



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**CRIMINAL APPEAL NO. 570 OF 2021**

Saleem Patel s/o Daulat Patel Borgaonkar,  
Age: 43 years, Occu: Social Worker,  
R/o Near Rashidiya Masjid, Galli No.20,  
New Baijipura, Indiranagar, Aurangabad

....APPELLANT

VERSUS

The State of Maharashtra,  
Through City Chowk Police Station,  
Aurangabad

....RESPONDENT

....  
Mr. C. C. Deshpande, Advocate h/f Mr Govind M. Sharma, Advocate  
for Appellant  
Mr Pramod D. Patil, APP for Respondent/State

....  
**CORAM : ABHAY S. WAGHWASE, J.**

Reserved on : 08<sup>th</sup> June, 2026

Pronounced on : 09<sup>th</sup> June, 2026

**JUDGMENT :**

1. In this appeal, there is challenge to the judgment and order of conviction dated 27/09/2021, rendered by the learned Extra Joint District Judge, Aurangabad in Sessions Case No. 533/2019, recording guilt of the appellant and one another for offence under Sections 353, 504 and 506 r/w Section 34 of the Indian Penal Code and sentenced for each of the above offences to suffer simple imprisonment till rising of the Court and to pay fine.

2. In brief case of the prosecution in Trial Court is that, PW-2, who was officiating as the Sub Divisional Officer as well as Deputy Collector (Election) in the Collector Office, Aurangabad, was rendering his official duty in the office on 03/01/2014. Around 4.00 p.m., present appellant accompanied by 7-8 his associates, entered his chamber complaining of induction of bogus voters in the list of Biajipura area and suggested deletion of bogus voters names. When PW-1/complainant gave them understanding that it was the duty of Tahsil office, at that time, person named by Maqsood Ansari accompanied present appellant hurled abuses. They scuffled with him and ransacked the files on the table, followed by use of abusive language. As regards present appellant is concerned, he allegedly threatened to immolate himself. Other staff of the office came there and they pacified accused persons and took the accused persons out of the office of complainant. Complainant lodged report of the aforesaid incident on 04/01/2014 with the City Chowk Police Station, Aurangabad at Exh.15, on the basis of which crime is registered, it was investigated and after gathering sufficient evidence, both accused persons, including present appellant were charge-sheeted and tried by Sessions Case No. 533/2019.

On appreciation of evidence, learned Trial Court convicted appellant and another as spelt out in the operative part of the impugned judgment.

Feeling aggrieved by the above, present appellant/original accused has preferred instant appeal.

3. Taking this Court through the evidence of complainant, learned Advocate Shri Deshpande for appellant submits that the prosecution has failed prove the charges beyond reasonable doubt. There are general omnibus allegations and moreover, allegations of scuffle and abuses are not specific. He pointed out that only allegation against present appellant is that he issued threats to immolate himself. He pointed out that, it is apparent that complainant was not assigned duty of any work of election, and therefore, he was not discharging official duties so as to attract provisions of Section 353 of the Indian Penal Code. Thus, according to him, said charge is misplaced and misdirect.

4. He further submits that there is no corroboration in the testimony of the complainant. Even the staff of the office of the complainant given different version and they also did not

wholeheartedly support prosecution. The very stenographer of complainant has not supported prosecution.

5. Lastly, while criticizing the impugned judgment, he submits that there is incorrect appreciation as well as failure to consider the settled law and regarding non-availability of necessary ingredients to attract the charge. For above reasons, he urges to allow appeal and set aside the impugned judgment.

6. Per contra, learned APP would support the judgment and order of the Sessions Court and prays for dismissal of the appeal for want of merits.

7. Re-appreciated the entire evidence. Case of the prosecution in the Trial Court is based on the testimonies of five witnesses. Going by the story of the prosecution, crucial evidence is of complainant PW-2 followed by Stenographer PW-3 and Clerk PW-4, who were present in the office on the day of incident. PW-1 and PW-5 are panch and Investigating Officer, respectively.

8. Evidence of Complainant is at Exh.14 and the same is put to minute scrutiny. It is noticed that, according to him, on 03/01/2014, in the afternoon hours, initially after making him a phone call, present

appellant accompanied by 7-8 persons entered the cabin of complainant informing that there is induction of bogus voters in the voters list of election of Biajipura locality and suggested its deletion, but when complainant informed that it was the duty of Tahsil office, it was alleged that accused persons abused him, scuffled with him and used obscene language. However, as pointed out, what was the filthy language and who uttered it has not been specified. It is possible that complainant may not be knowing their names, but he ought to have given a description of the persons who indulged in the act. Abuse of filthy language is against Maqsood Ansari and not against present appellant. Only allegation against appellant seems to be that he threatened to immolate himself.

9. To ascertain whether there is sufficient corroboration for the testimony of complainant, evidence of PW-3 and PW-4 is visited. However, as pointed out, in spite of both being staff members have not supported complainant and having resiled from their earlier version, who were cross-examined by the learned APP.

10. As pointed out, in spite of availability of facility of CC TV footage at the scene of occurrence and in spite of its demand, the same has not been surprisingly provided.

11. To sum up, while there are allegations, but only against Maqsood Ansari and he has not challenged the same though sentence was till rising of the Court and it was already been suffered. Except for allegation of issuing the threats to immolate himself, there is no material against present appellant to attract the rigours of Sections 353, 504, and 506 of the Indian Penal Code. With such quality of evidence, learned Trial Court ought to have given benefit of doubt to the appellant as the case is not beyond reasonable doubt. Thus, appellant succeeds. Hence, following order :

### **ORDER**

- I. The appeal is allowed.
- II. The conviction awarded to the appellant – Saleem Patel s/o Daulat Patel Borgaonkar in Session Case No.533/2019 by the learned Extra Joint District Judge, Aurangabad on 27/09/2021 for the offence punishable under Sections 353, 504 and Section 506 r/w Section 34 of the Indian Penal Code stands quashed and set aside.
- III. The appellant Saleem Patel s/o Daulat Patel Borgaonkar stands acquitted of the offence punishable under Sections 353, 504 and Section 506 r/w Section 34 of the Indian Penal Code.
- IV. The fine amount deposited, if any, be refunded to the appellant after the statutory period.

VI. It is clarified that there is no change as regards the order in respect of disposal of muddemal.

**[ABHAY S. WAGHWASE, J.]**

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