

In the Court of the II Additional Sessions Judge, Tirunelveli
 Present: Thiru.K.Suresh Kumar, B.A., B.L.,
 (Sessions Judge , Special Court for POCSO Act Cases, Tirunelveli)
 II Additional District and Sessions Judge (PCR) (FAC), Tirunelveli
 Friday the 14th day of February 2025
SESSIONS CASE No.15/2019
 (CNR No.TNTL02-000671-2019)

Name of the Complainant	State by The Deputy Superintendent of Police, Sankarankovil Sub Division, Ayyapuram P.S. Crime No.118/2018
Name of the accused	1. Saravanan, age 39/2025, S/o.Kanthasamy, West Street, Mahendravadi. 2. Kanthasamy, S/o.Kadarkarai, Mahendravadi.
Charges framed	A1 is charged u/s 323,506(ii) IPC r/w 3(2)(va) of SC/ST Act and u/s 3 (1)(r) and 3(1)(s) SC/ST Act and A2 is charged u/s 324,506(ii) IPC r/w 3(2)(va) of SC/ST Act and u/s 3 (1)(r) and 3(1)(s) SC/ST Act.
Plea of the accused	Not guilty
Finding of the Court	A1 found not guilty for the offence u/s 323,506(ii) IPC r/w 3(2)(va) of SC/ST Act and u/s 3 (1)(r) and 3(1)(s) SC/ST Act and A2 found not guilty for the offence u/s 324,506(ii) IPC r/w 3(2)(va) of SC/ST Act and u/s 3 (1)(r) and 3(1)(s) SC/ST Act.

In result,

A1 found not guilty for the offence u/s 323,506(ii) IPC r/w 3(2)(va) of SC/ST Act and u/s 3 (1)(r) and 3(1)(s) SC/ST Act and A2 found not guilty for the offence u/s 324,506(ii) IPC r/w 3(2)(va) of SC/ST Act and u/s 3 (1)(r) and 3(1)(s) SC/ST Act and acquitted u/s 235(1) of Cr.P.C.

The bail bond if any shall stand cancelled.

Case properties remanded in P.R.No.2/2019 M.O.1 Weighing Scale, M.O.2 – Weighing scale stand and M.O.3.- Sandal Colour Wooden box are ordered to be returned to Mahendravadi Co-operative Society after the expiry of appeal time.

This Sessions case came up for final hearing before this Court on 12.02.2025 in the presence of Thiru.B.Kanthasamy, Special Public Prosecutor for the State and Thiru.R.Raju, Advocate for accused and upon hearing the arguments of both, as well on perusing the records and having stood over for consideration till this day, this court delivered the following,

JUDGMENT

The case of prosecution is that P.W.1 is executive committee member of Mahendravadi Co-operative Society, A1 is the President of the said society and father of A1, A2 is the member of the said Society and they

belong to Thevar community and P.W.1 belongs to Hindu Pallar community and on 06.12.2018 at 2.00 P.M while the defacto-complainant went to the Society to obtain jewel loan, A1 had abused him as “ஏலே பள்ளக் கூதி மவனே எங்க ஆளுங்களுக்கு போக தான் மீதி உங்களுக்கு தருவேன்” and while P.W.1 questioned that, A1 further stated that “ஏண்டா தேவடியா மவனே” and assaulted him using his hands and the same was witnessed by one Mohan and Krishnasamy Thevar, by that time the accused No.2 Kanthasamy attacked P.W.1 using weighing scale by saying “பள்ளக்கூதி மவனே உனக்கு என்ன திமிருடா” and hence P.W.1 was injured on the left side eye-brow and below his right eye and further the accused persons have criminally intimidated him as “ஏலே இன்னிக்கு நீ தப்பித்துவிட்டாய் என்னிக்கிருந்தாலும் உன்னை கொல்லாமல் விடமாட்டோம்.” and after that the Computer Operator Ganesan took P.W.1 in a private auto and admitted him in Sankarankovil Government Hospital and he had given complaint to the Police and the Police have registered a case in crime No. 118/18 u/s 294(b), 323, 324, 506(ii) IPC r/w 3(1) (r), 3(1) (s), 3(2) (va) of SC/ST Act and the same was taken up by the investigating officer as per the proceedings of the Superintendent of Police and he had proceeded to the scene of crime and had prepared observation mahazar and rough sketch in

the presence of witnesses and also he had seized the weighing scale in the presence of the above said witnesses under the cover of athatchi and weighing scale is marked as M.O.1, weighing scale stand is marked as M.O.2 and the sandal colour wooden box is marked as M.O.3 and he had examined the witnesses and recorded their statements and also he had arrested A1 on 08.12.2018 at 10.00 A.M in Sankarankovil Bus stand and had send him to Judicial custody and also he had obtained the community certificate of P.W.1 and the accused persons and community certificate of P.W.1 is marked as Ex.P.11 and community certificate (2 Nos) of accused persons is marked as Ex.P.12 and also he had examined the Doctor who had treated P.W.1 and the investigating officer had examined the Tahsildar and Deputy Tahsildar who had given community certificate to P.W.1 and the accused persons and he had completed his investigation and filed final report against A1 u/s 294(b), 323, 506(ii) IPC r/w 3(1) (r), 3(1) (s), 3(2) (va) of SC/ST Act and A2 u/s 294(b), 324, 506(ii) IPC r/w 3(1) (r), 3(1) (s), 3(2) (va) of SC/ST Act.

2. The case was taken on file as S.C.No.15/2019. On hearing the learned Special Public Prosecutor appearing for the prosecution and the learned counsel appearing for the accused persons and upon considering the materials and documents A1 is charged u/s 323,506(ii) IPC r/w 3(2) (va) of SC/ST Act and u/s 3 (1)(r) and 3(1)(s) SC/ST Act and A2 is charged u/s 324,506(ii) IPC r/w 3(2)(va) of SC/ST Act and u/s 3 (1)(r) and 3(1)(s)

SC/ST Act. When the ingredients of the charges were read over in Tamil and questioned, the same was denied by them and they pleaded not guilty and claimed to be tried. Therefore, summons were issued to the prosecution witnesses and accused persons were put on trial.

3. In order to prove it's case, the prosecution has examined PW1 to PW.10 and marked exhibits Ex.P.1 to Ex.P.12 and Ex.D.1 and M.O1. to M.O.3 also marked.

The brief facts of the prosecution case as spoken by the witnesses as follows:

4. P.W.1 in his evidence had stated that he knows the accused persons and they belong to Thevar community and on 06.12.2018 at 2.00 P.M he went to the co-operative society for obtaining jewel loan, A1 is the President and A2 is the member of the co-operative Society and while he sought loan, A1 had stated "ஏல பள்ளக்கதியுள்ள உங்களுக்கு தரமுடியாது, தேவடியா மகனே எங்களுக்கு போக தான் மீதி உங்களுக்கு தரமுடியும்" and by that time A1 caught hold of the neck of P.W.1 and A2 took the Weighing scale and hit on the left eye-brow of P.W.1 and also both of them have criminally intimidated him and went out, by that time one Ganesan admitted P.W.1 in Sankarankovil Government Hospital for treatment, P.W.1 had given complaint to the Police and the complaint statement is marked as Ex.P.1 and he was examined by the Police. P.W.2 in his evidence had stated that

on 06.12.2018 while P.W.2 went to the Society to pay interest for his jewel loan, he found P.W.1, Mohan, Muthuraj there and quarrel arose between P.W.1 and A1 regarding jewel loan, by that time A2 attacked P.W.1 using a weighing scale and P.W.1 sustained blood injury since P.W.2 got fainted, he came out of the society and A1 went to the hospital for treatment by an auto.

5. P.W.3 in his evidence had stated that on 06.12.2018 while he went to the co-operative society at 2.00 P.M, P.W.1 came to the Society seeking jewel loan, but A1 had stated that “ஏல பள்ள கூதி மவனே எங்கள் சாதிகாரர்களுக்கு போக தான் உங்களுக்கு மீதி” and hit him using his hands by that time A2 took the weighing scale and hit P.W.1 and after that P.W.1 went to the hospital for treatment and he was examined by the Police. P.W.4 in his evidence had stated that on 06.12.2018 at 2.00 P.M he went to the co-operative society and he witnesses the accused were quarreling with P.W.1 and he was out of the room and hence he does not know what happened inside the room.

6. P.W.8 is the Doctor who treated P.W.1 and he in his evidence had stated that he was assaulted by 2 male persons using iron plate and he found following injuries on the person of P.W.1.

1. 2x 2 cm laceration found on left eye-brow.
2. 2x2cm laceration found under right eye

and he had given wound certificate that the above injuries are simple in nature and the same is marked as Ex.P.4.

7. P.W.9 in his evidence had stated that he proceeded to the Sankarankovil Government Hospital as per the wound intimation on 06.12.2018 at 20.00 hours and examined P.W.1 and had recorded his statement and returned to the Police Station and had registered the case in crime No.118/2018 u/s 294(b), 323, 324, 506(ii) IPC r/w 3(1) (r), (s), 3(2) (va) of SC/ST Act and first information report is marked as Ex.P.5 and he had sent the original complaint and first information to the Judicial Magistrate Court, Sankarankovil and also sent the other copies to the concerned higher officials and sent one copy to the Sankarankovil, Deputy Superintendent of Police through Police Constable Arumugam.

8. P.W.10 in his evidence had stated that he had taken up this case for investigation as per Ex.P.6 proceedings and on 07.12.2018 at 9.00 A.M he had proceeded to the scene of crime and had prepared observation mahazar and rough sketch in the presence of witnesses P.W.6 Maruthaiah and P.W.7 Karupaiah and observation mahazar is marked as Ex.P.7 and Rough Sketch is marked as Ex.P.8 and signature of P.W.6 in the observation mahazar is marked as Ex.P.2 and also he had seized the weighing scale in the presence of the above said witnesses under the cover of athatchi and the same is marked as Ex.P.9 and signature of P.W.6 in the Athatchi is marked as Ex.P.3 and Weighing scale is marked as M.O.1, Weighing scale stand is

marked as M.O.2 and Sandal colour wooden box is marked as M.O.3 and photos (4 Nos) of material objects is marked as Ex.P.10 and he had examined the witnesses and recorded their statements and also he had arrested A1 on 08.12.2018 at 10.00 A.M in Sankarankovil Bus stand and had send him to Judicial custody and also he had obtained the community certificate of P.W.1 and the accused persons and community certificate of P.W.1 is marked as Ex.P.11 and community certificate of accused is marked as Ex.P.12 and also he had examined the Doctor who had treated P.W.1 and the investigating officer had examined the Tahsildar and Deputy Tahsildar who had given community certificate to P.W.1 and the accused persons and A2 surrendered before this Court as per the order of the Hon'ble High Court and got bail from this Court and P.W.10 had completed his investigation and filed final report against the accused u/s 294(b), 323, 324, 506(ii) IPC and 3(1) (r), 3(1) (s), 3(2) (va) of SC/ST Act.

9. When A1 and A2 were questioned about the incriminating portion of evidence available against them u/s 313(1)(b) of Cr.P.C. they denied the same and they have no defence evidence.

10. The Point for consideration in this case is as follows:

Whether the prosecution has proved the guilt of the accused beyond reasonable doubt?

POINT:

11. The prosecution have projected its case that A1 is the President of Mahendravadi Co-operative Society and A2 is a member of the said society and P.W.1 belongs to Pallar community and he is also a member of the above said Society and A1 and A2 belong to Thevar community and they are son and father respectively and on 06.12.2018 at about 2.00 P.M while P.W.1 went to the Co-operative society for obtaining loan A1 had abused as “ஏல பள்ளக்கூதியுள்ள உங்களுக்கு தரமுடியாது, தேவடியா மகனே எங்களுக்கு போக தான் மீதி உங்களுக்கு தரமுடியும்” and caught hold of the neck of P.W.1 and pulled him down, by that time A2 took the weighing scale and hit on the left eye-brow of P.W.1 and both of them have intimidated P.W.1 with dire consequence and the same was witnessed by Krishnasamy thevar and Mohan. In the complaint P.W.1 had stated that A1 had attacked him with the knife which he was holding in his hand on the left forehead above his eye-brow and A2 had pushed him down and the first information report was also registered against the accused persons that A1 had attacked P.W.1 with the knife in his forehead above his left eye-brow and A2 had pushed him down using his hands and also further he had stated that A1 had abused him as “ஏலே பள்ளக்கூதி மவனே எங்க ஆளுங்களுக்கு போக தான் மீதி உங்களுக்கு தருவேன்” and the said statement was recorded in Sankarankovil

Government Hospital on 06.12.2018 at 21.00 hours to 22.00 hours.

Whereas P.W.1 in his cross examination had stated that A1 caught hold of his neck and holded him and A2 took the weighing scale and hit him on his left side eyebrow and further he had stated that he was partly unconscious by that time.

12. Further, P.W.1 had stated to the Doctor who treated him that he was hit by Iron plate (இரும்பு பட்டை) by two known persons in Mahendravadi Society. Under these circumstances, on evidence it is found that A1 and A2 and P.W.1 and witness Mohan and P.W.2 Krishnasamy Thevar are all members of the Mahendravadi Co-operative Society and they belong to rival sides and there is a pre-existing dispute between both the sides regarding the contesting for election of the society posts such as President, Secretary and Directors.

13. Eventhough P.W.1 had stated that A1 had abused that "பள்ளக்கூதி மவனே எங்க ஆளுங்களுக்கு போக தான் மீதி உங்களுக்கு தருவேன்" he will not give loan to members belonging to Pallar community, P.W.3 in his cross examination had stated that accused side also are having support of Pallar community directors and also more than 100 people belonging to Pallar community have been granted loan by A1.

14. Further the observation mahazar witnesses have turned hostile to the case of the prosecution and hence, it is highly doubtful whether the

investigating officer have proceeded to the scene of crime and have prepared the observation mahazar and rough sketch as deposed by him in his evidence. Further, the investigating officer in his cross examination had stated that he did not enquire regarding P.W.1 had obtained any loan or whether any loan was pending against P.W.1. Under these circumstances, eventhough, P.W.2 and P.W.3 have stated that A1 and A2 hit P.W.1 and have abused him using his caste name, through evidence it is established that both P.W.1 and P.W.3 belonging to the rival parties of the accused persons in the co-operative Society administration, the evidence of P.W.1 and P.W.3 cannot be accepted as absolute truth. Under these circumstances, P.W.1 in his complainat had stated that he was attacked with the knife by A1. Whereas in his evidence he had stated that A2 had attacked him using a weighing scale. It is a material contradiction going to the root of the prosecution.

15. Further, P.W.9 the Sub Inspector of Police had recorded complaint statement from P.W.1 and had stated in his evidence that while he obtained complaint statement P.W.1 was conscious and he was not drowsy and further on perusal of the injuries found on the person of P.W.1, they are simple injuries as evidenced by the P.W.8 Doctor and hence those injuries are not sufficient to affect the consciousness of a person and also in the Ex.P.4 Wound certificate it is mentioned by the doctor that the P.W.1 was conscious and oriented. Further, eventhough the investigating officer

had laid the charge sheet stating that the material objects 1 to 3 were seized from the scene of crime at the instance of P.W.6 Maruthaiah and P.W.7 Karuppiyah, both P.W.6 and P.W.7 have turned hostile to the case of the prosecution and hence the seizure of the Material objects have not been proved by the prosecution. Under these circumstances, prosecution have failed to prove that A1 and A2 have attacked P.W.1 as projected by the prosecution.

16. As far as offence u/s SC/ST Act is concerned P.W.1 had stated that A1 had stated that “பள்ளகூதியுள்ள உங்களுக்கு தரமுடியாது. தேவடியா மகனே எங்களுக்கு போக தான் மீதி உங்களுக்கு தரமுடியும்.” But the prosecution have failed to produce any loan application given by P.W.1 to A1 or any other supporting documents to corroborate that P.W.1 has sought loan from A1. Whereas P.W.3 in his evidence had categorically stated that it is the duty of the Secretary of the Co-operative Society to issue loan and the same will be supervised by the field officer and A1 who is holding of the President has no powers to grant loan to the members of the co-operative society. It is the duty of the prosecution to establish that the P.W.1 had sought loan from A1 and since P.W.1, P.W.2 and P.W.3 all have pre-existing enmity with A1 and A2 regarding the election for the posts in the co-operative Society and while the parties have previous motive between themselves, the evidence of independent witnesses become crucial. Under

these circumstances, no independent witnesses have deposed against A1 and A2 and hence the prosecution have failed to prove that the accused persons have committed the offences against P.W.1 under the provisions of SC/ST Act.

17. For all the reasons set out here above, this Court holds on the point that the prosecution miserably failed to prove the charges framed against the accused persons beyond reasonable doubt and accused persons are entitled to benefit of doubt.

A1 found not guilty for the offence u/s 323,506(ii) IPC r/w 3(2)(va) of SC/ST Act and u/s 3 (1)(r) and 3(1)(s) SC/ST Act and A2 found not guilty for the offence u/s 324,506(ii) IPC r/w 3(2)(va) of SC/ST Act and u/s 3 (1)(r) and 3(1)(s) SC/ST Act and acquitted u/s 235(1) of Cr.P.C.

The bail bond if any shall stand cancelled.

Case properties remanded in P.R.No.2/2019 M.O.1 Weighing Scale, M.O.2 – Weighing scale stand and M.O.3.- Sandal Colour Wooden box are ordered to be returned to Mahendravadi Co-operative Society after the expiry of appeal time.

Dictated to the Steno-typist, transcribed and typed by her in Computer corrected and pronounced by me in open court, on this the 14th day of February 2025.

sd/- K.Suresh Kumar
II Additional Sessions Judge (PCR) (FAC),
Tirunelveli.

PROSECUTION SIDE WITNESSES:

- | | | |
|----|------|--|
| 1 | PW 1 | Thiru.Arikrishnan. |
| 2 | PW 2 | Thiru.Krishnasamy. |
| 3 | PW 3 | Thiru.Mohan. |
| 4 | PW4 | Thiru.Muthuraj. |
| 5 | PW5 | Thiru.Ganesan. |
| 6 | PW6 | Thiru.Maruthaiah. |
| 7 | PW7 | Thiru.Karupaiah. |
| 8 | PW8 | Dr.Senthilsekar. |
| 9 | PW9 | Thiru.Kathirkamu (Retired Sub Inspector of Police). |
| 10 | PW10 | Thiru.Rajendran (Retired Additional Superintendent of Police). |

PROSECUTION SIDE EXHIBITS:

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|----|---------|------------|--|
| 1 | Ex.P.1 | 06.12.2018 | Complaint. |
| 2 | Ex.P.2 | .. | Signature of P.W.6 in the observation mahazar. |
| 3 | Ex.P.3 | .. | Signature of P.W.6 in the Athatchi. |
| 4 | Ex.P.4 | .. | Wound Certificate. |
| 5 | Ex.P.5 | 06.12.2018 | First Information Report. |
| 6 | Ex.P.6 | 06.12.2018 | Proceedings of the Superintendent of Police. |
| 7 | Ex.P.7 | 07.12.2018 | Observation Mahazar. |
| 8 | Ex.P.8 | 07.12.2018 | Rough Sketch. |
| 9 | Ex.P.9 | 07.12.2018 | Athatchi. |
| 10 | Ex.P.10 | .. | Photos(4 Nos) of Material objects. |
| 11 | Ex.P.11 | 11.12.2018 | Community certificate of P.W.1. |
| 12 | Ex.P.12 | .. | Community certificate (2 Nos) of A1 and A2. |

Material Objects:

M.O.1- Weighing Scale.

M.O.2 – Weighing scale stand.

M.O.3.- Sandal Colour Wooden box.

Defence Side Witnesses

----- Nil -----

Defence side Exhibits:

1. Ex.P.1. 06.12.2018 First information report in Crime No.117/2018 of Ayyapuram Police Station.

sd/- K.Suresh Kumar
II Additional Sessions Judge (PCR) (FAC),
Tirunelveli.