



CRL RC(MD)No.606 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.08.2025

PRONOUNCED ON :21.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.606 of 2023

and

CRL MP(MD)No.11707 of 2025

1.Subin

2.Vibin

... Revision Petitioners / Appellants /
Accused Nos.1 & 2

Vs.

State of Tamil Nadu,
Rep. by the Public Prosecutor,
Nagercoil,
(Through Sub Inspector of Police,
Kollemcode Police Station,
Kanyakumari District)

... Respondent / Respondent /
Complainant

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., 1973, to call for the records pertaining to the Judgment of conviction and sentence passed in C.A.No.267 of 2005 dated 04.01.2023 by the learned Additional Sessions Judge, Kuzhithurai, confirming the judgment of conviction and sentence passed in C.C.No.147 of 1999 by the learned Judicial Magistrate No.II, Kuzhithurai, dated 25.10.2005 and to set aside the same.

For Petitioner : Mr.M.R.Sreenivasan

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



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ORDER

Preface:

This Criminal Revision Case is directed against the concurrent findings of conviction and sentence passed by the learned Judicial Magistrate No.II, Kuzhithurai, in C.C. No.147 of 1999, dated 25.10.2005, and confirmed by the learned Additional Sessions Judge, Kuzhithurai, in CrI.A. No.267 of 2005, dated 04.01.2023.

2. The revision petitioners herein were arrayed as accused Nos.1 and 2 before the learned Trial court and stand convicted under various provisions of the Indian Penal Code for offences arising from a familial altercation that allegedly escalated into physical assault.

3. The present revision seeks to set aside the concurrent judgments of conviction and sentence and to acquit the petitioners.

Case of the prosecution:

4. The prosecution case, in essence, is as follows:

4.1. On 06.12.1998, at about 7.00 p.m., at Kollangodu Kalvettan Kulam, Madavan Pazhanji, the 1st accused trespassed into the house of PW.2 Selvi,



sister of PW.1 Thangamani, and attacked both of them due to previous enmity relating to family property.

4.2. The family background forms the root of the enmity. One Joshwa Nadar had three sons, namely, Thangamani (PW.1), Thangaraj (the father of the accused), and Selvaraj, and two daughters, Selvi (PW.2) and Saroja. The accused are the sons of Thangaraj, who had passed away. Joshwa Nadar owned 2 acres of ancestral property, in which 35 cents each were allotted to Thangamani, Thangaraj, and Selvaraj respectively. A dispute arose when PW.1 and PW.2 allegedly refused to divide and hand over Thangaraj's share. The accused, claiming partition, filed a civil suit, which was pending at the time of occurrence.

4.3. On the said date, PW.1 and PW.2, after visiting Kanna Nagar, returned to PW.2's house and were standing on the front verandah when the 1st and 2nd accused, armed with knives, and the 3rd accused, armed with a stick, allegedly entered the house and assaulted them.

4.4. The 1st accused stabbed PW.1 on the inner side of the right thumb, below the right elbow, left wrist, and left jaw, causing bleeding injuries. The 3rd accused struck PW.1 on the left shoulder, left jaw, and rib with a stick,



breaking two teeth and causing grievous injury. The 2nd accused stabbed PW.2 on the left palm, left wrist, and left upper arm, causing bleeding injuries, while the 3rd accused hit her on the left shoulder and head with a stick.

4.5. Immediately thereafter, both injured witnesses proceeded to Kollangodu Police Station, where PW.1 lodged a written complaint (Ex.P1) at 7.30 p.m.. Based on the same, a criminal case came to be registered in Crime No.573/1998 under Sections 452, 324, and 325 IPC and the same was forwarded (First Information Report (Ex.P5)) to the jurisdictional Magistrate.

4.6. PW.3 Dr. Sampath, Medical Officer, Kuzhlithurai Government Hospital, examined both victims at 8.30 p.m. on the same day. He issued Ex.P2 wound certificate for PW.1 noting six injuries, including one grievous injury on the left jaw and multiple cut injuries on the limbs. PW.1 was referred to Nagercoil Government Hospital, where PW.7 Dr. Sathya Pradeep confirmed the loss of an incisor tooth as grievous injury (Ex.P7). PW.2's Ex.P3 wound certificate recorded five simple injuries including a cut injury at the base of the left thumb.

4.7. PW.6, the Investigating Officer, visited the scene at 10.00 p.m. on the same day, prepared Ex.P4 observation mahazar and Ex.P6 rough sketch,



and examined witnesses. Though PW.5 Sathyadas turned hostile during cross-examination, his chief examination corroborated the preparation of Ex.P4 and Ex.P6 at the scene. After completion of investigation, final report was filed against all three accused for offences under Sections 452, 323, 324 and 325 IPC.

5. *Gist of the trial court judgment:*

5.1. The learned Judicial Magistrate No.II, Kuzhithurai, framed charges as follows:

1st accused: Sections 452 and 324 IPC

2nd accused: Sections 452 and 324 IPC

3rd accused: Sections 452, 323, and 325 IPC

5.2. The prosecution examined seven witnesses (PW.1 to PW.7) and marked Ex.P1 to Ex.P7. No defence evidence was adduced.

5.3. The learned Trial Court, upon appreciating the evidence, held as follows:

The hostility of PW.4 and PW.5 did not discredit the core version of the



injured witnesses PW.1 and PW.2, whose testimony was consistent and corroborated by medical evidence. The complaint Ex.P1 and FIR Ex.P5 were registered within half an hour of occurrence, lending credence to the spontaneity of the prosecution version. The medical certificates (Ex.P2, P3, and P7) matched the injuries spoken to by the witnesses, and the time of medical examination (8:30 p.m.) aligned with the alleged time of offence. The claim of alibi by the 1st accused based on his employment at Karakonam Medical College was rejected for want of substantiating evidence.

5.4. The contention that the injuries resulted from a fall from a tamarind tree was held to be unsubstantiated. The Court found that the accused unlawfully trespassed into the complainant's house and caused injuries. Accordingly, the Court convicted and sentenced the accused as follows:

Accused	Offence	Sentence
1st & 2nd accused	Sec. 452 IPC	1 year RI + Rs.5,000 fine (1 month SI in default)
1st & 2nd accused	Sec. 324 IPC	1 year RI + Rs.5,000 fine (1 month SI in default)
3rd accused	Sec. 452 IPC	1 year RI + Rs.5,000 fine (1 month SI in default)
3rd accused	Sec. 323 IPC	Rs.1,000 fine (1 month SI in default)
3rd accused	Sec. 325 IPC	2 years RI + Rs.4,000 fine (1 month SI in default)



5.5. The substantive sentences were ordered to run concurrently and set-off was granted under Section 428 Cr.P.C., 1973.

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6. Gist of the judgment in criminal appeal:

6.1. In CrI.A. No.267 of 2005, the appellants challenged their conviction before the learned Additional Sessions Judge, Kuzhithurai, mainly contending that the prosecution case was riddled with contradictions regarding the place and time of occurrence. PW.1 and PW.2 were interested witnesses with motive arising out of a pending civil dispute. The non-recovery of weapons, blood-stained earth, and absence of independent witnesses undermined the prosecution case. The 1st accused was at his hospital duty at the relevant time, and the others were in their shops. The injuries could have been due to a prior fall from a tamarind tree.

6.2. After hearing both sides, the learned Appellate Judge dismissed the appeal with the following findings:

The place of occurrence whether the verandah or inner house, was immaterial since both fall within the curtilage of PW.2's house. Hence, the trespass under Section 452 IPC stood proved. The travel time from Kollangodu to Kulithurai (10 km) was consistent with the prosecution version. The prompt registration of FIR and examination by the doctor reinforced genuineness.



Minor discrepancies in the nature or sequence of injuries were not fatal to the prosecution case.

6.3. The alibi plea was unsupported by admissible proof. The civil dispute was the motive, not a ground for false implication. The learned Appellate Court confirmed the conviction and sentence imposed by the learned Trial Court and dismissed the appeal.

7. Grounds of revision:

The revision petitioners have raised the following grounds:

The judgments of the courts below are contrary to law, evidence, and probabilities of the case. Both courts failed to appreciate material contradictions and discrepancies in the prosecution evidence. The courts ignored that the incident was a civil dispute given a criminal colour to harass the petitioners. The investigation was biased and unfair; no blood-stained earth or weapon was recovered. PW.1's prior injury due to a fall from a tamarind tree was deliberately suppressed and falsely attributed to the accused. The alibi of the 1st accused and the absence of corroboration by independent witnesses were ignored. The medical evidence does not support the prosecution's version in material particulars. The judgments suffer from non-application of judicial mind and are unsustainable in law.



8. Mr.M.R.Sreenivasan, the learned counsel for the petitioners (Accused) submitted that, the case is the civil dispute in a criminal garb. The investigation is fully tainted, and further the failure to seize weapons, absence of Forensic Science Laboratory (FSL), presence of interested witnesses, hostile attester, contradictions on situs and medical uncertainty about cause of tooth loss would go to the root of the investigation warranting giving the benefit of doubt to the petitioners. He further pointed out the Investigation Officer's categorical admissions about not collecting blood/sand and not examining neighbours show non-compliance with basic investigative protocol. Categorically insisted that where investigation is demonstrably unfair, Courts must be slow to convict on partisan testimony.

9. Mr.M.Shakthi Kumar, the learned Government Advocate for the State/Respondent submitted that, the injured witnesses are the best witnesses and their version is prompt and medically corroborated. Minor contradictions on topography are immaterial, while trespass stands proved. He further submitted that, investigative lapses, if any, do not *ipso facto* demolish otherwise credible ocular testimony. Finally he prayed that, concurrent findings shouldn't be unsettled in revision.

10. Heard the learned counsels on either side and carefully perused the materials available on record.



11. **Analysis:**

Having perused the records and appreciated the submissions, this Court frames and answers the following:

11.1. Whether the investigation suffers from material infirmities undermining the prosecution case?

A careful perusal of the materials on record discloses foundational lapses. It is my considered view that, non-recovery of alleged weapons (knives/stick) though the prosecution speaks to repeated cuts and targeted blows, without explanation for non-seizure despite an alleged prompt inspection, would itself falsify the entire prosecution narrative. Though multiple bleeding injuries are alleged, no bloodstained earth from the verandah/threshold area, has been seized. The Investigating Officer admits that he did not collect blood sand sample. That apart, neither bloodstained clothes were seized nor FSL/serology obtained. The scene of occurrence is amidst closely built houses; yet not a single adjacent resident was examined, and PW.4 (projected eyewitness) turned hostile. Non-examination of neighbours cannot be negated. Mahazar attestor (PW.5), though chief supports presence, in cross he states he signed at police station and was unaware of contents, casting a serious shadow on Ex.P4/Ex.P6. These are not mere irregularities; they extirpate objective corroboration and elevate the risk of partisan reconstruction in a case coloured by longstanding property animosity.

11.2. Are contradictions regarding the place and manner material to



Section 452 IPC?

The prosecution alternates between “house interior,” “verandah,” and “northern side of a north-facing house.” Where trespass is the fulcrum, situs must be certain. The rough sketch (Ex.P6) and observation mahazar (Ex.P4) ought to anchor the ocular narrative; however in the instant case, their evidentiary value is diluted by the attestor’s hostility and the Investigation Officer’s lapses. In such a setting, elastic descriptions of the spot assume materiality and generate reasonable doubt about the very entry and locus necessary for Section 452.

11.3. Does the medical evidence clinch the prosecution version?

No. While Ex.P2/Ex.P3/Ex.P7 note injuries, two aspects matter:

Incised wounds and tooth loss could be consistent with assault, but the prosecution must exclude reasonable alternative hypothesis. The defence brought out PW.1’s prior fall from a tamarind tree. The prosecution neither investigated nor ruled out that avenue, no prior records traced, no dental forensics, and no weapon recovery to align wound morphology. With no independent eyewitness, no physical corroboration, and contradictions as to where/how exactly the jaw blow occurred, the medical sheets do not by themselves complete the chain.



12. It is settled that a trial is not to be scuttled for every lapse. Yet, it is needless to state, where lapses directly erode the core factum including place, means, manner, and independent corroboration, the Court cannot fill gaps by conjecture. A fair investigation is an imperative facet of fair trial; but when the investigation is demonstrably perfunctory/one-sided, the resultant prejudice to the accused mandates benefit of doubt. Here, the IO's own admissions, hostile public witnesses, and absence of physical corroboration in a neighbourhood teaming with potential witnesses vitiate confidence in the prosecution narrative.

13. Ordinarily, revisional scrutiny is narrow. However, where perversity is apparent, i.e., where vital investigative infirmities are minimised as "minor" and material contradictions on situs/mahazar proof are overlooked, interference is warranted to prevent miscarriage of justice.

14. Hence, it is the considered opinion of this Court that, the prosecution has not proved beyond reasonable doubt the trespass (Sec.452 IPC) or the specific overt acts under Secs.324/325/323 IPC attributed to each accused. The investigation is faulty in essential respects and fails to inspire judicial confidence. The accused are entitled to the benefit of doubt.



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15. Accordingly, this Criminal Revision case is allowed. Consequently, connected miscellaneous petition is closed.

16. The judgment of conviction and sentence dated 25.10.2005 in C.C. No.147 of 1999 passed by the Judicial Magistrate No.II, Kuzhithurai, and the judgment of confirmation in CrI.A. No.267 of 2005 by the Additional Sessions Judge, Kuzhithurai, are set aside.

17. The 1st accused, 2nd accused and 3rd accused are acquitted of all charges. Any fine amount paid shall be refunded forthwith. Bail bonds stand cancelled and the sureties discharged.

21.11.2025

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

To

- 1.The Additional Sessions Judge,
Kuzhithurai.
- 2.The Judicial Magistrate No.II,
Kuzhithurai.
- 3.The Sub Inspector of Police,
Kollemcode Police Station,
Kanyakumari District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

Sml

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