



CRL RC(MD)No.489 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 08.08.2025

PRONOUNCED ON : 31.10.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.489 of 2025

1.Parasuraman

2.Chellaperumal

... Petitioners / Accused 1 & 2

Vs.

The State Rep. by its
Inspector of Police,
Suchindram Police Station,
Kanniyakumari District.
(Crime No.553 of 2013)

...Respondent / Complainant

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, to call for the records relating to the Judgment in C.C.No.142 of 2014 on the file of the learned Judicial Magistrate No.3, Nagercoil, confirmed in C.A.No.10 of 2022 dated 16.12.2024 by the learned Additional District and Session Judge, (FTC), Nagercoil and set aside the same and acquit the accused by allowing this Criminal Revision case.

For Petitioner : Mr.N.Dilip Kumar,
For Mr.H.Elango

For Respondent : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side)



CRL RC(MD)No.489 of 2025

ORDER

This Criminal Revision Case has been filed challenging the concurrent judgments of conviction rendered by the Courts below. The learned Judicial Magistrate No.3, Nagercoil, in C.C. No.142 of 2014, convicted the petitioners/accused Nos.1 and 2 for the offence punishable under Section 325 IPC and sentenced them to undergo one year simple imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) each, in default to undergo one month simple imprisonment. The said conviction and sentence were confirmed in Criminal Appeal No.10 of 2022 by the learned Additional District and Sessions Judge, Fast Track Court, Nagercoil, by judgment dated 16.12.2024. Aggrieved by the same, the accused have preferred the present revision.

2. *Prosecution Case in Brief:*

The occurrence took place on 15.09.2013 during the marriage function of the victim's wife's brother Subash at Madhusoothanapuram. The prosecution case is that an altercation arose earlier in the day regarding the offering of a coconut at a temple. Later, at about 1:30 p.m., within the compound of the marriage hall, the accused, who are brothers, assaulted PW1, the victim, by punching him in the eye and nose. He sustained bleeding injuries and was taken to Kevin Hospital, where CT scan confirmed a fracture in the upper right jaw. Surgery was conducted on 17.09.2013, and he was



discharged on 23.09.2013. Following hospital intimation, FIR in Crime No. 553/2013 was registered under Sections 294(b), 323, and 506(i) IPC by Sucheendrum Police. After investigation a final report was filed for offences under sections 294(b), 325 and 506(i) of IPC along with alteration report.

3. Evidence before the learned Trial Court:

To substantiate the charges, the prosecution examined 13 witnesses and marked Exhibits P1 to P6. PW1 (injured) narrated the occurrence, PW2 corroborated, and PW3 (wife of PW1) deposed about the aftermath of the assault and hospitalization. PW5, Dr. Edwin Emperor, testified that the victim had a fracture to the right upper jaw and underwent surgery. The wound certificate was marked as Ex.P3. Though PWs 6 to 11 turned hostile, the core evidence of PW1, corroborated by PW2 and medical testimony, was accepted by the learned Trial Court, which convicted the accused under Section 325 IPC.

4. Findings of the Courts Below:

The learned Trial Court found that the medical evidence of PW5 conclusively established a fracture, which constitutes grievous hurt under Section 320 IPC. The Appellate Court re-appreciated the evidence, agreed with the learned Trial Court, and confirmed conviction and sentence.



5. Grounds of Challenge in Revision:

The learned counsel for the petitioners submitted that the evidence of PW1 is inconsistent, independent witnesses turned hostile, FIR was delayed, and there was no recovery of bloodstained clothes. It was further argued that the medical evidence was incomplete, since no CT scan films or discharge summaries were produced, and hence the prosecution failed to establish grievous hurt beyond reasonable doubt. It was also contended that the victim, being in an inebriated state, had fallen and sustained injury, but falsely implicated his co-brothers owing to family enmity.

6. The learned Government Advocate submitted that PW1 is an injured eyewitness whose testimony is fully corroborated by PW2 and PW5, and the fracture injury *per se* constitutes grievous hurt under Section 320 IPC, which justifies conviction under Section 325 IPC.

7. Consideration of this Court:

This Court notes that both Courts below concurrently found that PW1, the injured eyewitness, had suffered a fracture injury. The evidence of an injured witness has greater evidentiary value and ordinarily cannot be discarded unless there are compelling reasons. The testimony of PW1 is corroborated by PW2 and the medical evidence of PW5.



8. It is apposite to extract Section 320 IPC:

Section 320 IPC – Grievous Hurt:

The following kinds of hurt only are designated as “grievous”:

320 IPC defines “grievous hurt” to comprise the following eight kinds:

(i) Emasculation;

(ii) Permanent privation of the sight of either eye;

(iii) Permanent privation of the hearing of either ear;

(iv) Privation of any member or joint;

(v) Destruction or permanent impairment of the powers of any member or joint;

(vi) Permanent disfiguration of the head or face;

(vii) Fracture or dislocation of a bone or tooth;

(viii) Any hurt which endangers life, or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

9. The present case falls squarely within Clause “Seventhly” of Section 320 IPC. Once a fracture of a bone is medically proved, the injury automatically amounts to grievous hurt.



10. The Hon'ble Bombay High Court in **Sheshrao Namdeo Atkare and Another v. State of Maharashtra**¹ reiterated that a fracture proved by medical evidence is *per se* grievous hurt under Section 320 IPC, and it is not necessary to prove further complications.

11. In view of the definition of Section 320(7) of IPC, even a simple fracture of a bone, irrespective of whether it caused lasting disability or not, squarely falls under grievous hurt. Hence, I am of the considered view that where medical evidence demonstrates a fracture, it is unsafe to discard such evidence merely because radiological records were not formally marked, if the doctor's sworn testimony confirms the fracture. Thus, once PW5, the treating doctor, clearly deposed that CT scan confirmed a fracture of the upper right jaw bone and that surgery was conducted, the case squarely comes within Section 325 IPC.

12. The contention regarding delay in FIR does not vitiate the case. PW1 was first taken for treatment, and only thereafter hospital intimation led to registration of the FIR. The explanation is reasonable. Minor contradictions about whether PW3 witnessed the incident directly, do not demolish the prosecution case when the fact of fracture is independently proved. The hostile witnesses and non-recovery of bloodstained clothes are lapses in investigation,

¹ [Criminal Appeal No.3500 of 2002, decided on 22.01.2018]



which cannot enure to the benefit of the accused when core evidence remains credible.

13. The principle laid down in **Abdul Sayeed v. State of M.P.**² is relevant here:

“The testimony of an injured witness has its own relevance and efficacy and is generally considered reliable, as such a witness would not normally implicate an innocent person and spare the actual assailant.”

14. The evidence of PW1, corroborated by medical records, is cogent and trustworthy. It was argued that the sentence of one year simple imprisonment is excessive and that the petitioners, being family members, should have been granted the benefit of probation under the Probation of Offenders Act, 1958.

15. This Court is unable to accept the contention. The offence under Section 325 IPC involves voluntarily causing grievous hurt. The injury suffered by PW1 was not trivial; it was a fracture of the upper jaw bone, necessitating surgery and hospitalization for more than a week. The assault took place in the backdrop of a family function, where peace and solemnity should have prevailed. Acts of violence in such contexts cannot be lightly condoned.

² [(2010) 10 SCC 259]



16. It is needless to state that, while considering sentencing, the nature of the offence and its impact on the victim and society at large must outweigh misplaced sympathy for the accused. That apart, it is the considered opinion of this Court that, undue leniency in sentencing undermines public confidence in the justice system.

17. Though the Probation of Offenders Act is a beneficial legislation, it is generally not extended in cases involving grievous hurt where the victim suffered severe injuries and had to undergo surgery. Given the proved fracture, the family relationship between the parties cannot be a ground for extending probation.

18. At the same time, the sentence imposed by the learned Trial Court that one year simple imprisonment and a fine of Rs.1,000/- (Rupees One Thousand only) is already lenient considering that Section 325 IPC prescribes a maximum punishment of seven years imprisonment. Therefore, this Court finds that the sentence awarded is just, proportionate, and calls for no interference.

19. Accordingly, the concurrent findings of guilt under Section 325 IPC by both Courts below are based on credible evidence and correct appreciation



CRL RC(MD)No.489 of 2025

of law. The injury being a fracture, it is squarely covered under “grievous hurt” in Section 320 IPC. The sentence of one year simple imprisonment imposed is reasonable, proportionate, and in no way excessive.

20. In fine, this Criminal Revision Case is dismissed. The conviction and sentence imposed on the petitioners by the learned Judicial Magistrate No.3, Nagercoil, in C.C. No.142 of 2014, and confirmed by the learned Additional District and Sessions Judge, Fast Track Court, Nagercoil, in Criminal Appeal No.10 of 2022 dated 16.12.2024, are hereby confirmed. No costs.

31.10.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

- 1.The Judicial Magistrate No.3,
Nagercoil.
- 2.The Additional District and
Session Judge, (FTC),
Nagercoil.
- 3.The Inspector of Police,
Suchindram Police Station,
Kanniyakumari District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CRL RC(MD)No.489 of 2025

L.VICTORIA GOWRI, J.,

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CRL RC(MD)No.489 of 2025

31.10.2025