



Crl.A.No.473 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.473 of 2023

Tamilselvan

... Appellant

Vs.

The Inspector of Police,
Mayiladuthurai Railway Police Station,
Mayiladuthurai District.
(Crime No.05/2019)

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C., to call for the records and set aside the order of conviction passed against the appellant/accused No.2 in S.C.No.81 of 2019 dated 31.03.2023 on the District and Sessions Judge, Mayiladuthurai and allow the Criminal Appeal.

For Appellant : Mr.R.Shivakumar
For M/s.K.M.Vijayan Associates

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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JUDGMENT

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This Criminal Appeal has been filed as against the order dated 31.03.2023, passed by the learned District and Sessions Judge, Mayiladuthurai, in S.C.No.81 of 2019, thereby convicting the appellant for the offences punishable under Sections 294(4), 450, 332, 353, 506(i) of IPC and Section 3(1) of the Tamil Nadu Public Property (Prevention of Destruction and Loss) Act, 1982 (hereinafter referred to as “the TNPPDL Act”).

2. The case of the prosecution is that on 01.02.2019 at about 23.25 hours, when the victim was on duty at level crossing gate No.212 in between Sirkazhi and Kollidam railway station, the accused came there and quarreled with the victim and asked him to open the railway gate, when it was closed for the passing of Uzhavan Express. The victim informed the accused that the Uzhavan Express was about to come and as such, he refused to open the gate. However, the accused trespassed into the gate room and scolded the victim with filthy language and also assaulted him. They also threatened him with dire consequences. On the complaint, the respondent registered the FIR in Crime No.5 of 2019 for the offences punishable under Sections 294(b), 450, 353, 332, 506(1) and



Section 3(1) of TNPPDL Act. After completions of investigation, the respondent filed final report and the same was taken cognizance by the trial Court in S.C.No.81 of 2019.

3. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.10 and marked documents in Ex.P.1 to Ex.P.7. The prosecution also produced material objects in M.O.1 & M.O.2. On the side of the accused, no one was examined and no documents were marked. On perusal of the oral and documentary evidences, the trial Court convicted the accused for the offences punishable under Sections 294(b), 332, 353, 450, 506(i) of IPC and Section 3(1) of the TNPPDL Act and sentenced them as follows :-

S.No.	Conviction	Sentence
1	Section 294(b) of IPC	to pay fine of Rs.1,000/-, in default to undergo rigorous imprisonment for one month.
2	Section 450 of IPC	to undergo rigorous imprisonment for a period of seven years and to pay fine of Rs.3,000/-.
3	Section 332 of IPC	to undergo rigorous imprisonment for a period of two years
4	Section 353 of IPC	to undergo rigorous imprisonment for a period of one year.
5	Section 506(i) of IPC	to undergo rigorous imprisonment for a period of one year.
6	Section 3(1) of	to undergo rigorous imprisonment for a



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S.No.	Conviction	Sentence
	TNPPDL Act	period of three years to pay fine of Rs.1,000/-, in default to undergo rigorous imprisonment for one month.

The above sentences are ordered to run concurrently. Aggrieved by the same, the appellant filed the present appeal.

4. The learned counsel appearing for the appellant submitted that there are two accused in which, the appellant is arrayed as second accused. The alleged occurrence had taken place on 01.02.2019 at about 11.25 P.M. Even according to the case of the prosecution, the Uzhavan Express was about to cross the gate and at that time, no occurrence was taken place as alleged by the victim and a false case has been foisted as against the appellant. According to the victim, the accused attacked him by using railway phone on his head due to which, it was completely damaged. But only through the railway phone, the victim informed to the Station Master about the occurrence. Thereafter, the Station Master had tried to contact the complainant at about 11.30 P.M. But the complainant failed to pick the call. Further, nearby gate keeper also tried to contact the complainant but there was no response. The complainant was under influence of alcohol and it was questioned by the appellant and as such false complaint has been foisted against the appellant herein.



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4.1. He further submitted that even according to the case of the prosecution, after the occurrence, the complainant was working there for another eight hours and only thereafter he had lodged the complaint. Thereafter, he had gone to hospital for treatment. Further the doctor found no injury on his head and the doctor opined that the injuries sustained by the appellant are simple in nature. Therefore, the prosecution miserably failed to prove any of the charge. He further submitted that there was absolutely no evidence to show that the appellant trespassed into the complainant's room to attract the offence punishable under Section 450 of IPC. Even then, without considering the above facts and circumstances, the trial Court mechanically convicted the appellant.

5. Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that the accused were under the influence of alcohol and they trespassed into the complainant's room while he was on duty as gate keeper at level crossing gate No.212 in between Sirkazhi and Kollidam railway station and threatened the victim to open the gate. When the complainant refused to do so, they brutally attacked the victim. The victim was examined as P.W.1. He categorically

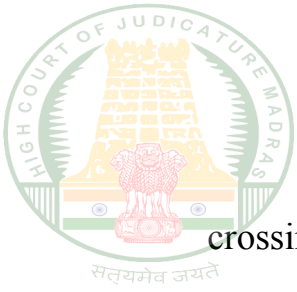


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deposed about the occurrence and the prosecution proved the case. The evidence of P.W.1 was also duly corroborated by P.W.2 to P.W.4. P.W.2 is the Station Master and when he called the complainant there was no response. Immediately, he informed the nearby gate keeper who was examined as P.W.3. Thereafter, P.W.3 informed P.W.4, who attended the earlier shift before the complainant on the gate No.212. He rushed to the gate No.212 and he found that the personal phone of P.W.1 and the railway phone were broken. P.W.1 also informed that the accused attacked him for the reason that he refused to open the gate when the Uzhavan Express was about to cross the gate. Therefore, the prosecution categorically proved the case and the trial Court rightly convicted the appellant and another and it doesn't deserve to be set aside.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. The complainant was examined as P.W.1. Admittedly he was on duty as gate keeper on 01.02.2019 in L.C. gate No.212 in between Sirkazhi and Kollidam railway station. The railway gate was closed for



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crossing of Uzhavan Express at about 11.25 P.M. At that juncture, the accused came there under the influence of alcohol and shouted at the complainant to open the railway gate. The victim replied that the Uzhavan Express was about to cross the gate and refused to open the gate. Immediately, both the accused scolded the victim with filthy language and also attacked him. Thereafter, both had damaged the railway phone as well as the complainant's personal phone. The railway phone used for inter communication between the gate keepers and the Station Master. Both the accused also attacked the victim by slapping him. Therefore, he could not have been able to inform the same to the nearby Station Master. When the Station Master try to contact the complainant, the complainant did not pick the phone, since it was damaged.

8. The Station Master was examined as P.W.2. He deposed that while he contacted P.W.1 to enquire about PUCSN goods vehicle, the victim did not pick up the phone call. Therefore, P.W.2 contacted nearby gate keeper viz., LC gate No.213, who was examined as P.W.3 and informed that he was not able to contact the complainant. Immediately P.W.3 called the person who attended the duty before the complainant,



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who was examined as P.W.4. P.W.4 took the phone and immediately, he rushed to gate LC No.212. He found that the railway phone as well as the personal phone of the complainant were broken down and as such P.W.1 was not able to pick the phone call, when P.W.2 and P.W.3 contacted him.

9. On perusal of the deposition of P.W.1 to P.W.4, it is clear that the accused went to gate No. LC 212, where the complainant was doing gate keeper duty and asked him to open the railway gate in order to cross the railway line. But the complainant refused to open the gate since at that time Uzhavan Express was about to cross the railway gate. Therefore, there was a quarrel between them and the accused beat him by slapping on his cheek. When the complainant attempted to call the Station Master, the accused snatched the railway phone as well as the personal phone of the complainant and had broken down. Therefore, both the phones were not in working condition, when P.W.2 and P.W.3 tried to contact P.W.1. Therefore, the prosecution, categorically proved the charges for the offences under Sections 294(4), 332, 353, 506(i) of IPC and Section 3(1) of the TNPPDL Act.



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WEB COPY 10. Further, there was no evidence to prove the offence under Section 450 of IPC. P.W.1 and P.W.4 did not even whisper that the appellant entered into the complainant's room and attacked him. However, the trial Court convicted the appellant for the offence punishable under Section 450 of IPC also. The learned counsel appearing for the appellant specifically contended that the railway phone and the personal phone of the complainant were in working condition even after the alleged occurrence and the complainant contacted the Station Master. Therefore, there was no damage to the phones allegedly caused by the accused.

11. On perusal of the deposition of P.W.1, it is clear that immediately after crossing the Uzhavan Express, the gate was opened for the accused to cross the railway line. Before that the accused compelled complainant to open the railway gate. When the complainant refused to do so, they scolded him with filthy language and also slapped him. Therefore, the contention of the learned counsel appearing for the appellant cannot be considered legitimate.



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12. That apart, after his shift time, the complainant went to the police station to lodge complaint. He lodged complaint and the same was marked as Ex.P.1. Thereafter, FIR got registered and the same was marked as Ex.P.6. The Investigation Officer went to the scene of occurrence and prepared observation mahazar and seizure mahazar. The observation mahazar was marked as Ex.P.2 and the seizure mahazar was marked as Ex.P.3. They seized both the phones and the same were marked as M.O.1 & M.O.2.

13. After lodgment of complainant, the victim was subjected for medical treatment. He visited railway hospital, where the doctor who treated him opined that the injuries sustained by the complainant are simple in nature. He issued wound certificate which was marked as Ex.P.5. The doctor, who treated the complainant was examined as P.W.7. He deposed that he found injuries on the complainant's chest, face and left ear. The complainant had told him that unknown persons had attacked him with their hands and legs. However, there was no fracture on the complainant's body. Therefore, the prosecution categorically proved the charges except for the charge under Section 450 of IPC.



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14. In view of the above discussions, the conviction imposed on the appellant by the order dated 31.03.2023, passed by the learned District and Sessions Judge, Mayiladuthurai, in S.C.No.81 of 2019, for the offences punishable under Sections 294(4), 332, 353, 506(i) of IPC and Section 3(1) of the TNPPDL Act, are hereby confirmed and the conviction and sentence imposed for the offence under Section 450 of IPC, is hereby set aside. Insofar as the sentence for the offences punishable under Sections 294(4), 332, 353, 506(i) of IPC and Section 3(1) of the TNPPDL Act, are concerned, considering the nature of the offences committed by the appellant, this Court is inclined to modify the sentence as follows :-

S.No.	Conviction	Modified Sentence
1	Section 294(b) of IPC	to pay fine of Rs.1,000/-, in default to undergo rigorous imprisonment for one month.
2	Section 332 of IPC	to undergo rigorous imprisonment for a period of one year
3	Section 353 of IPC	to undergo rigorous imprisonment for a period of six months.
4	Section 506(i) of IPC	to undergo rigorous imprisonment for a period of six months.
5	Section 3(1) of TNPPDL Act	to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.1,000/-, in default to undergo rigorous imprisonment for one month.

The above sentences shall run concurrently. The trial Court is directed to



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secure the appellant for the purpose of sentencing him to undergo the reduced/modified period of sentence. Further, the period of remand already undergone by the appellant, if any, is ordered to be set off against the sentences imposed.

15. Accordingly, the Criminal Appeal stands partly allowed.

20.06.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts

G.K.ILANTHIRAIYAN, J.

Today, the matter is posted before this Court under the caption 'For Being Mentioned' at the instance of the learned counsel appearing for the appellant.

2. The learned counsel appearing for the appellant submitted that this Court by an order dated 20.06.2025, partly allowed the appeal and reduced the sentence for the period already undergone by the appellant. However, in that order, it was wrongly typed as reduced the sentence from three years to one year. Hence he prayed for necessary direction.

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3. On perusal of the order dated 20.06.2025, it is revealed that

this Court set aside the conviction and sentence for the offence under Section 450 of IPC and also reduced the sentence for the offences punishable under Sections 294(b), 332, 353, 506(i) of IPC and Section 3(1) of the TNPPDL Act. Hence, no further order is required.

28.07.2025

rts

To

1. The District and Sessions Judge,
Mayiladuthurai

2. The Inspector of Police,
Mayiladuthurai Railway Police Station,
Mayiladuthurai District.

3. The Public Prosecutor,
Madras High Court,
Chennai.



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