

MHPU040110382017



Received on : 20/03/2017
Registered on : 20/03/2017
Decided on : 06/07/2026
Duration: Years : Months: Days
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IN THE COURT OF 8TH JUDICIAL MAGISTRATE FIRST
CLASS, COURT NO.5, PUNE
(Presided over by Anupam S. Sharma)

Regular. Criminal Case No.1349/2017

Exhibit No.35

Detail of FIR

Crime No. :35/2017, Dtd. 31/01/2017

Police Station:- Chandannagar, Dist. Pune.

Complainant/
Prosecution:-

State of Maharashtra Through
Police Station Officer, Police
Station Chandannagar, Dist. Pune.

Original Informant:



Represented by:-

Smt. Y. V. Kadam, Ld. A.P.P.

Accused



Represented by:-

Shri. S. Iyer.

Date of Offence:-

Since 2007 to
15/01/2017

Date of Report:-

31/01/2017

Date of Charge-sheet:-

31/01/2017

Date of Framing of Charge:-

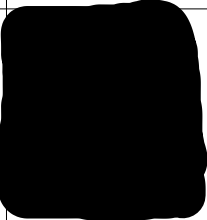
11/07/2018

Date of Commencement of evidence:- 15/09/2022

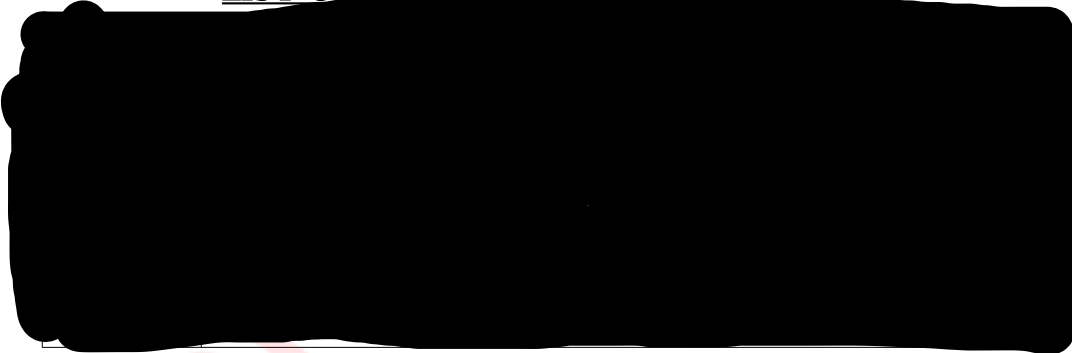
Date of which Judgment is reserved:- 06/07/2026

Date of the Judgment:- 06/07/2026

ACCUSED DETAILS

Rank of the accused	Name of the accused	Date of arrest	Date of Released on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial
A1		20/03/2017	20/03/2017	Indian Penal Code Sec.498(A), 323, 504, 506.	Acquitted	Nil	Nil

LIST OF PROSECUTION WITNESSES



LIST OF DEFENCE WITNESSES

Rank	Name	Nature of evidence
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LIST OF COURT WITNESSES

Rank	Name	Nature of evidence
N.A.	N.A.	N.A.

LIST OF PROSECUTION EXHIBITS

Sr.No.	Exhibit Number	Nature of Evidence
1.	Exh.16/PW-1	Oral Report
2.	Exh.19 /PW-1	Complaint of original complaint
3.	Exh.20 /PW-1	N.C.
4.	Article A/PW-4	Photo
5.	Exh.30/PW-5	Arrest Panchanama

DOCUMENTS ADMITTED BY DEFENCE

Sr.No.	Exhibit Number	Nature of evidence
1	Nil	Nil

LIST OF DEFENSE EXHIBITS

Sr.No.	Exhibit Number	Nature of evidence
1	Nil	Nil

LIST OF COURT EXHIBITS

Sr.No.	Exhibit Number	Nature of evidence
1	Nil	Nil

MATERIAL OBJECTS

Sr.No.	Material Object Number	Description
1	Nil	Nil

J U D G M E N T

(Delivered on 06/07/2026)

1] The accused is facing trial for the offence punishable under section 498(A), 323, 504, 506 of Indian Penal Code read.

Factual matrix of the Prosecution's case are as under:

2] The informant is the wife of the accused. Their marriage was solemnized on 15/08/2007 at Kolkata. Thereafter, in August 2007, they shifted to Kharghar, Mumbai, where the accused was employed with Wipro Company. According to the informant, within two to three months of the marriage, the accused began subjecting her to physical and mental cruelty on the ground that her parents had failed to provide a television, a refrigerator and sufficient gold ornaments at the time of marriage. It is further alleged that during her pregnancy, when she was unable to work, the accused assaulted her and left her at her matrimonial home with his parents. Subsequently, the accused brought the informant back to Mumbai while he was employed with Sun-Guard Company. The informant alleges that the accused insisted that she should earn for her future as he was unwilling to spend money on her. It is further alleged that the accused repeatedly suspected her character, physically assaulted her, and subjected her to mental harassment. He also questioned the paternity of their child. The accused also assaulted her and left her with the in-laws because informant could not work due to her delivery. The informant further states that after she commenced employment, the accused demanded her salary and, upon her refusal, assaulted her. According to her, the accused persistently demanded that she bring money from her parental home, insisted that she hand

over her salary to him, and compelled her to pay the EMI of a plot. The informant has further alleged that on 13.01.2017, she noticed concealed cameras installed inside the house. When she covered and removed the cameras, the accused, on 15.01.2017 at about 4:30p.m., allegedly abused and assaulted her. He insulted her by calling her Bhootni and threatened to kill her.

3] It is further alleged that when their son, Aditya, intervened to protect the informant, the accused assaulted him as well. Owing to the commotion, the security guard of the residential society intervened and rescued the informant and her son. Thereafter, they temporarily took shelter in the flat situated on the upper floor, occupied by the flat owners. Finding herself unable to bear the alleged acts of cruelty any longer, the informant approached the police and lodged the First Information Report (Exh.19), followed by her detailed statement (Exh.16).

4] Hence, she was constrained to lodge report (Exh.19) and statement (Exh.16) against the accused.

5] The investigating officer N.F. Shaikh (PW-5) took charge of investigation and recorded the statements of the witnesses under section 161 of code of criminal procedure. The charge sheet was filed for the offence punishable under section 498(A), 323, 504, 506 of Indian Penal Code.

6] My Ld. Predecessor has framed charge at (Exh.8) to which accused pleaded not guilty and claimed to be tried. The evidence was recorded in his presence.

7] The defence of accused as disclosed in the trend of cross examination of the witnesses for the prosecution and his statement under section 313(1)(b) of code of criminal procedure is that of total denial and false implication.

8] Heard Ld. counsels for both the sides. Considering the matter before the Court, following points arise for determination. Decisions thereon are recorded for reasons to follow :

<u>Sr. No.</u>	<u>POINTS FOR DETERMINATION</u>	<u>FINDINGS</u>
1.	Whether the prosecution proves that accused subjected the informant Sau. Shobha Jagannath Saha to cruelty by willful conduct which is of such a nature as is likely to drive the informant to commit suicide or cause grievous injury or danger to life, limb or health of the woman mentally and physically or harassed the informant with a view to coerce her or her father to meet an unlawful demand of money and thereby committed offence punishable u/s.498(A) of Indian Penal Code?	<u>No.</u>

2. On the above said date, time and place, you voluntarily caused hurt to complainant by assaulting him by fist blow and you thereby committed an offence punishable under section 323 of the Indian Penal code within my cognizance.

No.

3 On the aforesaid date, time and place, intentionally insulted complainant and thereby gave provocation to him intending or knowing it to be likely that, such provocation would cause the said person to break the public peace and that you thereby committed an offence punishable under section 504 of the Indian Penal code within my cognizance.

No.

4 On the aforesaid date, time and place committed criminal intimidation by threatening the complainant to kill and thereby committed an offence punishable under section 506 of the Indian Penal code within my cognizance.

No.

5 What order ?

**Accused is
acquitted.**

: REASONS :

9] Heard Ld. Counsel for accused Shri. S. Iyer and Ld. APP for the State Y. V. Kadam and with their assistance perused the record. Photographs filed on record are not

proved by examining the photographer. Hence, they are kept aside from consideration.

AS TO POINT No. 1 TO 4:-

10] As the point no.1 to 4 are inter-connected and in tandem with each other, to avoid prolixity they are discussed together.

11] The pivotal question which wrenches the fore is whether the accused are authors of the crime. The informant (PW1) is the star witness for the prosecution and her evidence as a "victim" stands at a higher pedestal. The Ld. APP in this regard is justified in submitting that the sole testimony of the informant would be sufficient to sustain an order of conviction as the corroboration cannot be insisted, having regard to the nature of offence which is primarily a closed door affair and is committed within the 4 corners of the walls. However, in my view, the testimony needs to be examined with caution and circumspection. ***The acts of accused persons would qualify as 'cruelty' only if the actions are covered under the umbrella of explanation appended to section 498-A of IPC.*** With these factors in mind, I begin to scrutinize the evidence on record.

12] Informant (PW1) in her examination in chief deposed that she is the wife of accused. Her marriage with

accused was solemnized on 15/08/2007 and thereafter, she started cohabiting with the accused. She further deposed that the accused was not happy with the articles and gifts given by informant's family. On the provocation given by the mother of accused, the accused stuck the informant on her nose with his head due to which she sustained bleeding injuries. She further deposed that the accused was not happy with her pregnancy and he did not want a child. While the informant was 4 months pregnant, accused assaulted her because he did not want the child. The evidence of informant also reveals that after the birth of the child, when he was about 8 to 9 years old the accused assaulted the informant because she did not clean the floor. The accused also compelled the informant to undergo abortion. In the year 2012-13 accused tried to strangle her. However, after intervention of police matter was compromised. When her child had fever, the caretaker informed her that accused has immersed the child in a tub of cold water 2 or 3 times because he had a fight with other children. After her return from Kolkata to Pune, she saw that the accused has installed hidden CCTV cameras in the house including her bedroom, therefore, she reported the matter for Cyber crime branch at Chandanagar. The accused returned home in anger and forcefully tried to establish physical relations with her. However, as she had sustained fracture on her leg she refused to engage in the above activity. Consequently, the accused closed all the doors and windows and started beating her with intent to kill her.

13] It is imperative to appreciate that, police report dated 21/01/2017 and the statement dated 31/01/2017 did not make any reference about the mother and father of accused. Therefore, since they are not arrayed as an accused and there are no allegations in the report against them, it is futile to deal with the allegation made against them. Moreover, the evidence regarding immersing the child in cold water is not substantiated by evidence of the caretaker. Likewise, the allegation about forced abortion is not fortify by production of medical papers.

14] In the context of incidence of informant sustaining bleeding injuries on nose and instances of other assault at the behest of accused, it is significant to note that no medical documents are produced to fortify the assertion of the informant regarding those injuries. Moreover, no witnesses are examined to fortify such assertion. Pertinently, the oral evidence of informant on record does not indicate that the harassment was with a view to coerce her to meet unlawful demand for any property or in account of failure to meet such demand.

15] The informant in his examination in chief did not deposed that his son tried to intervene during the fight. On the contrary, the evidence of informant suggest to accused tried to forcefully establish physical relations. In this narration, the evidence of Aditya (PW-4) is of utmost

importance. His evidence reveals that on 05/01/2017 his father started beating her mother. His father has locked his mother in a room and tried to strangle her after making her fall on the ground. According to him, his father said that he would kill her mother. When he caught hold of his father's shirt and pulled him back, he stopped assaulting his mother and started assaulting him. Therefore, he made a rescue call from bedroom window. Thereafter, people from the neighbourhood gathered and the security guard of the society came and knocked the door of their house. Consequently, he opened the door and rushed over the aunties house located upstairs. The said aunty took him and informant to their residence. At the time of incident, he was 8 years old. He also deposed that his father has tried to immerse him in bucket when he had a fight with his friends. He also deposed that when he opened the window, at that time his father pulled his ear due to he sustained injury on his ears. In his cross-examination, he admitted that he has narrated to the police that his father tried to strangle her after making her fall on the ground and that he rushed to the residence of aunty living upstairs who took them in and that his father immersed him in bucket and that his father pulled his ears. He failed to assign as to why this fact was not mentioned in the statement of police. It is axiomatic of the evidence of Aditya is thoroughly riddled with omission and contradiction which makes his evidence untrustworthy and unreliable.

16] It is noteworthy to mention here that evidence on record shows that at the time of incident Aditya was 8 years old with height of 3 feet who could not have opened the door as the main latch was above his height. Further, there is no explanation as to why the security guard Arvind is not examined by the prosecution. What is more appalling is that informant in her evidence before this Court neither mentioned about the role played by her son Aditya, security guard Arvind or Aunty living upstairs nor mentioned that her son has witnessed the incident. In other words, the informant has failed to disclose the chain of events that unfolded after accused physically forced himself upon her to establish physical relations and the arrival of her son. If such incident would have indeed occurred, it would ordinarily expected to find mention in the testimony of informant being integral part of same transaction. This creates reasonable doubt regarding the manner in which the incident unfolded and cast a doubt about son's veracity and faithful narration of occurrence. This factor cannot be brushed aside by cloaking it as mere trivial discrepancy. Apart from this, the omissions amounting to contradiction brought in the evidence of Aditya has the potential to erode his credibility and reliability.

17] It is contextually relevant that even the evidence of informant is not free from material omissions. The cross-examination clearly demonstrates that the informant has materially improved her version while deposing

before the Court. Most of the facts including immersing the child in the cold water, incident of assault on her nose, forcible abortion, incident of strangulation, assault, forcefully obtaining signatures from the father of informant, assault during pregnancy are not mentioned in her report. The person who recorded police report is not examined by the prosecution to prove these omissions amounting to contradiction and thereby the defense could not get an opportunity to prove these omissions causing prejudice to the accused.

18] It is also pertinent to note that Sunanda Dikekar (PW-2) in her evidence first time divulged that when she went to the house of informant on being called upon by their son Aditya, at that time, she saw that the accused was trying to push informant down through the gallery and has garbed her neck from the backside. Thereafter, she rescued the informant and took her to her residence. In her cross-examination, she deposed that police has not recorded her statement. Perusal of her statement reveals that her version in Court is not consistent with her statement. According to her statement, security guard has knocked the door of informant's house and that when it was opened she saw the husband of informant abused and assaulted her by saying to her that she should not reside in the house and she should take her belonging. It is apparent that the version of above witness is not in consonance with her previous statement. Therefore, in my

opinion, her evidence is not reliable at all. The evidence of Amit Gildiyal (PW-3) does not assist the prosecution as he did not personally witness the incident.

19] The evidence of investigating Officer Miyaz Shaikh (PW-5) is formal in nature and is restricted to arresting accused, recording of statement of security guard, neighbours, landlord, work colleague of informant and parents of informants and filing of charge-sheet in Court. He has neither recorded the statement of informant or the written report nor he has recorded statement of son of informant.

20] The question was raining eyebrows as to why the prosecution was not examined the parents of the informant and the security guard. Their evidence would have lent more credence to the case of prosecution. Though there are discrepancy between the dates and time deposed by the informant and those mentioned the written report but that by itself cannot be assigned much weight and importance as typical commoner are not blessed with trained eyes and photographic memory of Sherlock so as to have exact recollection of the date. One cannot be expected to make precise and reliable estimates of the time and date of incident. No specific abusive words used by accused are described by any of the prosecution witnesses.

21] Furthermore, the allegations in the evidence of informant when analyzed from the point of view of her education status, her allegations are generic and vague in nature as she did not depose the date, time or mode and manner in which she was assaulted by accused. It is unclear as to on which part of body she was assaulted. ***She has never lodged any report in respect of attack on her nose or during pregnancy, although an attempt to lodge the report would have been the course ordinarily adopted by any prudent person.*** Due to the matrimonial discord, she has the animus to depose against the accused .

22] The investigating officer has also not subjected her to medical examination to prove the injuries, if any, sustained by her. There are material omissions amounting to contradiction in the evidence of informant, her son and neighbor which goes deep in to the root the matter.

23] **To summarize**, the prosecution's case suffers from major setbacks such as there is inherent lack of corroboration as the evidence of informant is not wholly reliable. The evidence of informant and other prosecution evidence are not consistent with their previous statement. Their former statements have the potential to discredit the evidence before this Court. The discrepancies in the evidence of prosecution witnesses such as informant and her son regarding the instances of cruelty are incompatible with the credibility of

their versions which touches the core of the case. Their evidence do not inspire impeccable confidence and the entire evidence when read as whole does not appear to have ring of truth. The evidence of informant and her son is vacillating, shaky, and tainted with wholesale improvements and hence, unworthy of credence. The conduct of the informant and his son is not in conformity with the normal human as she did not previously lodge any FIR against the accused for the alleged assault. The evidence regarding the opening the door by the son Aditya is improbable and is not corroborated by any other evidence. There is no explanation regarding non examination of security guard. Non examination of investigating officer has also proven to be fatal to the case of prosecution as the accused are deprived of their right to prove the omission and contradiction. Similarly, evidence on record fails to satisfy the ingredient of Sec.498(A). Certain vital facts finds no mention in the initial N.C. report dated 15/01/2017 which raises concerns upon the genuineness of allegation. There is no explanation as to why printed FIR is not registered or produced and proved by the prosecution. The investigating officer has also failed to prepare spot panchnama. Consequently, the essential elements of section 498A, 323, 504, 506 of IPC are not made out. All these lapses and defects in the testimony as discussed above cumulatively affects the overall sanctity of the prosecution case, making it fall short of the threshold beyond reasonable doubt. In my own estimation, the prosecution case stand shaken beyond a

point to which no conviction can be rest and cannot be said to be just in the eyes of law. The conduct of accused persons maybe reprehensive, unfair, adjust and highly objectionable but it cannot be stigmatized as being 'cruel' in nature. Hence, the conspectus of aforesaid discussion leads to an inference that no guilty liability can be fasten against the accused. Hence, I answer point no.1 to 4 in negative.

AS TO POINT NO.5

24] In view of my findings as to point No. 1 and 4, the accused is hereby acquitted. Hence, I pass the following order:-

ORDER

- 1) Accused **Jagannathprasad Anilkumar Saha** is hereby **acquitted** of the offences punishable 498(A), 323, 504, 506 of Indian Penal Code vide section 248 (1) of Code of Criminal Procedure.
- 2) The earlier bail bond and surety bond of the above accused be continued for a further period of six months from today, in view of section 437-A of Code of Criminal Procedure.
- 3) As there is no seized property in the present matter, no independent order for its disposal is passed.

- 4) The copy of the findings and sentence be forwarded to District Magistrate, Chandrapur in view of section 365 of Cr.P.C. so that the victim is informed about the acquittal and should be apprised of her right to appeal. The office of District Magistrate is requested to transmit an acknowledgment of said information after having been received by the victim to this Court forthwith as per the dictum laid down in the case of **Ranjana Suryawanshi Vs. Jaiprakash Gupta and others** bearing **Criminal Appeal No. 390 of 2019**.

(Dictated and pronounced in open court)

ANUPAM SURENDRA SHARMA	Digitally signed by ANUPAM SURENDRA SHARMA Date: 2026.07.06 15:02:52 +0530
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Pune.

Date: 06/07/2026

(Anupam S. Sharma)

Judicial Magistrate First Class,
Court No.5, Pune.

<u>CERTIFICATE</u>		
“ I affirm that the contents of this P.D.F. File Judgment are same word for word as per original Judgment.”		
Name of Court	::	Shri. A.S. Sharma. JMFC, Court No.5, Pune.
Name of Steno	::	M.P. Ambure, Stenographer, Garde-III.
Date of Order	::	06/07/2026.
Date of signed by P.O	::	06/07/2026.
Date of upload	::	06/07/2026.

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