



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL WRIT PETITION NO. 196 OF 2026

Waman Laxman Wankhede and another

Vs.

State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri P. K. Dahat, Advocate (appointed) for petitioner.
Ms. Prachi Joshi, APP for respondent/State.

CORAM :- M. W. CHANDWANI, J.

DATED :- 08.06.2026

Heard.

2. The Writ Petition challenges the impugned order dated 22.10.2024 passed below Exh. 36 by Judicial Magistrate First Class, Court No. 2, Murtizapur in RCC No. 155/2020 which was confirmed by the order dated 03.09.2025 passed by the learned Additional Sessions Judge, Akola in Criminal Revision No. 175/2024.

3. The applicants were prosecuted for the offences punishable under Section 354, 354A, 452, 294, 323 and 506 r/w. 34 of the Indian Penal Code.

4. The complainant runs a Fair Price Shop at village Shelu Vetel, Tahsil Murtizapur. The dispute arose at about 2:00 pm on 10.09.2020 when the applicants

sought allotment of food-grains from the complainant for the month of September. When the complainant informed that she did not receive the food-grain quota for the month of September, the applicants enquired about distribution of food-grains for the earlier month. When the complainant tried to show the distribution of food-grains for the earlier month to the applicants, applicant no. 1 threw the finger scanning machine and caught hold of her hand and pressed it with bad intentions. The complainant was wearing glass bangles which broke due to the assault committed by applicant no. 1 causing bleeding injury. When she went to the room behind the shop, applicant no. 1 followed her and again caught hold of her hand. Applicant no. 2 also abused the complainant in filthy language. With the intervention of the villagers, the complainant freed herself from the applicants. On the complaint lodged by the complainant, the aforesaid offence came to be registered against the applicants.

5. After completion of investigation, charge-sheet came to be filed against the applicants. The applicants moved an application before the Trial Court for discharge on the ground that on the day of incident, they were not present at village Shelu Vetali. Applicant no. 2 relied upon the prescription dated 10.09.2020 from Laximibai Deshmukh General Hospital, Murtizapur which shows that applicant no. 2 was examined by the Medical Officer of the Hospital and she was also referred to Government Medical College (GMC), Akola. Applicant

no. 1 contended that he was at the BSNL office at Akola on the day of incident. The referral letter of applicant no. 1 to GMC, Akola as well as the letter of Deputy General Manager, GMT, BSNL, Akola informing that applicant no. 1 visited the BSNL office on 10.09.2020 had been filed by the applicant along with the application for discharge. The Trial Court rejected the application holding that the FIR as well as the statement of four witnesses indicates that applicant no. 1 threw the finger scanning machine of the complainant and grabbed her hand aggressively, which led to bleeding injury due to the broken bangles. It further reveals that applicant no. 2 abused the complainant in filthy language.

6. The Revisional Court also concurred with the Trial Court. The learned Additional Sessions Judge opined that for taking the plea of *alibi*, the accused has to prove his presence elsewhere, which can only be done during the course of trial. It is also contended that the documents filed by the applicants have to be proved by them during the course of the trial and hence, dismissed the revision application filed by the applicants.

7. Heard the learned counsel for the applicants as well as the learned APP appearing for the State. I have gone through the charge-sheet as well as the documents relied upon by the applicants.

8. It is settled position of law that Section 239 of the Code of Criminal Procedure speaks about

consideration of the final report and documents sent along with the final report for framing of charge. It is only when there is no sufficient material in the charge-sheet to frame the charge that the accused can be discharged. Evidently, the FIR as well as the statement of the witnesses clearly demonstrates the presence of the applicants on the spot at the time of the incident.

9. Firstly, the documents relied upon by the applicants are required to be proved by leading evidence. Though, the prescription of the Medical Officer depicts that applicant no. 2 was examined by the Doctor of Laxmibai Deshmukh General Hospital, Murtizapur on 10.09.2020, however it does not depict the time of examination. Therefore, this document will not provide any assistance to applicant no. 2 at this stage.

10. So far as the letter dated 06.10.2020 issued by BSNL, Akola regarding presence of applicant no. 1 at BSNL office, Akola at 12:30 pm on 10.09.2020 is concerned, the alleged incident occurred at about 2:00 pm and applicant no. 1 has to prove that it was not possible for him to reach the spot of incident within a span of 1:30 hours. Thus, all these aspects are required to be proved by the applicants by adducing evidence which can be gone into during trial by examining the defense witnesses.

11. Considering the aspects mentioned above, I find that the impugned orders passed by the Trial Court

and confirmed by the Revisional Court do not suffer from any illegality and therefore, do not require any interference.

12. The Writ Petition is devoid of merits and hence, it stands dismissed.

13. Needless to mention that all the contentions raised herein by the applicants are kept open to be raised during the trial.

(M. W. CHANDWANI, J.)