

*Crl.R.C.(MD)No.186 of 2024*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.04.2025

Delivered on : 04.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR**

Crl.R.C.(MD)No.186 of 2024

Chandru

: Petitioner

Vs.

State through the Inspector of Police,  
Checkanoorani Police Station,  
Madurai District.  
Crime No.946 of 2020.

: Respondent

**PRAYER :** Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the judgment of conviction, dated 19.12.2023 made in Crl.A.No.55 of 2022 on the file of the learned V Additional District and Sessions Judge, Madurai, confirming the judgment made in C.C.No.114 of 2021 on the file of the learned Judicial Magistrate No.II, Usilampatti, dated 22.08.2022 and set aside the same.

For Petitioner : Mr.K.R.Laxman

For Respondent : Mrs.M.Aasha,  
Government Advocate (Criminal Side)



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## **ORDER**

This Criminal Revision is directed against the concurrent judgment of conviction made in Crl.A.No.55 of 2022, dated 19.12.2023 on the file of the learned V Additional District and Sessions Judge, Madurai, confirming the judgment passed in C.C.No.114 of 2021, dated 22.08.2022 on the file of the learned Judicial Magistrate No.II, Usilampatti.

2. Admittedly, the defacto complainant/(P.W.1- Kalaiselvi) is the wife of the first accused and P.W.2 Sathish Kumar is none other than the son of the defacto complainant and the first accused. The second accused is the brother of the first accused. The fourth accused is the wife of the second accused and the third accused is the son of the accused 2 and 4.

3. The prosecution's case is that on 16.06.2020 at around 12:00 noon, the defacto complainant, Kalaiselvi, questioned her husband, the first accused, about his illicit affairs with another girl at their home. The first accused allegedly responded by abusing her with filthy language and physically assaulting her. Upon hearing the complainant's cries, the other



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accused, who were nearby, arrived at the scene and indiscriminately attacked her, also issuing criminal threats. The accused are thereby alleged to have committed offences punishable under Sections 323 and 506(i) of the IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act.

4. During trial, the prosecution in an attempt to prove their case examined nine witnesses as P.W.1 to P.W.9 and exhibited six documents as Ex.P.1 to Ex.P.6. The accused have adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence adduced and on hearing the arguments of both the sides has passed the judgment, dated 22.08.2022, convicting the accused 1 to 3 for the offence under Section 323 of IPC and sentenced them to pay a fine of Rs.1,000/- each in default to undergo two weeks imprisonment and also found that the accused 1 to 3 not guilty for the offence under Section 506(i) IPC and Section 4 of TNPHW Act and the fourth accused for the offence under Section 506(i) IPC acquitting them under Section 248(1) of Cr.P.C. Challenging the conviction, the third accused preferred an appeal in Crl.A.No.55 of 2022 and the learned



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V Additional District and Sessions Judge, Madurai, upon considering the materials available on record and on hearing the arguments of both the sides, passed the judgment, dated 19.12.2023, dismissing the appeal and thereby confirming the conviction as against the revision petitioner. Challenging the judgment of conviction, the third accused has filed the present Criminal Revision.

6. It is pertinent to note that there is a concurrent verdict of conviction and sentence against the revision petitioner. The power and the jurisdiction of revisional Court cannot be equated with the power and the jurisdiction of the appellate Court nor the same can be treated as the second appellate jurisdiction. The powers and the jurisdiction of the revisional Court under Sections 397 and 401 Cr.P.C., is confined to legality, propriety and correctness of the concurrent findings of the conviction entered and sentence imposed on the accused. No doubt, while exercising the revisional jurisdiction, there is absolutely no scope for reappreciating the entire evidence, but at the same time, when the appreciation of evidence is tainted with perversity, the same can very well be looked into and interfered with by this Court. Bearing the above legal position in mind, let us consider the case on hand.

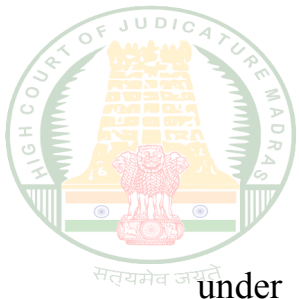


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7.The learned counsel appearing for the revision petitioner would mainly contend that the prosecution has not produced any wound certificate or any other medical records to prove the offence under Section 323 of IPC; that there is absolutely no evidence to show that the victim suffered injury due to the assault/attack allegedly made; that though the defacto complainant deposed that she had treatment in a private hospital, the prosecution has not produced any documents to substantiate the same and that therefore, the conviction made for the offence under Section 323 IPC cannot legally be sustained.

8.The learned counsel appearing for the revision petitioner would further contend that the independent witnesses P.W.3 to P.W.5 had turned hostile and they have not supported the case of the prosecution and that the Courts below by mainly relying the interested testimony of the defacto complainant and his son convicted the accused including the petitioner. He would also submit that the trial Court has rightly acquitted the accused including the petitioner for the offences under Section 506(i) IPC and Section 4 of TNPHW Act, but erroneously convicted them for the offence



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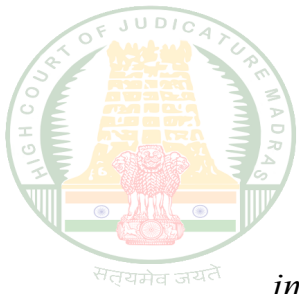
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under Section 323 of IPC. He would further submit that the learned trial Judge, without considering the evidence in proper perspective, has convicted the petitioner for the offence under Section 323 IPC in a mechanical manner and that the appellate Court also has casually and mechanically confirmed the judgment of conviction passed by the trial Court.

9. No doubt, as rightly contended by the learned counsel for the petitioner, the prosecution has not chosen to produce wound certificate or any other medical records. As already pointed out, the learned Magistrate has convicted the accused 1 to 3 including the petitioner for the offence under Section 323 IPC.

10. Section 319 of IPC contemplates that "whoever causes bodily pain, disease or infirmity to any person is said to cause hurt". The Hon'ble Supreme Court in ***Lakshman Singh Vs. State of Bihar*** reported in (2021) 9 SCC 191, has reiterated the legal position that production of injury report is not a *sine qua non* for establishing the case for the offence under Section 323 IPC and the relevant passage is extracted hereunder :

*"8....It may be that there might not be any serious injuries and/or visible injuries, the hospital might not have issued the*



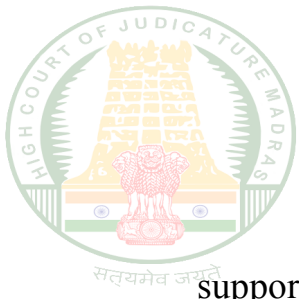
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*injury report. However, production of an injury report for the offence under Section 323 IPC is not a sine qua non for establishing the case for the offence under Section 323 IPC. Section 323 IPC is a punishable section for voluntarily causing hurt. "Hurt" is defined under Section 319 IPC. As per Section 319 IPC, whoever causes bodily pain, disease or infirmity to any person is said to cause "hurt". Therefore, even causing bodily pain can be said to be causing "hurt". Therefore, in the facts and circumstances of the case, no error has been committed by the courts below for convicting the accused under Section 323 IPC."*

11. The above legal position is squarely applicable to the case on hand. Just because, the prosecution has not filed the wound certificate or any other medical records, it cannot be stated that the same is fatal for the prosecution to prove the charge under Section 323 IPC. Considering the evidence of P.W.1, who is the victim/defacto complainant and his son P.W. 2, the Courts below have rightly come to a decision that the charge under Section 323 IPC has been proved.

12. No doubt, as rightly pointed out by the learned counsel for the revision petitioner, witnesses P.W.3 to P.W.6 turned hostile and did not



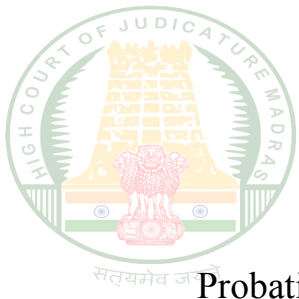
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support the prosecution's case. However, the defacto complainant (P.W.1), who is an injured witness, testified about the incident, and her son (P.W.2) corroborated her evidence.

13. It is settled law that a victim's testimony can be sufficient for conviction if it is cogent and believable. The court has the discretion to assess the credibility of the evidence and determine whether the victim's testimony alone is sufficient for conviction. The Hon'ble Supreme Court has consistently held that the sole testimony of a victim, if reliable, can suffice for conviction without corroboration. In this case, P.W.1 and P.W.2 have testified about the attack on the defacto complainant/victim by the accused, including the petitioner. The fact that other occurrence witnesses turned hostile does not affect the prosecution's case. The courts below rightly observed that P.W.1 and P.W.2's evidence is sufficient to prove the charge under Section 323 of the IPC. Upon reassessment, the appellate court concurred with the trial court's findings.

14. This Court after hearing the arguments of both the sides and while reserving the orders, directing the Registry to call for a report from the

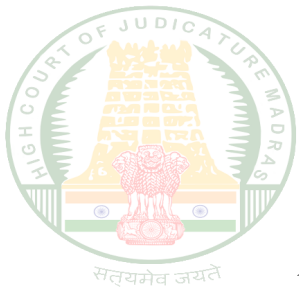


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Probation Officer, Madurai under Section 4 of the Probation of Offenders Act and after enquiry, the Probation Officer submitted a report stating that the accused is not having any previous conviction and that his character and conduct are good and that therefore, he has recommended that it is a fit case for invoking Section 4(1) and 4(3) of the Probation of Offenders Act. Considering the above, the report of the Probation Officer, Madurai is accepted.

15. As already pointed out, the occurrence was held on 16.06.2020 and the appellate Court has passed the judgment on 19.12.2023. It is evident from the records that the accused was shown to be aged 24 years in the year 2020. The learned counsel for the petitioner would submit that the petitioner has already applied for a job in the Railways Department and also in Indian Navy and he is preparing for examination. Considering the nature of the offences and the punishment imposed and taking note of the unblemished records and also the good character and the conduct of the accused, this Court is inclined to invoke Section 4 of the Probation of Offenders Act.



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16. In view of the above, the conviction passed against the revision petitioner stands confirmed, but instead of sentencing him at once, in exercise of Section 4 of the Probation of Offenders Act, the accused is ordered to be released on entering into a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two solvent sureties for a like sum and to appear and receive the sentence and as and when called upon during the period of six months and he shall be under the supervision of the District Probation Officer, Madurai during that period. The District Probation Officer, Madurai shall send a periodical report to the trial Court quarterly. The revision petitioner is directed to keep peace and good behaviour during that period.

17. This Criminal Revision Petition is disposed of accordingly.

**04.08.2025**

NCC : Yes / No  
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To

- 1.The V Additional District and Sessions Judge,  
Madurai,
- 2.The Judicial Magistrate No.II, Usilampatti.
- 3.The Inspector of Police,  
Checkanoorani Police Station,  
Madurai District.
- 4.The District Probation Officer, Madurai.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**K.MURALI SHANKAR,J.**

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Pre-delivery order made in  
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Dated: 04.08.2025