

**IN THE COURT OF THE JUDICIAL MAGISTRATE,
SULUR, COIMBATORE DISTRICT.**

Present: Thiru.T.Arunkumar, M.A.,M.L.,M.B.A.,

Judicial Magistrate, Sulur.

Wednesday, the 1st day of April 2026

Calendar Case No: 12 of 2025

(CNR No.TNCB18-004946-2024)

1.	Serial Number of the Case	Calendar Case No:12 of 2025
2.	Name of the Complainant & Address	The State of Tamil Nadu, represented by the Special Sub Inspector of Police, Sulthanpettai Police station in Crime No: 343 of 2014.
3.	Name, age, father's name and address of the 1 st Accused	Mr. Venkatachalam (43/2014), S/o. Subbaiya gounder, Vadakku Thottam, Patchagounden palayam, Sulur Taluk.
4.	Name, age, father's name and address of the 2 st Accused	Mr. Subbaiya gounder (75/2014), S/o. Chinnasamy gounder, Patchagounden palayam, Sulur Taluk.
5.	Offence Complained of	Offence under Sections 294(b),323,326 of IPC
6.	Date of Offence	18.11.2014
7.	Date of Complaint	19.11.2014
8.	Plea of the Accused and his Examination in Brief	Pleaded not guilty.
9.	Apprehension	A1-24.11.2014 A2-24.11.2014
10.	Released on bail	A1-24.11.2014 A2-24.11.2014
11.	Commencement of trial	12.02.2025
12.	Close of trial	25.03.2026
13.	Judgment Reserved on	30.03.2026

14.	Judgment Pronounced on	01.04.2026
15.	Sentence or Order	Acquitted.
16.	Explanation of Delay	Nil
17.	Remarks	Nil

As per Amendment to the Criminal Rules of Practice 2019 dated 23.03.2022, the case summary is detailed below

Sl.No.	CASE SUMMARY			
i).	The period of remand of the accused	Name of the accused	Date of Remand	Release on
		Mr.Venkatachalam (43/2014), S/o. Subbe gounder, Vadakku Thottam, Patchagounden palayam, Sulur Taluk.	24.11.2014	24.11.2014
		Mr. Subbe gouner (75/2014), S/o. Chinnasamy gounder, Patchagounden palayam, Sulur Taluk.	24.11.2014	24.11.2014
ii).	Date of filing of the complaint/ final report in the court	Filing of Complaint	Filing of Final report	
		-	22.09.2015	
iii).	Date of committal of the cases to the Court of Sessions.	Nil	Nil	
iv).	Date of questioning of the accused under section	Questioning under section 240(2) of Cr.P.C on 22.12.2015.		

	228, 240, 246 and 251 of the Code of Criminal Procedure, 1973, as the case may be;			
v).	Filing of all miscellaneous petitions and their results including the results on challenge before superior Courts; except routine petitions like petitions under Section 317 of the Code;	Crl.M.P.No. & under section or prayer	Date of filing	Result
		CMP No.9137/2018 – Warrant recall petition filed	Filed on 26.11.2018	Allowed on 26.11.2018
		CMP No.9138/2018 – Advance hearing petition	Filed on 26.11.2018	Allowed on 26.11.2018
		CMP No.9139/2018 – Surrender petition filed.	Filed on 26.11.2018	Allowed on 26.11.2018
		MP No.1/2025 – Surrender petition filed.	Filed on 27.01.2025	Allowed on 27.01.2025
		MP No.2/2025 – Warrant recall petition filed.	Filed on 27.01.2025	Allowed on 27.01.2025
		MP No.9/2025 – petition 348 of BNSS filed	Filed on 20.03.2025	Allowed on 09.04.2025
vi).	Date of Examination in chief and cross	Name of the Witness	Date of Chief Examination	Date of Cross Examination
		PW1-Mr. V. Murugesan.	12.01.2018	25.02.2026
		PW2- Mr.M.Balasubramaniam	12.01.2018	25.02.2026
		PW3- Mr. K. Mahali	12.01.2018	25.02.2026
		PW4. Mr. P. Kalimuthu	12.01.2018	25.02.2026
		PW5. Mr. T. Masilamani	12.01.2018	12.01.2018

		PW6. Mr. Sakthivel @ venkatachalam PW7. Dr. Mr. Sivakumar PW8. Mr. Jebastephan	12.01.2018 18.03.2021 11.03.2026	12.01.2018 18.03.2021 18.03.2021
vii).	Date of examination of the accused under section 313 of the Code;	16.03.2026		
viii).	Details of abscondance of an accused and his appearance / production, as the case may be; and	Nil		
ix).	Grant of stay by superior courts and the results thereof	Nil		
x).	Details of victim compensation ordered.	Nil		

This case cognizance was taken on file on 22.09.2015 Judicial Magistrate No.II, Pollachi as CC 278/2015 and due to Police Station Jurisdiction, transferred to this court and renumbered as CC 12/2025 came up for final hearing this the 25rd day of March 2026 before this court, in the presence of Tmt.R.SenthamilSelvi, B.A., B.L(Hons)., and Thiru.P.K.Prabhuram, B.A., B.L., appeared for the 1st and 2nd accused and having stood over for consideration till this day, upon perusing the records and on hearing both side arguments, this court doth delivers the following

JUDGMENT

The case of prosecution as revealed by the final report:

(1). The gist of the final report filed by the Sub Inspector of Police, Sulthanpettai Police Station in Crime No:81 of 2023 under Sections 294(b),323,326 of IPC is as follows: -

(2). That on 18.11.2014 at 5.00 hrs, besides Vadakku thottam due to pathway pre-existing dipute the accused A1 to A2 abused PW1 by using filthy language and also A1 assaulted the defacto complainant by using woodenlog A2 assaulted the defacto complainant over his chest. Hence, the

accused are alleged to have been committed an offence punishable under sections 294(b),323,326 of IPC. Hence, the Special Sub Inspector of Police, Sulthanpettai Police Station had laid the final report under Section 173(2)(1) of Cr.P.C.

(3). On appearance of the accused, they were furnished with the copies of the case records in compliance of section 207 of Cr.P.C., As there was a prima facie case made out against A1 and A2, they were questioned for offence under sections 294(b), 323, 326 of IPC and charges were framed against A1 for the offence punishable under sections 294(b), 326 and A2 for the offence punishable under sections 294(b), 323, 326 r/w 34 of IPC and read over and explained to them in tamil. They both denied the charge as false, pleaded not guilty and claimed to be tried.

(4). Since the accused denied the charges framed against them, to prove the prosecution case, summons were issued to the witnesses. Out of 9 witnesses mentioned in the list of witness, the prosecution had examined PW1 to PW8. Ex.P 1 to Ex.P6 were marked. LW7 dispensed by the prosecution. No material objects were marked on the side of the prosecution.

(5). The gist of the prosecution case is as follows: -

(5.1). The case of the prosecution is that due to previous enmity, on 18.11.2014 at 5.00 hrs, besides Vadakku thottam due to pathway pre-existing dispute the accused A1 to A2 abused PW1 by using filthy language and also A1 assaulted the defacto complainant by using wooden log A2 assaulted the defacto complainant over his chest. Hence, the accused are alleged to have been committed an offence punishable under sections 294(b),323,326 of IPC.

(5.2). PW1 Murugesan deposed in his evidence that on 18.11.2014 at about 04.00pm while he was present at the place of occurrence namely (Vadakku thottam) the accused A1 and A2 wrongfully restrained the tractor and abused the defacto complainant in a filthy language. A1 assaulted PW1 by using wooden log over his hand. A2 assaulted PW1 over his chest by hand. PW1 further deposed that on 19.11.2014 at about 9.30 AM police recorded the Ex.P1 statement from the hospital.

(5.3) PW8 Jebastephen deposed in his evidence that on 19.11.2014 while he was working as a Special Sub inspector of police he received assault intimation from government hospital Pollachi base on the intimation he went to the government hospital pollachi and recorded Ex.P1 statement from PW1 based on Ex.P1 registered Ex.P4 first information report in Negamam police station Cr.No. 343/2014 for the offence u/s 294(b),323,324 of IPC. And further PW8 deposed that on the same day he went to the

place of occurrence at 7.30 PM and prepared Ex.P2 observation Mahazar and Ex.P5 Rough Sketch in the presence of PW6 sakthivel and LW7 Mayilsamy.

(5.4). And recorded the statements of witnessess namely PW1 Murugesan, PW2 Balasubramaniyam, PW3 Mahali, PW4 Kalimuthu, PW5 Masilamani, PW6 Sakthivel @ venkatachalam, LW7 Mayilsamy. On continuation of the investigation PW8 Examined PW7 Doctor sivakumar and recorded the statement and obtained Ex.P3 wound certificate. Doctor opined the injuries the injury no.1 is grievous in nature. Hence the investigation officer altered the section from 294(b),323,324 altered to 294 (b),323,326 of IPC and filed Ex.P6 alteration report. The Prosecution evidence closed.

(6). EXAMINATION OF THE ACCUSED:

Upon the closure of the prosecution evidence, A1 and A2 accused questioned under section 313(1)(b) of Cr.P.C with regard to the incriminating circumstances appears in the evidence of the prosecution witnesses as well as the Exhibits whereas A1,A2 denied their complicity with the crime. Both Accused stated that they have no defence witnesses to be examined and Exhibits on their side, hence defence side evidence is closed.

(7). ARGUMENTS

(7.1). The learned APP argued that the prosecution has proved its case with the oral testimony of PW1 to PW8 and Ex.P:1 to Ex.P:6 and the witnesses examined on the side of prosecution were corroborated by each other and the prosecution case and prays for conviction.

(8). The learned defence counsel have argued that false case had been foisted against both accused and the witnesses examined on the side prosecution had not corroborated the case of the prosecution and further there is no reliable and credible evidence to prove the charges against both accused and hence the benefit of doubt may be given to both accused and A1 and A2 accused may be acquitted.

(9). Now the point for determination is Whether the prosecution has proved the charges against the accused beyond reasonable doubt. If so, then What would be the sentence to be imposed against them?.

(10). POINTS OF DETERMINATION

(10.1). 1.Whether the accused uttered obscene words in a public place causing annoyance under Sec 294(b)?

2. Whether the prosecution proved the causing of grievous hurt by A1 and simple hurt by A2 beyond reasonable doubt?

11. DISCUSSION EVIDENCE AND THEREOF

(11.1). 1. Whether the accused uttered obscene words in a public place causing annoyance under Sec 294(b)?

The prosecution alleges that the accused used abusive language. In order to attract an offence punishable u/s 294(b) of IPC. Prosecution must prove **that the place of occurrence must be public place are near public place that and also it cause annoyance to others**. As per the evidence PW1 to PW4 admits that the occurrence took place in "Vadakku Thottam," which is a private agricultural field. Nature of Words the witnesses merely stated that the accused "abused" him. And further PW1 during chief examination "தாயோழி மகனே". And further PW2 deposed in his chief examination என்னையும் அ.சா.1 ஐயும் "தாயோழி என பேசினார்" Apart from PW1 and PW2 prosecution examined PW3 and PW4 as eye witness in this case but both the witnesses not deposed anything about the abusive words used by the accused. As per case of the prosecution both A1 and A2 abused in a filthy language. Whereas evidence of PW2 deposed that the accused abused him also.

Legal Position The Madras High Court in **N.S. Madhanagopal and others vs. K. Lalitha (2022)**, following the Supreme Court in **Pawan Kumar v. State of Haryana (1996)**, held "Mere utterance of obscene words are not sufficient to constitute an offence under Section 294(b) IPC... the words must have a tendency to deprave and corrupt those whose minds are open to such immoral influences." Furthermore, as the incident occurred on private property, it does not satisfy the "public place" requirement.

12. TEST OF ANNOYANCE

The prosecution examined PW1 to PW4 to prove the annoyance but none of the witness deposed about the annoyance caused to the public or the witnesses. And further the witnesses PW1 and PW2 have merely deposed the bad words in a general sense that itself not amount to obscenity. Therefore, the charge under Section 294(b) IPC not proved by the prosecution.

(13) DISCUSSION ON SECTION 326 IPC (GRIEVOUS HURT)

The prosecution relies on the testimony of PW1 (Victim) and PW2 (Eyewitness) to prove a fracture caused by A1 using a wooden log.

(13.1).MOTIVE

As per the case of the prosecution and also evidence of PW1 he clearly admitted during cross examination it is relevant to extract evidence of PW1” நானும் 1ம் எதிரி சித்தப்பா மற்றும் பெரியப்பா மகன்கள் என்றால் சரிதான். S. அய்யம்பாளையத்தில் 321/1 எனக்கு பாத்தியப்பட்டது என்றால் சரிதான். 321/2 சர்வே எண் எதிரிகளுக்கு பாத்தியப்பட்டது என்றால் சரிதான். 321/3 எங்களுக்கு பாத்தியப்பட்டது என்றால் சரிதான். 321/5 எதிரிகளுக்கு பாத்தியப்பட்ட என்றால் பாத்தியப்பட்டது என்றால் சரிதான். மேற்படி இருவரும் சென்றுவர பொது பாத்தியம் உள்ளது என்றால் சரிதான். தடம் சம்பந்தமாக எதிரிகள் எங்கள் மீது அசல் வழக்கு தாக்கல் செய்து இருந்தார்கள் என்றால் சரிதான். அசல் வழக்கில் நாங்களும் எதிரிகளும் சமரசமாக பேசி தீர்த்துக் கொண்டோம் என்றால் சரிதான். பொது கிணற்றில் எங்களுடைய கிணற்று பங்கை அளித்து அதற்கு ஆதரவாக ரூபாய் 2 லட்சம் பெற்றுக்கொண்டோம் என்றால் சரிதான்“ which clearly reveals there was a previous enmity regarding civil dispute. It is true motive as provided u/s 8 of Indian Evidence Act is a double edged weapon the evidence must be appreciated with great care and caution.

(13.2). CONTRADICTIONS IN EVIDENCE

During chief examination of PW1 he deposed that the accused A1 assaulted him with wooden log over his hand. On perusal of the Ex.P3 Accident Register and also as per the PW7 Doctor Sivakumar he deposed in his evidence that PW1 stated that he was assaulted by wooden log and stone. There are material contradictions between PW1 and PW7 regarding the sequence of the assault. And further during cross examination PW1 he clearly admitted that he was assaulted by iron pipe. while PW2 deposed in his evidence that PW1 was assaulted by wooden log Such inconsistencies from the evidence of PW1, PW2, PW7 create a "reasonable doubt" in the mind of the Court.

As per the case of the prosecution PW1 to PW4 are the eye witnesses in this case. PW1 and PW2 deposed in the lines of case of the prosecution. But during cross examination__there are major contradictions. **As per the evidence of PW1 sustained fracture over the right and little finger but whereas the evidence of PW7 coupled with Ex.P3 wound certificate.**

1. 3*3 cm கையில் கன்றியகாயம்

2. 3*3 cm வலது நெஞ்சில் கன்றியகாயம்

Apart from the above injuries no injuries were noted in the Ex.P3 wound certificate. And further during cross examination of PW7 he clearly admitted இருசக்கர வாகனத்தில் வேகமாக சென்று கீழே விழுந்தால் மேற்படி காயம் ஏற்பட வாய்ப்புள்ளது என்றால் சரிதான்.” which creates serious doubt about the occurrence.

(13.3). NON -RECOVERY OF WEAPON

The prosecution has failed to recover the alleged "wooden log" (Thadi). While non-recovery is not always fatal, in this case, it is coupled with a discrepancy: the witnesses described the weapon differently during chief and cross-examination.

(13.4). LEGAL POSITION

The Supreme Court in State of **Himachal Pradesh v. Lekh Raj (2000)** and the Madras High Court in various rulings have emphasized that while the prosecution case shouldn't be thrown out solely on non-recovery, if the ocular evidence is "shaky" and contradictory, the absence of the weapon becomes a significant lacunae.

(13.5). DOUBT ON GRIEVOUS NATURE

Without the weapon and with contradictory ocular evidence of PW and PW7 coupled with Ex.P3 would certificate the link between the act of A1 and the specific fracture is not established beyond a shadow of a doubt.

14. DISCUSSION ON SECTION 323 IPC (SIMPLE HURT)

The allegation against A2 is a punch to the chest. However, given the pathway dispute and the admitted hostility between the parties, and also considering the evidence PW1 , PW2, and PW7 coupled with Ex.P3 would certificate the possibility of false implication cannot be ruled out, especially when the primary charges namely 294b and 326 are not substantiated by independent evidence.

15. FINAL ORDER

(15.1). The burden of proof vests on the prosecution to prove the guilt of the accused beyond all reasonable doubts. In the present case, the prosecution has failed to elucidate the case of prosecution. On carefully weighing the evidence of prosecution, this court finds that there is no sufficient material, incriminating the 1st Accused for the offence under sections 294(b),326 of IPC and the 2nd Accused for the offence under sections 294(b),323,of IPC . Considering the facts and circumstances above, this court is of the considered view that the offence charged against the 1st Accused for the offence under sections are not proved beyond all reasonable doubts.

(15.2). The prosecution has not established the charges against the 1st Accused for the offence under sections 294(b),326 of IPC and the 2nd Accused for the offence under sections 294(b),323,of IPC. Hence, the accused are entitled to the benefit of doubt.

(16). In the result, the 1st accused is found not guilty for the offence under sections 294(b),326 of IPC and the 2nd Accused is not found guilty for the offence under sections 294(b),323,of IPC. Therefore both A1 and A2 acquitted under section 248(1) of Cr.P.C. The bail bonds of the accused stands canceled after appeal (or) appeal period.

This judgment is dictated by me to the typist and typed by her directly in the computer and after effecting necessary corrections pronounced by me in the open Court on this the 01st day of April 2026.

Judicial Magistrate,
Sulur.

List of prosecution side witnesses:

- 1.PW1- : Mr. V. Murugesan.
- 2.PW2-: Mr.M.Balasubramaniam
- 3.PW3-: Mr. K. Mahali
- 4.PW4-: Mr. P. Kalimuthu
- 5.PW5-: Mr. T. Masilamani
- 6.PW6-: Mr. Sakthivel @ venkatachalam
- 7.PW7-: Dr. Mr. Sivakumar
- 8.PW8-: Mr. Jebastephan

List of prosecution side exhibits:

Sl.No. of the exhibits	Description of the exhibit and its date	Date, when the exhibit was filed in the case	How marked	By whom filed	Remarks
01.	Complaint dated 19.11.2014.	12.01.2018	Ex.P:1	PW1	Original
02.	First Information report dated 19.01.2014	11.03.2026	Ex.P:4	PW8	Original
03.	Observation Mahazar dated 19.11.2014.	12.01.2018	Ex.P:2	PW6	Original
04.	Rough Sketch dated 19.11.2014.	11.03.2026	Ex.P:5	PW8	Original
07.	Wound Certificate dated	18.02.2021	Ex.P:3	PW7	Original

	18.11.2015				
08.	Alteration report dated 31.12.2014.	11.03.2026	Ex.P:6	PW8	Original

Prosecution side material objects:- Nil

List of witness on the side of the accused: Nil

List of exhibits on the side of the accused: Nil

Note:

- 1.The accused were on bail during the trial period.
- 2.No witnesses were detained for more than 3 hearings.
- 3.The result of the case informed to the police.

Judicial Magistrate,
Sulur.