

IN THE COURT OF JUDICIAL MAGISTRATE, HARUR

Present: **Mr. DHINAKARAN.N**, Judicial Magistrate, Harur.

Tuesday, the 30th day of June 2026

STC. No. 287 of 2024

Sub-Inspector of Police,

Morappur Police Station.

(Crime No. 364/2023)

... Complainant / Prosecutor

Versus -

1. Viswanathan, (69/2024), S/o. Chinnu

2. Pushpa, (65/2024), W/o. Viswanathan

Both residing at Paraiyapatti Village,

Harur Taluk, Dharmapuri District.

... Accused / Defendants

This case was taken up for hearing on 07.05.2024. The learned Assistant Public Prosecutor, Grade-II, Mr. M. Jagadeesan, appeared for the prosecution, and the learned advocate, Thiru. M. Ilango, B.A., B.L., appeared for the accused. On 30.06.2026, after hearing arguments from both sides, reviewing documents, materials, and witness depositions, this court delivers the following:

JUDGMENT

1. This is a criminal case initiated on a final report filed by the Sub-Inspector of Police, Morappur Police Station, against the Accused No. 1 and Accused No. 2 for the alleged commission of offenses punishable under Sections 448 and 323 of the Indian Penal Code (IPC).

Brief Facts of the Prosecution Case:

2. The case of the prosecution, as rolled out from the final report, is that due

to an ongoing dispute regarding a house property between the *de-facto* complainant, Jayalakshmi (PW1), and the accused persons, an incident took place on 24.11.2023 at about 09:00 AM. It is alleged that Accused No. 1, Viswanathan, criminally trespassed into the shop belonging to PW1 and threw out the items kept therein, thereby committing an offense punishable under Section 448 of the IPC. It is further alleged that Accused No. 2, Pushpa, caught hold of the hand of PW1 and dragged and pushed her down, thereby causing hurt, which constitutes an offense punishable under Section 323 of the IPC. On a complaint lodged by PW1, a case was registered, investigated, and a charge sheet was laid before this Court.

3. On appearance of the accused, copies of documents were furnished under Section 207 of the Cr.P.C. The particulars of the offenses under Sections 448 and 323 of the IPC were stated and explained to both the accused persons under Section 251 of the Cr.P.C. When questioned, both the accused pleaded not guilty and claimed to be tried.
4. To substantiate the charges, the prosecution examined six witnesses as PW1 to PW6 and marked five documents as Exhibits Ex.P1 to Ex.P5. On the side of the prosecution, the chief examination of PW1 was completed on 20.11.2025, and subsequently, PW2 to PW4 were examined on 10.03.2026, PW5 on 24.02.2026, and PW6 on 21.05.2026.

Points for Determination:

5. After perusal of the final report, this Court frames the following points for determination:
 - i. *Whether the prosecution has proved beyond reasonable doubt that on 24.11.2023 at 09:00 AM, Accused No. 1 committed criminal*

trespass into the shop of PW1, thereby rendering himself liable under Section 448 of the Indian Penal Code?

- ii. *Whether the prosecution has proved beyond reasonable doubt that on the same date, time, and place, Accused No. 2 voluntarily caused hurt to PW1 by pulling her hand and pushing her down, thereby rendering herself liable under Section 323 of the Indian Penal Code?*

Discussion and Findings:

Point No. 1:

6. To bring home an offense under Section 448 of the IPC, the prosecution is burdened to prove that the accused committed criminal trespass by entering into or remaining upon property in the possession of another with intent to commit an offense or to intimidate, insult, or annoy any person in possession of such property.
7. The bedrock of the prosecution case lies in the sole testimony of PW1, Jayalakshmi. In her examination-in-chief, PW1 deposed that on an unremembered date in the year 2023, around 09:00 AM, both the accused entered her shop, ordered her to vacate, and threw out her shop's belongings. However, her cross-examination cuts deep into the root of her credibility. PW1 admitted that she did not know the contents of the written complaint (Ex.P1) prepared by the police, upon which she merely affixed her signature.
8. Furthermore, during cross-examination, she explicitly admitted that she did not even recognize who Accused No. 1 was, stating that she did not know if she was his sister's daughter or who he was in relation to her, and

uniquely claimed that the case was purely about a shop dispute and that the accused had nothing to do with this case.

9. To corroborate the element of criminal trespass, the prosecution relied on independent witnesses. PW2, Balanagammal, in her chief examination, completely omitted the presence and participation of Accused No. 1. She testified that only Accused No. 2, Pushpa, stood in front of the shop, demanded PW1 to come out so she could lock it, and threw out some boxes. In her cross-examination, PW2 completely turned turtle, stating that she knew nothing about the case and that the police never examined her.
10. This brings us to the evidence of the material recovery and spot mahazar witnesses. PW3, Mohan, failed to support the prosecution, stating that he merely signed a blank paper under a tamarind tree at the behest of the police without knowing its contents, and he was duly declared hostile. PW4, Manoharan, stated that he saw boxes placed outside the shop, but he could not verify the date or details of the event and admitted that the house in question is actually occupied by Surjit, who happens to be the son of the accused persons.
11. Most damagingly, the testimony of the Investigating Officer, PW5 (Sekar, Retired SI), reveals a fatal infirmity. PW5 admitted during cross-examination that the rough sketch (Ex.P5) clearly denotes the place of occurrence as the residential house of the accused persons, rather than an independent shop belonging to the complainant. When confronted with how a charge of criminal trespass under Section 448 IPC could stand when the alleged scene of crime is the accused's own house, PW5 loosely answered that the case was registered solely based on what the complainant narrated, without any independent verification.

12. Evaluating this evidence, there is a fundamental and irreconcilable contradiction regarding the ownership, possession, and nature of the property. When the rough sketch prepared by the investigating agency places the occurrence at the accused's house, and when the independent witnesses either state that the accused's son lives there or deny witnessing Accused No. 1 at the spot, the charge of criminal trespass into the informant's property falls apart. PW1 herself has absolved the accused of connection to the crime during her cross-examination.

13. Therefore, this Court holds that the prosecution has miserably failed to establish the identity of the property as being in the lawful, exclusive possession of PW1, and has failed to prove that Accused No. 1 entered the same criminally.

Consequently, Point No. 1 is answered in the negative, finding Accused No. 1 not guilty of the offense under Section 448 IPC.

Point No. 2:

14. The second limb of the prosecution's case charges Accused No. 2, Pushpa, with voluntarily causing hurt to PW1 under Section 323 of the IPC. The specific overt act attributed to Accused No. 2 is that she caught hold of PW1's hand, dragged her, and pushed her down.

15. In her chief examination, PW1 stated that the accused persons pulled her hand and pushed her out, causing her glass bangles to break, which resulted in bleeding injuries. She went on to state that the blood stained her clothing and that she showed these blood-stained clothes to the police. However, this version is completely unsupported by any medical, or secondary oral evidence. The prosecution has not produced any accident register, wound

certificate, or medical report to show that PW1 was treated for any physical injury or cuts from broken bangles.

16. The fatal blow to this charge comes from the testimony of the Investigating Officer, PW5. In his cross-examination, PW5 unequivocally admitted that the complainant did not sustain any visible injury, did not seek any medical treatment, and never went to a hospital. Moreover, despite PW1's claim that her blood-stained clothes were shown to the police, PW5's testimony and the records reveal that no such clothing was seized under any recovery mahazar, nor were any broken glass bangles recovered from the scene of the crime.
17. Furthermore, the independent witness PW6, Chinnathayi, stated that about 10 months prior, she saw Accused No. 2 throwing boxes from a shop while she was fetching water from a public tap, but she categorically stated that she does not even know who the complainant (PW1) is, thereby completely ruling out having witnessed any physical assault or hurt caused by Accused No. 2 to PW1. PW2 also failed to speak about any physical assault or injury caused to PW1.
18. There is also an unexplained, glaring delay of one month in registering the FIR. The alleged incident happened on 24.11.2023, and a CSR/receipt was issued on the same day. However, the FIR (Ex.P4) was registered only on 23.12.2023. PW5 stated that the delay was due to the non-cooperation of the accused during the inquiry, but admitted that this reason was never recorded in the case diary or the final report. Such an ordinate, unexplained delay in a simple hurt case raises a strong presumption of embellishment and concoction, especially amidst an ongoing property dispute.
19. In the absence of any medical evidence, any seized material objects like

blood-stained clothes or broken bangles, and given the hostile and highly inconsistent versions of the remaining witnesses, the solitary and compromised statement of PW1 cannot form the safe basis for a conviction. The prosecution has failed to establish that PW1 sustained hurt as defined under Section 319 of the IPC.

Consequently, Point No. 2 is answered in the negative, finding Accused No. 2 not guilty of the offense under Section 323 IPC.

Conclusion:

20. In the light of the discussion and analysis of the oral and documentary evidence detailed above, this Court arrives at the unequivocal conclusion that the prosecution has failed to prove its case against both the accused persons beyond the shadow of a reasonable doubt. The evidence is riddled with material contradictions, lack of scientific/medical corroboration, structural defects regarding the scene of the crime, and an unexplained delay in registering the FIR, the benefit of which must automatically lean in favor of the accused.

Order:

21. In the result, acting under Section 255(1) of the Code of Criminal Procedure, 1973,

- I. The Accused No. 1, Viswanathan, is hereby Acquitted of the offense punishable under Section 448 of the Indian Penal Code.
- II. The Accused No. 2, Pushpa, is hereby Acquitted of the offense punishable under Section 323 of the Indian Penal Code.

The bail bonds executed by the accused persons, if any, shall stand cancelled, and the sureties shall stand discharged.

Dictated to the Steno-Typist, typed by him, corrected and pronounced by me in the open court on this the 30th day of June, 2026.

Judicial Magistrate, Harur.

APPENDIX OF EVIDENCE

I. Witnesses Examined on the Side of the Prosecution:

- PW1: Jayalakshmi (De-facto Complainant / Injured Eyewitness)
- PW2: Balanagammal (Independent Neighborhood Witness)
- PW3: Mohan (Observation Mahazar Witness - *Hostile*)
- PW4: Manoharan (Observation Mahazar Witness)
- PW5: Sekar, Retired Sub-Inspector of Police (Investigating Officer)
- PW6: Chinnathayi (Independent Neighborhood Witness)

II. Documents Marked on the Side of the Prosecution:

- Ex.P1: Written Complaint dated 24.11.2023 lodged by PW1.
- Ex.P2: Signature of PW3 in the Observation Mahazar.
- Ex.P3: Observation Mahazar dated 23.12.2023.
- Ex.P4: First Information Report (FIR) in Crime No. 364/2023 of Morappur Police Station.

- Ex.P5: Rough Sketch of the scene of occurrence.

III. List of Physical Properties Marked for the Prosecution:

- *None.*

IV. List of Witnesses and Documents on the Defense Side:

- *None.*

**Judicial Magistrate,
Harur.**

Notes:

The authorities shall be informed of the case outcome.

No witness was detained beyond three days.

Depositions were taken under the Oaths Act, 1969, and verified