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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04-11-2026

CORAM

THE HON'BLE MR.JUSTICE D.LINGESWARAN

Crl.A(MD) No.2 of 2019

CNR:{HCMD010345652019}

Mohanraj ..Appellant/Accused No.1

Vs

1. The Deputy Superintendent of Police,
   Kulithalai, Karur District

2. The Inspector of Police
   Kulithalai Police Station,
   Karur District.
   Crime No.872 of 2016 ..Respondents/Complainants

Prayer: This Criminal Appeal is filed under Section 378(4) of Cr.P.C., to call for the records pertaining to the order dated 17.07.2018 in S.C.No.60 of 2017 on the file of the learned Principal Sessions Judge, Karur and to set aside the same by allowing this Criminal Appeal.

For Appellant :Mr.J.K.Jayaselan

For Respondents : Mr.A.Robinson
Additional Public Prosecutor

For Defacto complainant : Mr.R.Murugappan

JUDGMENT

This Criminal Appeal is filed challenging the judgment passed against the appellant in S.C.No.60 of 2017 by the learned Principal Sessions Judge, Karur dated 17.07.2018.

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2. The case of the prosecution is that on 29.12.2016 at 17.30 hours, Mr.Periyasamy (PW1) came driving a lorry to Kulithalai and parked the vehicle in front of KPS Bakery, which belongs to the appellant. A quarrel arose between the injured witness and the accused party, which includes the appellant herein. Following this, the appellant herein and others attacked the injured. Specifically, the appellant attacked PW1 with an iron spatula, which is used in the kitchen. He aimed a blow at the head of Periyasamy, but the witness blocked it with his right arm and fell down. Thereafter, the appellant attacked him on his right leg, causing grievous injury. It was further alleged that the appellant attempted to take away the life of Periyasamy. Based upon the First Information given, a case in Crime No.872 of 2016 came to be registered with the respondent Police. The case was investigated, and the final report was filed against all three accused under Sections 294(b), 342, 323, 307 and 506(ii) of IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST (PoA) Act, 2015.

3. The prosecution examined 15 witnesses and exhibited 15 documents, apart from marking PMO.1 and PMO.2. The defence also exhibited one document, in Form 95.

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4. After considering the entire evidence on record, the learned Trial Judge acquitted A2 and A3 of all the charges. He convicted the appellant alone under Section 326 of IPC and acquitted him of all other charges. The Trial Judge found that the intention to kill was absent, convicted the appellant only for an offence under Section 326 of IPC, and sentenced him to undergo simple imprisonment for a period of one year and to pay a fine of Rs.25,000/-, with a default clause. The fine amount was ordered to be paid as compensation to the victim. The appellant herein deposited the fine amount with the Trial Court and obtained suspension of sentence. Aggrieved by the judgment of conviction and sentence, the appellant preferred this appeal.

5. Point for consideration:

Whether the judgment of conviction and sentence imposed by the Trial Court is sustainable?

Submissions and consideration:

6. The learned counsel for the appellant, considering the overwhelming evidence available against the appellant, argued only for a reduction of sentence. This Court, however, reappraised the evidence available on record. PW1 Periyasamy was the injured eyewitness. In his

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evidence, he categorically implicated the appellant herein and spoke elaborately about the overt act of the appellant. As per the version of PW1, it was the appellant herein who attacked him with an iron spatula. He identified the spatula, which was marked as PMO.1. The blood-stained shirt that PW1 was wearing was marked as PMO.2. He withstood cross-examination and affirmed the role of the appellant herein. The injured eyewitness was taken to the hospital, where he was received by Dr.M.Mani (PW2). PW2 noted in the Accident Register (Ex.P2) the statement of PW1 that he was attacked by three known persons. The wound certificate was also recorded in the same Accident Register. As per the wound certificate, PW1 sustained grievous injuries, as there were two fractures on the right leg below the knee. The evidence of PW1 is corroborated by the evidence of PW7. The suggestion that PW7 was an interested person supporting PW1 was rejected by the witness, and there was nothing on record to establish that PW7 was an interested witness. PW12 certified, based on the case records of PW1, that the injury sustained by him was grievous in nature, and Ex.P2 proves the same. PW13 took the X-ray in Ex.P12 and found the fractures on the right leg of PW1. There was nothing on record to discredit the evidence available against the appellant herein.

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7. It is the settled position of law that the evidentiary value of the testimony of an injured eyewitness rests on a high pedestal, and such testimony should not be discarded unless cogent reasons exist **(*State of M.P. v. Mansingh*, (2003) 10 SCC 414)**. Minor discrepancies do not corrode the credibility of otherwise acceptable evidence. The Hon'ble Apex Court, in a catena of decisions including ***Lakshman Singh v. State of Bihar (now Jharkhand) (AIR 2021 SC 3552)***, has discussed the importance of the testimony of injured eyewitnesses in criminal cases. In the case on hand, the evidence of the injured eyewitness was not only cogent and clear but also well supported by the evidence of PW7. There is nothing on record to discredit the evidence of PW1 and PW7 with regard to the incident, the attack on PW1 and the injury sustained by PW1 in the incident. Therefore, the learned counsel for the appellant fairly confined his arguments to a reduction of sentence.

8. The learned counsel appearing for the appellant contended that the iron spatula (PMO No.1) used in the occurrence was flat and blunt, without any sharp edge or pointed end, and therefore could not be construed as a dangerous weapon within the meaning of Section 326 of the Indian Penal Code. The contention merits acceptance. In ***Mathai v. State of Kerala*, (2005) 3 SCC 260**, the Hon'ble Supreme Court held that

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an object cannot be classified as a dangerous weapon merely on the basis of the material of which it is made or the injury caused by its use. The nature, size and characteristics of the object, as well as the manner in which it was used, have to be considered in the light of the facts and circumstances of the case. In the case on hand, the weapon used by the appellant is an iron spatula, which is admittedly flat and blunt and has neither a sharp edge nor a pointed end. This is proved by Ex.P9, the seizure memorandum of PMO.1, which describes the nature of the weapon. Though the victim sustained two fractures in his right leg, the nature of the injury, by itself, would not be sufficient to conclude that the spatula was a dangerous weapon within the meaning of Section 326 of IPC. In the absence of sufficient material to establish that the spatula, having regard to its nature and the manner of its use, answers the description of a dangerous weapon contemplated under the said provision, the conviction of the appellant under Section 326 of IPC cannot be sustained. However, the fractures sustained by the victim constitute grievous hurt within the meaning of Section 320 of IPC. Therefore, the conviction of the appellant is liable to be altered from Section 326 of IPC to Section 325 of IPC. The sentence of one year simple imprisonment and fine of Rs.25,000/- imposed by the learned Trial Court is maintained for the altered offence under Section 325 of

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IPC. The point is answered accordingly.

Retribution or Reformation:

9. The learned counsel for the appellant has prayed for the benefit of Section 4 of the Probation of Offenders Act, 1958. It is argued that the appellant is a first-time offender, aged 28 years at the time of the occurrence, with no criminal history, and has already undergone the agony of trial and appeal for several years. The learned counsel appearing for the victim concurred with this submission.

10. Section 11(1) of the Probation of Offenders Act, 1958 explicitly empowers an Appellate Court to exercise the powers conferred under Section 4 of the Act. Section 4 applies to offenders of any age who are convicted of an offence not punishable with death or imprisonment for life. Since the altered conviction under Section 325 of IPC carries a maximum punishment of seven years, the statutory bar does not apply, and this Court is fully competent to grant probation.

11. In ***Chellammal and another v. State rep. by Inspector of Police,*** **(2025 INSC 540)**, the Hon'ble Apex Court held that considering

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the report of the Probation Officer is mandatory for extending the benefit under the Probation of Offenders Act, 1958. Therefore, this Court, by order dated 27.10.2026, called for a report from the Probation Officer concerned. Mr.M.Senthil, Probation Officer, Karur, submitted his report vide Mu.V.No.39/2026 dated 02.11.2026, recommending the release of the appellant on probation. This Court has carefully considered the report, the family circumstances and the subsequent conduct of the appellant herein.

12. Upon evaluating the record, this Court finds the following mitigating factors in favour of the appellant. The prosecution has placed no evidence on record to suggest that the appellant has any prior criminal convictions or bad antecedents. The appellant appears to be a first-time offender, and the probation report also confirms the same.

13. There is nothing on record to indicate that the appellant poses a continuing danger to society or to the complainant, or that he has misused his liberty while on bail during the pendency of this appeal.

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14. While the offence under Section 325 of IPC is serious, the alteration from Section 326 of IPC indicates the absence of a dangerous weapon or of intent to cause catastrophic harm, shifting the balance toward reformation rather than retribution. Punitive incarceration of a first-time offender aged 28 years may risk hardening him into a habitual criminal. In the interest of justice and reformation, this Court deems it fit to release the appellant on probation of good conduct rather than directing him to serve the remaining sentence.

Conclusion

15. In the result, the conviction under Section 326 of IPC is altered and modified to a conviction under Section 325 of IPC. The sentence of simple imprisonment for one year and the fine of Rs.25,000/- imposed by the Trial Court are maintained for the altered offence under Section 325 of IPC. The direction that the fine amount be paid as compensation to the victim remains unaltered. The sentence of one year of simple imprisonment is kept suspended. The Trial Court is directed to release the appellant on his entering into a bond, with one surety, to appear and receive sentence when called upon during a period of one year. The appellant shall keep the peace and maintain good behaviour during the one-year period. The appellant shall execute the bond before the Trial

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Court within a period of one week from the date of receipt of a copy of this order. This Criminal Appeal is allowed on the terms indicated above.

04-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

Indu

To

1. The Deputy Superintendent of Police,
   Kulithalai, Karur District

2. The Inspector Of Police
   Kulithalai Police Station, Karur District
   Crno.872/2016

3. The Additional Public Prosecutor
   Madurai Bench of Madras High Court
   Madurai

Copy To :
Section Officer (VR Section)
Madurai Bench of Madras High Court

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D.LINGESWARAN, J.

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