

In the court of Principal District and Sessions Court , Kanchipuram

Present: Tmt. Deepthi Arivunithi,M.L.,

Principal District and Sessions Judge,

Kanchipuram

Friday, the 27th day of March 2026

Criminal Appeal No.19/2022

(CNR.No. TNKP060019472022)

1) Name of the trial court	The Judicial Magistrate, Sriperumbudur.
2) Case No.of the trial court	C.C. No.386/2012
3) Criminal Appeal Number	19/2022
4)Name and Address of Appellant	Madhankumar, S/o. Doss, No.2/53, Pillaiyar Koil Street, Kovur, Thandalam, Chennai -12
5) Conviction and Sentence imposed by the trial court to the Appellant	The trial court had come to the conclusion that the appellant/accused is found guilty of the offence punishable under Section 326 of IPC and the accused is sentenced to undergo Rigorous Imprisonment of two years and to pay a fine of Rs.10,000/- in default to undergo further simple imprisonment for six months for the above offence u/s 248(2) Cr.P.C.
6) Whether the conviction and sentence of the trial court is confirmed? Modified? Or set aside?	In result, this appeal is dismissed and the judgment dated 05.07.2022 in C.C. No. 386 of 2012 of the learned Judicial Magistrate, Sriperumpudur, whereby the accused was convicted for offence under s.326 IPC and sentenced to undergo rigorous imprisonment

	of two years and pay a fine of Rs.10,000/- failing which to undergo further simple imprisonment for a period of six months is hereby confirmed. The bail bonds stands discharged. The trial court is directed to take steps to secure the accused to undergo the remaining period of sentence.
7) Date of presentation of Criminal Appeal	01.08.2022
8) Date of taken on file	03.08.2022
9) Date of Suspension of sentence	04.08.2022
10) Date of Judgment in Appeal	27.03.2026

This Criminal Appeal coming on 19.02.2026 for final hearing before me in the presence of M/s. N. Shanmugasundaram, A.V. Lakshmipathi, K. Amulu, Advocates for appellant and Thiru.E.L. Kannan, Public Prosecutor for Respondent and upon hearing the arguments on both sides and upon perusing the case records and Judgment of the trial court, the ground for appeal and having stood over for consideration till this day, this court delivered the following

JUDGMENT

Criminal appeal filed under s.374(3) Cr.P.C. challenging the judgment dated 05.07.2022 in C.C. No. 386 of 2012 of the learned Judicial Magistrate, Sriperumpudur, whereby the accused was convicted for offence under s.326 IPC and sentenced to undergo rigorous imprisonment of two years and pay a fine of

Rs.10,000/- failing which to undergo further simple imprisonment for a period of six months.

Grounds of Appeal:

2. The following are among the main grounds of appeal. The judgment of the trial court is against law, weight of evidence and opposed to the facts and probabilities of the case. The trial court has relied upon judgments which are not applicable to the facts of the case. The evidences of PW1 to PW3 are contradictory to the first information report and the statements given to the investigation officer. The same was not taken note of. The fact that no alleged threats were made would show that the basis of the case of the prosecution itself is false. The evidence of PW1 with regard to the reason given by him to the Doctor who show that his version is totally false. The accident register entry would show that PW1 was said to be attacked by two unknown persons. Hence, the involvement of the appellant is not proved by the prosecution. PW1 and PW2 have stated about the previous enmity with the appellant/accused. However, the witness PW2 has in the cross examination clarified that there was no enmity between the accused and PW1. Hence, there is no mens rea for the offence. PW3 has stated that he did not witness the occurrence and that he went there on hearing the sound. Hence, PW3 is not an eye witness to the occurrence. The evidence of PW4 and PW5 are also contradictory in as much as he is the witness to the observation mahazar and has deposed that he subscribed his signature at the

police station. PW6 Doctor has stated that at the time of granting the wound certificate he did not see the injured and gave his opinion based on the records. Hence, the medical opinion ought not to be considered by the court. The trial court has failed to take note of the contradictions in the statements of the witnesses. There are no independent witnesses examined by the prosecution. Hence, that the appeal has to be allowed.

3. Upon receiving the trial court records, both sides were heard. On hearing both sides and having perused the materials on record, this court frames the following points for consideration.

1. Whether the prosecution has proved the guilt of the accused beyond reasonable doubt?
2. Whether the appeal has to be allowed?

Points No. 1 and 2:

4. Since both the points are interrelated, they are taken up together for discussion. The brief averments to set out the case of the prosecution is as follows. The accused is said to have quarreled with the witness Sukumar on 23.09.2012 at about 2.00 p.m. before the Ice company situated in Kundrathur Main Road near the house of the witness Sukumar. At that time, the defacto complainant Mariappan is said to have tried to stop both the accused and the witness Sukumar. The accused then abused the said Mariappan using obscene language and is said to have stabbed with a

small knife on the left side stomach of Mariappan causing grievous injury and thereafter is said to have threatened the witnesses using the knife consequent to which the complaint was filed against the appellant/accused. The final report was filed against the accused charging him for the offences under s.294(b), 326 and 506(ii) IPC.

5. On conclusion of the trial, the trial court has acquitted the accused of the charges under s.294(b) and s.506(ii) IPC and convicted the appellant/accused for the offence under s.326 IPC. The appellant/accused alone has filed an appeal challenging his conviction and therefore, the facts relating to the offences under s.294(b) and 506(ii) IPC are not dealt with herein in detail.

6. In order to prove their case, the prosecution has examined PW1 to PW7 and marked Ex. P1 to P12. A knife is marked as M.O.1. On conclusion of trial and having heard both sides and perused the materials on record, the trial court passed a judgment dated 05.07.2022 in C.C. No. 386 of 2012 of the learned Judicial Magistrate, Sriperumpudur, whereby the accused was convicted for offence under s.326 IPC and sentenced to undergo rigorous imprisonment of two years and pay a fine of Rs.10,000/- failing which to undergo further simple imprisonment for a period of six months.

7. The said judgment is under challenge and the learned counsel for the appellant/accused would contend as follows. It is contended that PW1 has in his

evidence stated that he was assaulted by the appellant/accused herein who was having enmity with PW2. However, at the time of admission to the hospital, he has stated that he was attacked by two unknown persons. Therefore, there is contradiction in the statement of PW1. It is further pointed out that the doctor who was examined as PW6 was not the doctor who made the accident register entry. PW6 admitted that he has not seen the injured person and has given the wound certificate based on records. Therefore, the classification of grievous injury without any x-ray report or any other medical records cannot be considered. Thus, the prosecution has failed to establish the nature of injury. Further, PW6 has in the cross examination specifically stated that there is nothing in the accident register entry regarding the time of the wound and therefore, there is no record to show when the injury was sustained by the injured person. It is also pointed out that according to the doctor, the injured person was accompanied by his sister Dhanalakshmi. However, as per the version of PW1, he was taken to hospital by Sukumar, Jayakumar, Victor and Ramu. Further, it is also admitted by PW6 that the identification marks of the injured person was noted in the accident register entry. It is pointed out that apart from PW1 and PW2 who are interested witnesses, there are no other witnesses to prove the case of the prosecution. The prosecution has failed to prove the alleged recovery of the weapon at the instance of the accused. As per the case of the prosecution, the weapon is said to have been recovered from the place of occurrence. Hence, the prosecution has failed to prove

the guilt of the accused beyond reasonable doubt and therefore, the accused has to be acquitted.

8. The learned public prosecutor would contend as follows. PW1 is the injured person. He has spoken clearly regarding the identity of the accused, he has identified the accused. He has also spoken about the injury sustained by him and the weapon used to cause the injury. The evidence of PW1 is corroborated by PW2 and PW3. The medical evidence also corroborates with the evidence of PW2 with regard to nature of the injuries sustained by him. The trial court has rightly relied upon the decisions of the Hon'ble Supreme Court and has come to a conclusion that merely because there are slight variations in the evidences, the same cannot affect the case of the prosecution. Hence, in these circumstances, the trial court has rightly found the accused guilty for the offences charges and rightly sentenced the accused. Hence, that the appeal has to be dismissed.

9. Based on the contentions of both sides and having perused the materials on record, this court finds as follows. The injured witness in this case is PW1. According to PW1, he is the brother-in-law of PW2. PW2 and the accused had some enmity and that on the date of occurrence, viz. 23.09.2012 at about 2.00 p.m. PW2 and the accused were having some quarrel before the Ice company situated in Kundrathur Main Road near the house of the PW2 Sukumar. At that time PW1 intervened to stop

the altercation between them. At that time, the accused took out the knife in his possession and caused a stab injury on the left side stomach.

10. PW1 has stated that after the occurrence he was taken to the Ramachandra Medical Hospital for treatment. The accident register entry is marked as Ex. P6. As per the entry in the said register, it is noted that there was a laceration which was 4 cm deep on the right side hypochondrium. Thus, as per the version of PW1, he was injured on the left side stomach and as per the accident register extract, the injury was found on the right side. PW2 is the brother-in-law of PW1. He has stated that on the date of the occurrence, the accused was fighting with him and when PW2 intervened, the accused stabbed him with a knife on the stomach and thereafter PW1 was taken to the hospital.

11. PW3, has stated that there was a quarrel between the accused and PW1. When PW2 intervened, he was stabbed by the accused. In the cross examination, PW3 has stated that he reached the place of occurrence only after heard noises and that he did not witness the accused stabbing PW1. Hence, it is apparent that PW3 is not an eye witness to the incident. However, he has stated about the injury sustained by PW1 and the fact that he was taken to Ramachandra Hospital for treatment.

12. PW4 and PW5 are the witnesses to the observation mahazar and the seizure mahazar. Both the said witnesses have spoken about the investigation officer visiting the scene of occurrence and inspecting the same. They have also spoken about the

seizure mahazar that was prepared and witnessed by them. PW5 has spoken about the seizure of the knife M.O.1. from the scene of occurrence.

13. PW6 is the doctor who has spoken about the nature of injury sustained by PW1 and the treatment taken by him. The wound certificate has been marked along with the accident register entry as Ex. P6. PW7 is the investigation officer and has spoken about the aspects of investigation undertaken by him. In the present case, it is seen that the accused has been identified by PW1 to PW3. Therefore, the identity of the accused has been established by the prosecution.

14. The first and the foremost point raised by the learned counsel for the accused is that all the witnesses examined in the present case are related and interested witness. In this regard, this court finds it relevant to take note of the decision of the Hon'ble Supreme Court in the case of State of U.P. vs. Naresh & Ors., reported in (2011) 4 SCC 324. In the said case, the following observation was made which is relevant for the purpose of this case.

“29. The evidence of a witness cannot be discarded solely on the ground of his relationship with the victim of the offence. The plea relating to relatives' evidence remains without any substance in case the evidence has credence and it can be relied upon. In such a case the defence has to lay foundation if plea of false implication is made and the Court has to analyse the evidence of related witnesses carefully to find out whether it is cogent and credible. [Vide Jarnail Singh vs. State of Punjab (2009) 9 SCC 719, Vishnu & Ors. v. State of Rajasthan, (2009) 10 SCC 477; and Balraje alias Trimbak vs. State of Maharashtra, (2010) 6 SCC 673]”

Applying the above principle to the fact of the present case, though PW1 and PW2 are related witnesses, their testimonies cannot be discarded for the said reason. As far as PW3 is concerned, from the statements made in the cross examination by the said witness, it is apparent that PW3 did not witness the occurrence. PW1 in the present case, is an injured witness. He has sustained injury on his stomach. Upon perusal of the evidence, it is seen that there is some discrepancy with regard to which side he sustained injury. However, it is to be noted that PW2 has only stated that PW1 was attacked on the stomach. PW1 has stated that the attack was on his left side of the stomach. The accident register entry would show that the injury was on the right side of the stomach. However, PW1 has in his complaint statement and in his evidence stated that the left side stomach was injured. In this case, it is not disputed that PW1 was the person who was admitted in the hospital and was given treatment. Hence, the contradiction can be considered only as a minor discrepancy which is of no consequence.

15. It is to be noted that PW1 is an injured witness. Ex. P6 shows that he sustained injury on the date of the occurrence. It is also relevant to note that Ex. P1 complaint is a statement recorded by the police when PW1 was admitted as in-patient in the said hospital. Therefore, it is apparent that PW1 sustained injuries during the occurrence. With regard to the testimony of injured witnesses, this court finds it relevant to take note of the decision reported in *Balu Sudam Khalde and another v.*

The State of Maharashtra reported in 2023 SCC Online SC 355. In the said case, while dealing with the testimony of an injured witness, it was held as follows.

“26. When the evidence of an injured eye-witness is to be appreciated, the undernoted legal principles enunciated by the Courts are required to be kept in mind:

(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

(f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.

27. In assessing the value of the evidence of the eyewitnesses, two principal considerations are whether, in the circumstances of the case, it is possible to believe their presence at the scene of occurrence or in such situations as would make it possible for them to witness the facts deposed to by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations, circumstances either elicited from those witnesses themselves or established by other evidence tending to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a Court would attach to their evidence. Although in cases

where the plea of the accused is a mere denial, the evidence of the prosecution witnesses has to be examined on its own merits, where the accused raise a definite plea or put forward a positive case which is inconsistent with that of the prosecution, the nature of such plea or case and the probabilities in respect of it will also have to be taken into account while assessing the value of the prosecution evidence.”

16. Applying the principles to the fact of the present case, this court finds as follows. The evidence of PW1 would show that he was assaulted by the accused using a small knife and Ex. P6 accident entry extract would show that PW1 sustained injuries. The evidence of PW6 would show that the injured person undertook treatment and a surgery was done by laparoscopy. He has further stated that PW1 was discharged after one week. PW2 has corroborated the statements of PW1. PW3 has also spoken about the injuries sustained by PW1 on the date of the occurrence.

17. Even if PW2 who is said to have enmity with the accused is considered an inimical witness, it is seen that his version corroborates that statement of PW1 who had no known enmity with the accused. Further, the evidence of PW3 is useful to corroborate the fact that PW1 sustained injuries on the date of occurrence at the time of the occurrence. Hence, this court finds that the evidence of PW2 need not be discarded. By the evidence of PW1 to PW3, the prosecution has established the identity of the accused, the attack on PW1 on the date of the occurrence and the injuries sustained by PW1.

18. The learned counsel for the accused has drawn the attention of this court to the contradictions in the evidence of PW6 with regard to who brought the injured

person to the hospital. It is to be noted that the same is immaterial in the present case and can be considered as only a minor contradiction since the same would not alter or affect the case of the prosecution. Another contention put forth is with regard to the classification of the injury as grievous injury in the absence of any x-ray report or any other document before this court. On perusal of the evidence of PW6, he has stated that the injured person underwent a laproscopy surgery and was treated in the hospital as in-patient for a period of one week and considering his records, PW6 gave the opinion that the injuries were grievous in nature.

19. In this case, it is apparent from the testimony of PW6 that the injured person was admitted to the hospital for seven days and underwent a surgery. Thus, it is seen that the injury caused was such that the injured person was unable to follow his daily pursuits for a period of time. PW6 has specifically stated that he went through the medical records of the injured person and granted the wound certificate. Hence, this court is of the considered opinion that merely because there was no x-ray, it cannot be stated that the classification of the injury as grievous is wrong. It is seen that the injury was caused with a knife which was marked as M.O.1. Thus, this court finds that the said contention cannot merit consideration.

20. For the foregoing reasons, this court finds that the prosecution has proved the case beyond reasonable doubt as far as the offence under s.326 IPC is concerned and the trial court has rightly convicted and sentenced the accused. There is no

necessity to interfere with the judgment of the trial court. As such, the points are answered.

21. In result, this appeal is dismissed and the judgment dated 05.07.2022 in C.C. No. 386 of 2012 of the learned Judicial Magistrate, Sriperumpudur, whereby the accused was convicted for offence under s.326 IPC and sentenced to undergo rigorous imprisonment of two years and pay a fine of Rs.10,000/- failing which to undergo further simple imprisonment for a period of six months is hereby confirmed. The bail bonds stands discharged. The trial court is directed to take steps to secure the accused to undergo the remaining period of sentence.

Partly dictated to the Steno-typist by me, transcribed and typed by her through computer and partly typed by me in my laptop, corrected and pronounced by me in the open court, this the 27th day of March 2026.

Principal District & Sessions Judge,
Principal District & Sessions Court ,
Kancheepuram

Draft/Fair Judgment

C.A.No.19/2022

Principal District & Sessions

Court, Kanchipuram

Dt. 27.03.2026

