



Crl.R.C.No.59 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.59 of 2022

S.Shanmugaraj

... Petitioner

Vs.

The State Rep. By
The Inspector of Police,
Thalavai Police Station,
Ariyalur.
(Crime No.98 of 2018).

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records passed by the learned Fast Track Mahila Court at Ariyalur in Crl.Appeal.No.12 of 2021 on 04.03.2021 confirmed the conviction, sentence of imprisonment undergo under Section 324 of IPC in sentence of imprisonment undergo 1 years simple imprisonment and under Section 2000/- and in default to undergo 1 month simple imprisonment and under Section 326 of IPC in sentence of imprisonment undergo 2 years simple imprisonment and fine Rs.5000/- and



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in default to undergo 6 month simple imprisonment in C.C.No.225 of 2019

delivered by the learned District Munsif cum Judicial Magistrate Court at Sendurai against the petitioner.

For Petitioner : Mr.C.SS.Pillai for Mr.K.Karthik

For Respondent : Mr.L.Baskaran,
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case has been filed to set aside the judgment, dated 19.11.2021 in Crl.A.No.12 of 2021 passed by the learned Sessions Judge, Fast Track Court Mahila Court, Ariyalur (Lower Appellate Court) confirming the judgment, dated 04.03.2021 in C.C.No.225 of 2019 passed by the learned District Munsif cum Judicial Magistrate, Sendurai (Trial Court).

2.The conviction and sentence imposed by the Trial Court in C.C.No.225 of 2019 are as follows:



Rank of the Accused	Charges Framed	Conviction and Sentence
A1	For offence under Sections 294(b) & 506(ii) of IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998.	Acquitted from all the charges.
A3	For offence under Sections 294(b) of IPC.	Acquitted from the charge.
A2/ Petitioner	For offence under Sections 294(b), 324, 326 & 506(ii) of IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998.	1. Convicted for offence under Section 324 of IPC and sentenced to undergo one year imprisonment and to pay a fine of Rs.2,000/-, in default to undergo one month Simple Imprisonment. 2. Convicted for offence under Section 326 of IPC and sentenced to undergo two years imprisonment and to pay a fine of Rs.5,000/-, in default to undergo six months Simple Imprisonment. 3. The petitioner/A2 was directed to pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as compensation to the injured/PW2. 4. Acquitted from the charges under Sections 294(b) & 506(ii) of IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998.

3.Gist of the case is that the defacto complainant/PW1 and PW2 are



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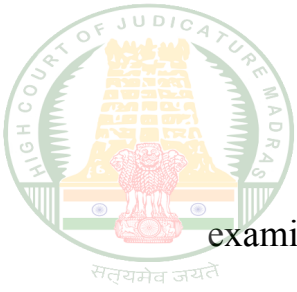
spouses and PW3 is their daughter. On 10.08.2018, at about 08.00 p.m, when the defacto complainant's husband/PW2 standing near Kaliasammal Temple, one Ravichandran/A3 in this case shouted at PW2 using abusive words. At that time, the defacto complainant/PW1 and her daughter/PW3, who came that side to attend nature call, intervened and questioned Ravichandran/A3 for using abusive words against PW2. At that time, A1 and the petitioner/A2 herein, the father and son, intervened and claimed they only asked Ravichandran/A3 to abuse PW2 as to how PW2 claims himself as “Nattamai” for a group. Thereafter, the petitioner took a wooden log, which was there, assaulted PW2 on his left cheek and A1, the father of the petitioner, pulled PW2 by his shirt. When the defacto complainant/PW1 and her daughter/PW3 intervened, both were pushed in the thorny bush and the petitioner/A2 assaulted PW3 on her cheek and also pulled her dress and PW2/injured fainted. On the intervention of the villagers, all the accused left the scene. Immediately, PW2 and PW3 were taken to the Government Hospital, Thittakudi through 108 Ambulance where the Doctor/PW8 examined them and referred PW2 to the Government Hospital, Perambalur for taking scan and X-Ray. PW2 and PW3 had gone to Government



Hospital, Perambalur where PW2 took treatment as inpatient for 28 days from 11.08.2018 to 08.09.2018.

4.On the complaint (Ex.P1) of PW1, PW9/Sub Inspector of Police registered FIR (Ex.P6) in Crime No.98 of 2018 for offence under Sections 294(b), 324, 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998, visited the scene of occurrence, prepared Observation Mahazar, Rough Sketch (Ex.P7), examined the witnesses present in the scene of occurrence and recorded their statements. Thereafter, PW9 proceeded to the Government Hospital, Perambalur recorded the statements of PW2, PW3 and the Doctor who gave treatment at Perambalur Government Hospital and also recorded the statement of PW8/Doctor at Government Hospital, Thittakudi, collected the medical records (Exs.P3 to P5) and arrested the accused. On completion of investigation, charge sheet filed before the Trial Court.

5.During trial, on the side of the prosecution, nine witnesses



examined as PW1 to PW9 and seven documents marked as Exs.P1 to P7.

On the side of the defence, no witness examined and no document marked.

On conclusion of trial, the Trial Court convicted the petitioner/A2 alone for offence under Sections 324 & 326 of IPC as stated above and the same was confirmed by the Lower Appellate Court.

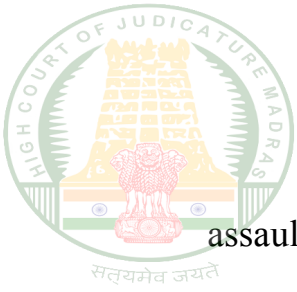
6.The learned counsel for the petitioner submitted that the petitioner, defacto complainant/PW1, PW2 and their daughter/PW3 are all close relatives and they have family dispute. In fact, PW1 to PW3 assaulted the petitioner and two others, for which, the accused group lodged a complaint and FIR in Crime No.99 of 2018 registered against PW1 to PW3 for offence under Sections 294(b) and 323 IPC, on completion of investigation, charge sheet filed in S.T.C.No.94 of 2019 before the Trial Court. Since both the cases are in the nature of case in counter, the Investigating Officer ought to have found who is the aggressor and ought to have conducted the investigation as per Police Standing Order 588A, but it has not done so. It is admitted by PW1 to PW3 that there was push and pull and exchange of blows between both groups. Due to which, PW2 and PW3 had a fall. The



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injuries sustained by PW2 and PW3 are due to the fall and they are the aggressors, who assaulted the petitioner and others in the counter case, completely ignored by the Trial Court. PW1 admits that she does not know to read or write and someone in the Police Station wrote the complaint (Ex.P1), but in the complaint (Ex.P1) there is no reference the complaint (Ex.P1) was on the dictation of PW1 and it was read over. According to the petitioner, the defacto complainant/PW1 signed in a blank paper and the respondent Police for their convenience, written the complaint (Ex.P1) to suit the case. The learned counsel further submitted that the Observation Mahazar attempted to be marked by PW6 who confirmed that he signed Observation Mahazar (Ex.P2) but does not know what is recorded in the Observation Mahazar.

7.The learned counsel further submitted that PW4, PW5, PW6 projected eye witnesses, said to be present in the scene of occurrence, but PW4 not supported the case of the prosecution. PW5 stated that he was present along with PW4 but PW4 not stated anything about PW5. PW5 admits that he does not know the earlier occurrence in which PW1 to PW3



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assaulted the petitioner and others but he speaks about the second occurrence, which is highly artificial. Since it is a case in counter, both occurrence should have taken place at the same time. Hence, the presence of PW5 is doubtful. Though PW6 projected as eye witness to the occurrence, he only speaks about the signature in the Observation Mahazar. PW7 is a hearsay witness. Except the interested witnesses viz., PW1, PW2 and PW3, who are accused in the counter case, no other witnesses to prove the prosecution case. PW8/Doctor attached to Primary Health Centre, Thittakudi said to have examined PW2 and PW3 and issued Wound Certificates (Exs.P3 & P4) of PW2 and PW3 and speaks about the Discharge Summary (Ex.P5) of PW2. PW8 admits that he examined PW2 and PW3 and referred PW2 to the Government Hospital, Perambalur but the Doctor who treated PW2 in the Government Hospital, Perambalur not examined as witness, hence Exs.P3 to P5 cannot be stated to be proved in the manner known to law.

8.He further submitted that though the petitioner was convicted for



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offence under Sections 324 & 326 of IPC, no X-Ray or Scan Report of the injured/PW2 produced. Added to it, the Doctor who treated PW2 and PW3 in Government Hospital, Perambalur not examined and no explanation for non-examination. In the Wound Certificates (Exs.P3 & P4), it is recorded that the injured/PW2 and PW3 brought by one Mohan but the said Mohan not examined as witness in this case. Thus, the Trial Court convicting the petitioner merely on invoking Section 320 of IPC definition eight, since PW2 took treatment for more than 20 days (11.08.2018 to 08.09.2018), the injury is grievous, is not proper. In this case, there is nothing to show the hurt sustained endangers the life of PW2 and he sustained severe bodily pain. The Trial Court disbelieved the evidence of PW1 to PW3 as regards A1 and A3 and acquitted them. In such circumstances, the same benefit ought to have extended to the petitioner. In view of the above, the judgment of the Trial Court is liable to be set aside.

9.The learned Government Advocate (Crl. Side) appearing for the



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respondent Police filed counter and submitted that in this case on the complaint (Ex.P1) of PW1, FIR (Ex.P6) registered in Crime No.98 of 2018 for offence under Sections 294(b), 324 and 506(1) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998 by PW9 against the petitioner/A2 and two others. The injured namely PW2 and PW3 immediately taken to the Government Hospital, Thittakudi where PW8 examined and issued the Wound Certificates (Exs.P3 & P4) of PW2 and PW3 and Discharge Summary (Ex.P5) of PW2. The cut injury sustained by PW2 on his left cheek and its swelling recorded in the Wound Certificate (Ex.P3). Since the injury was in the nature of cut, for X-Ray and Scan, PW2 referred to the Government Hospital, Perambalur. PW8, the Doctor confirmed PW2 was taken treatment as inpatient from 11.08.2018 to 08.09.2018 in the Government Hospital, Perambalur. In the discharge summary (Ex.P5), the fracture to the left jaw bone, surgery undergone by PW2 and a plate fixed for the fracture, all recorded. Likewise with regard to the injury sustained by PW3, PW8 gives a report simple in nature. The medical evidence confirmed that PW2 sustained grievous injuries and PW3 sustained simple injury. The evidence of PW1, PW2 and PW3 eye

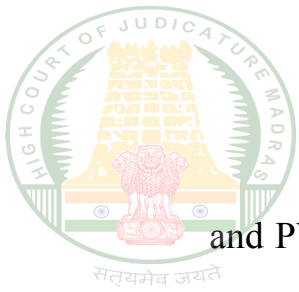


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witnesses to the occurrence, confirmed that the petitioner using the thorny log attacked PW2 on his left cheek. Though the other witnesses namely PW4, both PW5 and PW6 stated to be present in the scene of occurrence, except for PW4, PW5 and PW6 supported the case of the prosecution. The evidence of PW7 is in the nature of hearsay. The Investigating Officer/PW9 confirmed that the defacto complainant/PW1 immediately came to the Police Station and lodged the complaint (Ex.P1) and took up investigation, visited the scene of occurrence, prepared Observation Mahazar, Rough Sketch (Ex.P7), examined the witnesses, recorded their statements, recorded the statement of the Doctor/PW8, collected medical records (Exs.P3 to P5) and filed the charge sheet before the Trial Court. The Trial Court on the evidence of the prosecution witnesses and documents had rightly convicted the petitioner which is confirmed by the Lower Appellate Court. Hence, he prays for dismissal of the revision.

10.This Court considered the rival submissions and perused the materials available on record.

11.In this case, the defacto complainant/PW1 and PW2 are spouses



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and PW3 is their daughter. The petitioner, defacto complainant/PW1, PW2 and PW3 all close relatives and their existed family dispute. PW2 and PW3 are injured witnesses. On 10.08.2018, at about 08.00 p.m, when the defacto complainant's husband/PW2 was standing near Kaliasammal Temple, one Ravichandran/A3 shouted at PW2 using abusive words. The defacto complainant/PW1 and her daughter/PW3, who came that side to attend nature's call, intervened and questioned Ravichandran/A3 for using abusive words. When PW2 questioned Ravichandran/A3, the petitioner/A2 and A1 who are father and son came there, confirmed the abuse is at their instance. Then, the petitioner/A2 and A1 joined the abuse. Thereafter, there was wordy altercation between both the groups. A1 pulled down PW2 by his shirt and the petitioner/A2 using a thorny log, attacked PW2 on his left cheek. PW1 and PW3, the mother and daughter, were pushed to a thorny bush. Thereafter, there was exchange of blows by both the groups which ensued into a case and counter case. For the present case, the Crime Number is Crime No.98 of 2018 and the counter case registered at the instance of the petitioner's group is Crime No.99 of 2018, both cases investigation completed and charge sheet filed before the Trial Court. As



regards the counter case is concerned, the charge sheet filed in S.T.C.No.94 of 2019. In view of the same, the involvement of the petitioner and other accused and PW1 to PW3 in exchange of blows and assault, cannot be disputed.

12.Now, who is the aggressor is to be considered. It is seen that the case faced by PW1 to PW3 is only for the offence under Sections 294(b) & 323 IPC which is not of serious in nature. PW2 sustained grievous injury on his left cheek, his left jaw fractured, a plate implanted, all confirmed by the Doctor/PW8 through the Discharge Summary (Ex.P5). Admittedly, in this case, the Doctor who treated PW2 and PW3 at the Government Hospital, Perambalur not examined as witness and there is no explanation for non-examination. The Doctor/PW8 attached to the Government Hospital, Thittakudi stated that he is not familiar with the signature and writings of the Doctor who gave treatment to PW2 in Government Hospital, Perambalur. In Discharge Summary (Ex.P5), it is seen that PW2 took treatment as inpatient from 11.08.2018 to 08.09.2018. The Discharge Summary (Ex.P5) being a public document, it cannot be discarded



altogether. In view of the above, PW2 taking treatment for 28 days in

Government Hospital, Perambalur cannot be ignored. PW1 to PW3 and the petitioner are close relatives and they had dispute since PW2 claims himself as “Nattamai” of a group which ensued into wordy altercation and assault. The injuries sustained by PW2 & PW3 recorded in the Wound Certificates (Exs.P3 and P4). The Trial Court considering all these aspects convicted the petitioner/A2 but acquitted A1 and A3 from all charges and acquitted the petitioner from the charges under Sections 294(b) & 506(ii) of IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998. In view of the same, the aggressor to the assault not proved in this case.

13.Be that as it may, now the injuries sustained by PW2 who took treatment around 28 days (11.08.2018 to 08.09.2018) in the Government Hospital, Perambalur is proved by the Discharge Summary (Ex.P5). PW2 and PW3 immediately taken to the Government Hospital, Thittakudi and the Wound Certificates (Exs.P3 & P4) issued by PW8, proved. Merely producing the Wound Certificate (Ex.P3) of PW3 in the absence of any



other medical records, will not be sufficient to convict the petitioner for offence under Section 324 IPC for the attack made on PW3. Hence, the conviction and sentence for offence under Section 324 IPC is set aside. Fine amount if any paid shall be refunded to the petitioner.

14.As regards the injury sustained by PW2 and he taking treatment in Government Hospital, Perambalur, are confirmed by the Wound Certificate (Ex.P3) and the Discharge Summary (Ex.P5). Hence, the conviction and sentence of the petitioner for offence under Section 326 IPC is sustained and confirmed.

15.It is seen that the petitioner along with his father Sigamani/A1 and a known person Ravichandran/A3 were tried together during trial and the Trial Court acquitted the other two accused (A1 & A3). It is also seen that the petitioner and PW1 to PW3 are close relatives and neighbours and they have dispute over sharing of common space. PW2's position as "Nattamai" was questioned and both groups had heated abuse which ensued into push and pull and assault, hence a case and counter case registered. Since the



entire fight broke out after heated exchange of words, the attack was not premeditated. In view of the same, this Court is inclined to modify the sentence of imprisonment imposed for offence under Section 326 of IPC against the petitioner.

16.Considering the above and the period already undergone by the petitioner for 27 days and now the petitioner is ready to deposit a sum of Rs.25,000/- as compensation to the injured/PW2, this Court modifies the sentence of two years imprisonment imposed for offence under Section 326 of IPC to the period already undergone by the petitioner.

17.It is seen that as per the judgment of the Trial Court, the petitioner already directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as compensation to the injured/PW2. In addition to it, now the petitioner to deposit another Rs.25,000/- (Rupees Twenty Five Thousand) as compensation to the injured/PW2. In total, the deposited amount of Rs.50,000/- (Rupees Fifty Thousand only) in the credit of C.C.No.225 of 2019 before the Trial Court to be paid as compensation to the injured/PW2 on filing of any petition in this regard. The respondent



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Police is directed to inform PW2/Varadharajan, son of Arunachalam about his entitlement.

18.In the result, this Criminal Revision Case is allowed in part with modification.

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Speaking Order/Non Speaking Order

Index : Yes/No

Internet : Yes/No

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To

- 1.The Sessions Judge,
Fast Track Mahila Court, Ariyalur.
- 2.The District Munsif cum Judicial Magistrate,
Sendurai.
- 3.The Inspector of Police,
Thalavai Police Station,
Ariyalur.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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