessarily goes in favour of the accused. Therefore, I answered point Nos. 1 to 3 in the negative.

**As to Point No. 4:**

32. In light of the above discussion, it is evident that the prosecution has failed to prove its case against accused beyond reasonable doubt. Therefore, the benefit of doubt must be given to accused. Thus, accused are entitled to acquittal. Consequently, and in answer to point No.4, I pass following order:-

**ORDER**

(1) The accused **A1 Mohd. Idris Abdul Hamid Khan** and **A2 Alimmuddin Shamsujoha Khan**, are **acquitted** under Section 235(1) of the Code of Criminal Procedure, 1973 for the offence punishable under Sections 353, 504 and 506 read with Section 34 of the Indian Penal Code, 1860.

(2) The bail bonds of the accused A1 and A2 are cancelled.

(3) The accused shall furnish personal recognizance bond of Rs.20,000/- (Rupees Twenty Thousand Only) **each** with one surety in like amount in compliance with Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

(4) Copy of this judgment be sent to the District Magistrate, Bombay as per section 406 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

(Dictated and pronounced in open Court in view of Section 353 (1) of the Code of Criminal Procedure, 1973)

**(UMESH K. SORTE)**  
Addl. Sessions Judge  
City Civil and Sessions Court,  
Gr. Bombay.

**Date: 20.06.2026.**

**Part 'C'**  
**[Para 44(iii) of Chapter VI of Criminal Manual]**

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

**A. Prosecution:**

<b>RANK</b>	<b>EXH. No.</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
PW-1	Exh.17 (Marked in MM Court)	NPC Chanderkant Ghadge	Informant
PW-2	Exh.14	PC Rajesh Divate	Eye Witness
PW-3	Exh.15	PC Uddhav Mohite	Eye Witness
PW-4	Exh.17	Ahdul Hakim Rahimatulla Idrisi	Eye Witness
PW-5	Exh.18	WPSI Maya Gaikwad (Patil)	Police Officials
PW-6	Exh.23	ASI Pravin Bhosale	Investigating Officer

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

<b>RANK</b>	<b>EXH. No.</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
Nil			

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

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
Nil		

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

**A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1.	Exhibit-18	FIR (Marked in MM Court)
2.	Exhibit-20	Arrest cum surrender form of A1
3.	Exhibit-21	Arrest cum surrender form of A2

**B. Defence:**

<b>Sr. No.</b>	<b>Exhibit</b>	<b>Description</b>
1.	Exhibit-24	Portion mark A of the statement of PW-4 (Adhul Hakim Idris)

**C. Court Exhibits:**

<b>Sr. No.</b>	<b>Exhibit</b>	<b>Description</b>
1.	Exh.06	Charge
2.	Exh.07	Plea of accused A-1
3.	Exh.08	Plea of accused A-2
4.	Exh.25	Evidence closing pursis of the prosecution.
5.	Exh.26	Statement under Section 313(1)(b) of Cr.PC of accused A-1
6.	Exh.27	Statement under Section 313(1)(b) of Cr.PC of accused A-2

**D. Material Objects:**

Sr. No.	Objects	Description
Nil		

**(UMESH K. SORTE)**  
Addl. Sessions Judge  
City Civil and Sessions Court,  
Gr. Bombay.

**Date: 20.06.2026.**

Directly dictated on : 20.06.2026  
Checked & Signed on : 20.06.2026

<b>“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”.</b>		
<b>UPLOAD DATE</b>	<b>TIME</b>	<b>NAME OF STENOGRAPHER</b>
<b>20.06.2026</b>	<b>05.59 p.m.</b>	<b>Vasanti Dattatray Bhosale</b>
<b>Name of the Hon'ble Judge</b>		<b>HHJ Shri. Umesh K. Sorte (Court Room No.17)</b>
<b>Date of Pronouncement of Judgment/ Order</b>		<b>20.06.2026</b>
<b>Judgment/order signed by P.O. on</b>		<b>20.06.2026</b>
<b>Judgment/order uploaded on</b>		<b>20.06.2026</b>