

IN THE COURT OF THE JUDICIAL MAGISTRATE No. II AT SALEM

Present : J. DHINESH KUMARAN B.A., B.L., (Hons.)

Judicial Magistrate No. II, Salem.

On Wednesday, the 4th day of June, 2025

Calendar Case (C.C.) No.1070 of 2023

in

Crime No.566 of 2023

(On the file of Sooramangalam Police Station, Salem)

CNR No. TNSA04-009815-2023

<i>Statement as per Rule 106 of the Criminal Rules of Practice, 2019</i>		
1.	Serial Number	Calendar Case (C.C.) No.1070 of 2023
2.	Name of the Police Station and Crime Number	State of TamilNadu represented by its Sub-Inspector of Police, Sooramangalam Police Station, Salem (Crime No.566 of 2023) ...Complainant
3.	Name of the Accused	HARIHARAN @ MOLUKKAN (M/23 years)
4.	Father's name	S/o.Murugan
5.	Occupation	Kalyanasundaram Colony,
6.	Residence	Jagir Chinna Ammapalayam,
7.	Age	Sooramangalam, Salem. Occupation: Labourer ...Accused
8.	Date of Occurrence	30.06.2023 at about 08:00 AM
9.	Date of Complaint (Date of the Chargesheet)	Date of Chargesheet: 08.07.2023 Date of filing of chargesheet: 10.08.2023
10.	Date of Apprehension	30.06.2023
11.	Date of Release on bail	31.07.2023
12.	Date of Commitment	Not Applicable
13.	Date of Commencement of Trial (The date of furnishing of documents u/s.207, Cr.P.C.)	19.02.2024

14.	Charge framed against the accused u/s.240(1) of the Code of Criminal Procedure, 1973	On 26.02.2024, charge was framed against the accused for the offences u/s.387 and 506(ii) of the Indian Penal Code, 1860. When the charge was read out and explained to the accused, he pleaded not guilty and claimed to be tried. Hence, plea of the accused was recorded and the matter was posted for trial in accordance with section 242(1) of the Code.
15.	Closure of Trial	04.06.2025
16.	Sentence or Order	The accused, HariHaran @ Mokukkan @ Murugan is found not guilty and acquitted of the offences u/s.387 and 506(ii) of the Indian Penal Code, 1860 in accordance with section 248(1) of the Code of Criminal Procedure, 1973.
17.	Service of copy of judgment or finding on accused	No. The judgment was uploaded on CIS portal and made available on E-Courts.
18.	Explanation of delay	The delay was occasioned due to the delay in the production of witnesses by the prosecution.
19.	Property Order	No case property was seized and forwarded to this Court by the complainant in this case; hence, need to pass property order in the case does not arise in accordance with section 452 of the Code of Criminal Procedure, 1973.

Paragraphs in the judgment assigned continuous paragraph numbers in due obedience of the direction of the Hon'ble Supreme Court of India in BS Hari Commandant vs Union of India and others (2023 LiveLaw SC 303)

This case came up for final hearing before me on 04.06.2025 in the presence of **Mr.S. Paul Jayasheelan, Advocate**, the learned counsel for the accused and **Mrs.Roja, the learned Assistant Public Prosecutor** for the State. Having heard both sides, perused the records and having stood over it for consideration, this Court on **04.06.2025(Wednesday)** delivers the following,

JUDGMENT

I. CASE OF THE PROSECUTION

- 1) The first informant in the case is Mr.Muruganantham S/o.Narayanan. The case of the prosecution is that, on 30.06.2023 at about 08:00 AM, the first informant was walking near New Imperial Ice Company, Reddipatty to Mamangam Main Road, Sooramangalam, Salem. At that time, the accused herein came there and demanded money from first informant. When the first-informant questioned as to why he has to give money to the accused, he boasted about himself as Rowdy in the area and intimidated to kill the first-informant if he refused to part with the sum. When the first-informant made a cry and on seeing the public approaching, the accused fled from the scene.
- 2) Based on the written first-information lodged by the first-informant, First Information Report in Crime No.566 of 2023 dated 30.06.2023 was registered against the accused “ஜாகீர் சின்ன அம்மாபாளையம் கல்யாணசுந்தரம் காலனியைச் சேர்ந்த மொழுக்கன் (எ) ஹரிஹரன்னு” for the offences u/s.387 and 506(ii) of the Indian Penal Code, 1860.
- 3) At the completion of investigation in the case, Final Report dated 08.07.2023 was laid out against the accused, HariHaran @ Mokukkan @ Murugan for the offences u/s.387 and 506(ii) of the Indian Penal Code, 1860.

II. FURNISHING OF COPIES AND HEARING ON CHARGES

- 4) Upon service of the summons u/s.207 of the Code of Criminal Procedure, 1973 ("Code") and appearance of the accused, copies of the final report and documents were given to the accused in compliance with section 207 of the Code on 19.02.2024.
- 5) Thereafter, on 26.02.2024, charge was framed against the accused for the offences u/s. 387 and 506(ii) of the Indian Penal Code, 1860. When the charge was read out and explained to the accused, he pleaded not guilty and claimed to be tried. Hence, plea of the accused was recorded and the matter was posted for trial in accordance with section 242(1) of the Code.

III. EVIDENCE ADDUCED BY THE PROSECUTION

- 6) In order to prove the charge against the accused, the prosecution examined only 2 witnesses, P.W.1 and P.W.2. Exhibits P.1 to P.5 were marked on behalf of the prosecution. No material objects were exhibited.
- 7) P.W.1 is the first-informant/alleged victim in the case. P.W.2 is the Special Sub-Inspector of Police serving at the Sooramangalam Police Station. He was examined as additional witness in the case and deposed with respect to the investigation done by the Investigation Officer in the case.

IV. QUESTIONING u/s.313(1)(b) OF Cr.P.C., 1973

- 8) The circumstances appearing in the evidence of witnesses against the accused were put to him and his answer was elicited. The accused replied that the case against him is false. The accused further stated that there are no defence witnesses and evidence.

V. POINT FOR DETERMINATION

9) Whether the prosecution has proved beyond all reasonable doubts that the accused has committed the offences charged against him?

VI. APPRECIATION OF EVIDENCE AND FACTS

10) As per the prosecution, on 30.06.2023 at 08:00 AM, the accused attempted to extort money from the first informant by putting him in fear of injury to his person and also criminally intimidated him. Hence, the prosecution charged the accused of the offences u/s.387 and 506(ii) of the Indian Penal Code, 1860.

11) It is common knowledge that in any case, the witnesses are the eyes and ears of the Court. Therefore, this Court has to analyse and ascertain if the prosecution has proved its case against the accused through its witnesses.

• With respect to the evidence of P.W.1

12) P.W.1, Mr.Muruganantham S/o.Narayanan is the first-informant/alleged victim in the case. P.W.1 stated assertively that he does not know the accused in the dock and that he did not give any complaint against the accused herein. P.W.1 admits that the signature of the written first information belongs to him. Whereas, he states that he affixed his signature on the first information at the instance of the police. He claims complete ignorance about the facts of the case.

13) The words of P.W.1 in this regard are as follows:

"1. ...ஆஜர் எதிரியை எனக்கு தெரியாது. நான் அவர் மீது புகார் ஏதும் கொடுக்கவில்லை. என்னிடம் காட்டப்படும் புகாரில் உள்ள கையெழுத்து என்னுடையது தான்.

2. போலீசார் கேட்டுக்கொண்டதால் அந்த கையெழுத்தை 2023 ம் வருடத்தில் ஒரு நாள் நான் போட்டேன். புகாரில் உள்ள சங்கதிகள் குறித்து எனக்கு எதுவும் தெரியாது. புகாரில் உள்ள கையெழுத்து அ.சா.ஆ.1 ஆக குறியீடு செய்யப்படுகிறது."

The evidence of P.W.1 does not incriminate the accused in this case in any manner.

14) Although, P.W.1 was declared hostile to the prosecution case and examined u/s.154 of the Indian Evidence Act, 1872, no new fact in support of the prosecution case was elicited from the witness. **Thus, the evidence of P.W.1 does not elucidate the manner of the alleged occurrence and the material ingredients of the offences charged against the accused. No culpability can be attributed to the accused based on the evidence of P.W.1.**

• **With respect to the evidence of P.W.2**

15) P.W.2, Mr.Prabhakaran S/o.Mariyappan, is the present Special Sub-Inspector of Police working at the complainant police station. He was examined as additional witness in the case as per section 311 of the Code of Criminal Procedure, 1973. He deposed with respect to the receipt of the first information statement, registration of First Information Report, visit to the scene of occurrence, preparation of rough sketch and observation mahazar from the scene of occurrence, arrest of the accused and filing of Final Report in the case. Exhibits P.2 to P.5 were marked through P.W.2. The evidence of P.W.2 does not elucidate any facts about the occurrence. The cross-examination of P.W.2 is not substantial and does not require an elaborate discussion.

16) It is notable that, except P.W.1, no other independent witness was examined by the prosecution. Since, the first-informant/P.W.1 failed to support the case of the prosecution, the evidence of P.W.2 alone cannot be relied to incriminate and attribute culpability to the accused.

17) In **Bhagwan Singh v. State of Haryana**, the Hon'ble Supreme Court of India while dealing with the subject of hostile witnesses held as follows:

“The fact that the court gave permission to the prosecutor to cross-examine his own witness, thus characterising him as, what is described as a hostile witness, does not completely efface his evidence. The evidence remains admissible in the trial and there is no legal bar to base a conviction upon his testimony if corroborated by other reliable evidence.”

18) If the above proposition enumerated by the Hon'ble Supreme Court is applied to the present case, it is important to take into consideration that no material fact was deposed by P.W.1 to incriminate the accused. In such case, the accused cannot be convicted based on the evidence of the prosecution witnesses.

19) **Therefore, upon consideration of the deposition of the witnesses and exhibits filed by the prosecution, this Court concludes that the prosecution has failed to prove in accordance with section 3 of the Indian Evidence Act, 1872, involvement of the accused herein in the alleged occurrence beyond all reasonable doubts.**

VII. THE DECISION

20) In light of the discussion and conclusions drawn under the previous head, this Court holds that the prosecution HAS FAILED TO PROVE the charge against the accused beyond all reasonable doubts.

21) Hence, the accused, Hariharan @ Mokukkan @ Murugan is FOUND NOT GUILTY and ACQUITTED of the offences u/s.387 and 506(ii) of the Indian Penal Code, 1860 in accordance with section 248(1) of the Code of Criminal Procedure, 1973.

VIII. PROPERTY ORDER u/s. 452 OF THE CODE

22) No case property was seized and forwarded to this Court by the complainant in this case; hence, need to pass property order in the case does not arise in accordance with section 452 of the Code of Criminal Procedure, 1973.

IX. BOND u/s.437-A OF THE CODE OF CRIMINAL PROCEDURE, 1973

23) The accused shall furnish an own bond for a sum of Rs.10,000/- in accordance with section 437A of the Code of Criminal Procedure, 1973 to appear before the Higher Court as and when such Court issues notice in respect of any appeal or petition against the judgment. The bond shall remain in force for six months from the date of its execution.

Dictated by me to the typist, typed by her, corrected and pronounced by me in Open Court on this 4th day of June, 2025.

**Sd/-J. DHINESH KUMARAN
Judicial Magistrate No. II, Salem.**

Note:

- i. The accused was on bail throughout the trial*
- ii. No witness was retained more than three times.*
- iii. The outcome of the case shall be forthwith communicated to the complainant and the learned APP of this Court vide email.*

LIST OF EVIDENCE

(As per Rule 107(1) of Criminal Rules of Practice, 2019)

For Prosecution

Witnesses:

S. No.	Examined as	Name of Witness	Date of Examination	Exhibits Marked
1.	P.W.1	Muruganantham S/o.Narayanan	28.05.2025	P.1
2.	P.W.2	Prabhakaran S/o.Mariyappan	02.06.2025	P.2 to P.5

Documents:

S. No.	Exhibits	Marked through	Date of Document	Description of Document
1.	P.1	P.W.1	30.06.2023	Signature of P.W.1/victim in the first information
2.	P.2	P.W.2	30.06.2023	Written first information lodged by the first-informant
3.	P.3	P.W.2	30.06.2023	First Information Report in Crime No.566 of 2023 dated 30.06.2023
4.	P.4	P.W.2	30.06.2023	Rough Sketch
5.	P.5	P.W.2	30.06.2023	Observation Mahazar

Material Objects: Nil

For Defence

Witnesses: Nil

Documents: Nil

Material Objects: Nil

Sd/-J. DHINESH KUMARAN
Judicial Magistrate No. II, Salem.

CASE SUMMARY

(As per Rule 106(4) of Criminal Rules of Practice, 2019)

i.	Period of remand of the accused	30.06.2023 to 31.07.2023		
ii.	Date of filing of Final Report	Date of Chargesheet: 08.07.2023 Date of filing of chargesheet: 10.05.2023		
iii.	Date of committal of the case to the Court of Session	Not Applicable		
iv.	Date of hearing on charges u/s.240 of the Code	26.02.2024		
v.	Filing of miscellaneous petitions and their results including the results on challenge before Superior Court	Petition	CrI.M.P.No.	Result
		437 CrPC	3557/2023	Allowed
		311 CrPC	---	Allowed
		Surrender	1427/2025	Allowed
		70(ii) CrPC	1248/2025	Allowed
		Advance Hearing	1249/2025	Allowed
vi.	Date of chief examination and cross examination of witnesses	Witness examined as	Date of chief examination	Date of cross examination
		P.W.1	28.05.2025	28.05.2025
		P.W.2	02.06.2025	02.06.2025
vii.	Date of examination of the accused u/s.313 of the Code	04.06.2025		

viii.	Details of abscondence of an accused and his appearance/production, as the case may be	Warrant	Abscondence	Appearance
		Non-Bailable Warrant	29.04.2024	12.03.2025
ix.	Grant of stay by the Superior Courts and results there of	Nil		
x.	Details of Victim Compensation Awarded	Nil		

Sd/-J. DHINESH KUMARAN
Judicial Magistrate No. II, Salem.