

IN THE COURT OF IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MADURAI.

PRESENT: Thiru.M.UDHAYAVELAVAN, B.L.,

IV Additional District and Sessions Judge.
Thursday, the 16th day of July 2026

CRIMINAL APPEAL No. 52/2023
CNR.No.TNMD01-006047-2023

1. From which court this appeal is preferred.	Judicial Magistrate No.VI, Madurai
2. Case number of that court	C.C.No.204/2018
3. Criminal Appeal No.	Crl.A. No.52/2023
4. Name of the Appellant/Accused No.1	R.Dhanabalan, (Age 50 years) S/o. V.Ramasamy, Plot No.12, Shanmuga Nagar, Rose Gardens, Madurai -14.
5. Name of the Respondent/Complainant	State through Inspector of Police, Annanagar Police Station,(L&O), Madurai Town. (Crime No.1329/2017)
6. Conviction and Sentence of trial Court	The 1 st accused is found guilty of offences under Section 323 and 324 of IPC and convicted and sentenced to pay a fine of Rs.1000/- in default sentenced to undergo one month simple imprisonment for the offence U/s. 323 of IPC and convicted and sentenced to pay a fine of Rs.2,000/- in default sentenced to undergo two months simple imprisonment for the offence U/s 324 of IPC and 1 st accused is found not guilty of offences U/s 294(b)

	and 506(ii) of IPC and 2 and 3 accused are found not guilty U/s 323 and 506(ii) of IPC and acquitted U/s 248(1) of Cr.P.C.
7. Whether the conviction and sentence of the trial Court confirmed or modified or set aside	In the result, This appeal is partly allowed as follows: 1. that the impugned judgment passed by learned Judicial Magistrate No.VI, Madurai dated 31.04.2023, convicting the 1st accused for the offences u/s.323 IPC with the sentence of fine of Rs.1000/- in default to undergo simple imprisonment for one month is hereby confirmed and in respect of the same, this appeal is dismissed. ii) that this appeal is allowed in respect of the conviction and sentence imposed by the learned trial court for the offence u/s.324 IPC and in result of the same, the conviction and sentence of fine of Rs.2000/- imposed by the learned trial court is hereby set aside and fine amount if any paid by the 1st accused in this regard, is ordered to be refunded to the 1st accused, as per the rules after the expiry of further appeal time.
8. Date of presentation of criminal appeal	15.06.2023
9. Date on which criminal appeal taken on file	20.06.2023
10. Date of final hearing	04.07.2026
11. Date of Judgment	16.07.2026

This criminal appeal coming on 04.07.2026 for final hearing before this court, in the presence of Thiru.M.Radhamanalan, learned Counsel for the Appellant and

Thiru.S.Balakrishnan, Additional Public Prosecutor for the State and upon hearing the arguments of both sides, upon perusing the judgment of the trial court, the grounds of appeal and other records and having stood over till this day for consideration, this court delivered the following:

J U D G M E N T

This Criminal Appeal has been filed by the appellant / accused No.1 against the impugned judgment of learned Judicial Magistrate No. VI, Madurai dated. 21.04.2023 passed in C.C.No. 204/18, wherein the appellant / 1st accused has been convicted and sentenced to pay a fine of Rs.1000/- in default to undergo one month simple imprisonment for the offence U/s. 323 of IPC and convicted and sentenced to pay a fine of Rs.2,000/- in default to undergo two months simple imprisonment for the offence U/s. 324 of IPC , to set aside the same and acquit the appellant / 1st accused from all the charges levelled against him.

2. For convenience sake, in this judgment the Appellant and the respondent herein will be referred, as to their litigative status before the Trial court.

3. (i) The case of the prosecution before the learned trial court is that the PW1 Gnanavadivelan, defacto complainant and the 1st accused are relatives and on such relationship, for the purpose of his business in Tipper lorry, the 1st accused has totally borrowed a sum of Rs.70,00,000/- for the period covering from 2014-2015 and dodged the repayment, when the PW.1 has demanded the same the 1st accused has

asked PW.1 to call on him at about 11.00 a.m., on 18.07.2017 at Raja petrol bunk situated near Madurai Ring road and when PW.1 has reached there, the 1st accused verbally abused the PW.1, punched him on his face and thrown a cement brick on him and also bite on his right chest and the accused 2 and 3 have assaulted him with hands and criminally intimidated him and on seeing the occurrence, PW.2 Karuppasamy, PW.3 Selvakumar, PW.4 Rajesh have intercepted the occurrence and saved the PW.1 (PW.2 and PW.3 have been treated as hostile) and PW.1 has been rushed to Government Rajaji hospital, Madurai for treatment and there PW.7, Thiru.Saravanakumar, Sub Inspector of Police, Anna nagar Police station examined the PW.1 and obtained Ex.P1 complaint.

(ii). Based on the complaint lodged by PW1, the PW7 has registered Ex.P3, First Information report u/s. 294(b), 323, 324 and 506(ii) IPC and proceeded to the place of occurrence at about 21.00 hours and inspected the same in the presence of one Alagu and Raja and prepared Ex.P4 observation mahazar and Ex.P5 rough sketch and on examination of witnesses and by examining PW.6 Dr.Kadhar Moidheen, who treated the PW.1, obtained Ex.P2 wound certificate, which reveals as the injuries are simple in nature, PW.7 has laid final report against all the three accused u/s. 294(b), 323, 324, 506(ii) IPC.

4. The learned Judicial Magistrate No.VI, Madurai upon satisfying with the materials to proceed with the case, taken the case on file in C.C.No. 204/2018 and after furnishing copies to the accused persons U/s.207 Cr.P.C., and hearing both side

finding prima facie case from the materials produced by prosecution framed the charges U/s. 294(b), 323, 324, 506(ii) IPC against the 1st accused and u/s. 323, 324 IPC against the 2nd and 3rd accused and when the charges have been read, explained and questioned by Judicial Magistrate No.VI, Madurai, they have denied the charges. As the accused have denied the charges trial has been ordered.

5. In order to prove the charges leveled against the accused persons the prosecution has examined PW1 to PW7 and produced Ex.P1 to Ex.P5 documents.

6. After the completion of prosecution side evidence, the incriminating materials available on records, as deposed by the prosecution witnesses, have been explained and questioned with accused persons under Section 313 (1)(b) Cr.P.C and they have denied the incriminating circumstances appeared against them and stated that a false case is foisted against them and no witness is examined.

7. The learned trial court, while acquitting the accused No.2 and 3 from all the charges and the 1st accused from the charges u/s. 294(b), 506(ii) IPC, convicted the 1st accused for the offences u/s.323 and 324 IPC and imposed a fine of Rs.1000/-, in default to undergo simple imprisonment for one month for the offence u/s.323 IPC and imposed a fine of Rs.2000/-, in default to undergo two months simple imprisonment for the offence u/s.324 IPC.

8. Feeling aggrieved over the impugned judgment of Judicial Magistrate No. VI, Madurai by which 1st accused has been convicted as stated above, he has

preferred the appeal on the following grounds :

i) The learned trial court has committed a grave error in law in not appreciating the evidence in a proper perspective.

ii) The learned trial court has totally ignored the bristling inconsistency and the contradiction in the evidence of the prosecution witnesses and has given undue weight to the insufficient evidence adduced by the prosecution.

iii) The learned trial court lost sight of the fact that the evidence on record indicates two alternative possibilities, one in favour of the defence and the other on uncorroborated testimony of the prosecution witnesses and in such circumstance, the probability in favour of the defence has to be preferred and the benefit should go to the accused appellant.

iv) The learned trial court has not taken into consideration that the material witnesses have been kept away from the witness box (the non-examination of PW6 and PW7 of the charge sheet witnesses, who are the material witnesses ought to have been held as fatal to the case of the prosecution).

v) The learned trial court has not taken into consideration that there was delay in FIR.

vi) The learned trial court has failed to consider that the PW.5 hearsay evidence and who is sister of PW.1 and PW.4 who is relative of PW.1.

vii) The learned trial court has failed to consider that admittedly PW1 and PW5 borrowed amount from the appellant / accused which is pending before the Natham

Judicial Magistrate u/s.138 Negotiable Instruments Act in C.C.No.9/2020 and 10/2020 respectively as against the PW.1 and PW.5.

Hence, the 1st accused prays for an order to set aside the impugned judgment of learned trial court and acquit him from all the charges levelled against him.

9. Points for consideration

- i). Whether the prosecution has proved the charges levelled against 1st accused under section U/s. 323 and 324 IPC beyond all reasonable doubts ?
- ii). Whether this appeal is an allowable one?

10. Point No.1

i) The case of the prosecution is that the 1st accused and the PW.1 are relatives and on several instance, the 1st accused totally borrowed a sum of Rs.70,00,000/- from PW.1 and when he has demanded the same, at his insistence at Raja Petrol Bunk near Madurai Ring road on 18.07.2017 at about 11.00 a.m, the 1st accused has verbally abused PW.1 and also punched on his face and thrown a cement brick on the PW.1 and also bite on his right chest and caused simple injury and thereby he has committed the offence punishable u/s.294(b), 323, 324, 506(ii) IPC.

ii) The learned counsel for the 1st accused reiterating the grounds raised in the grounds of appeal would submit that when the PW.1 and PW.5 have admitted as the 1st accused has filed C.C.No.9/2020 and C.C.No.10/2020 before District Munsif cum Judicial Magistrate Court, Natham as against the PW.1 and PW.5 respectively, as they

have received Rs.30,00,000/- and Rs.45,00,000/-, the claim of PW.1 as he has advanced Rs.70,00,000/- to the 1st accused should not have been believed and the uncorroborated interested evidence of PW.1 should not have been acted upon by the trial court. The PW.7, Sub Inspector of Police has not explained the delay caused in registering First Information report and non recovery of Material objects. Hence the 1st accused prays for an order to set aside the impugned judgment of the learned trial court and acquit him from the charges u/s.323 and 324 IPC. The 1st accused has relied on the judgment of **Hon'ble Supreme Court in Suresh Chandra Bahri, Gurbachan Singh, Raj Pal Sharma vs State of Bihar** reported in (AIR 1994 Supreme Court 2420), **Ramkumar and anr vs. The State of Haryana** reported in (2022 SAR(Cri) 352), **Tilak Raj vs. State of Himachal Pradesh** reported in (AIR 2016 Supreme Court 406), **Krishnakant Tamrakar vs. State of Madhya Pradesh** reported in (AIR 2018 Supreme Court 3635), **State of Andhra Pradesh vs. Dr.M.V.Ramana Reddy and others** reported in (1991 Supreme Court cases (Crl) 1018).

iii) On the other hand, learned Additional Public Prosecutor would contend that the presence of the 1st accused at the place of occurrence is proved by the evidence of PW.2 to PW.4, and the evidence of injured PW.1 clearly establishes the guilt of the 1st accused. Therefore the learned trial court has correctly convicted the 1st accused for the offence u/s.323 and 324 IPC. Hence the respondent prays for dismissal of the appeal.

iv) In this case, admittedly, the accused 2 and 3 have been acquitted from all the charges levelled against them and the 1st accused has also acquitted from the charges levelled u/s.294(b) and 506 IPC. Hence the charges levelled u/s.323, 324 IPC against the 1st accused alone is required to be considered. In this case, PW.1 is the only injured person. In this case, as per his evidence, the 2nd accused has only thrown the cement brick upon him and the 1st accused has bite him on his right chest. Further the 1st accused and his father have attacked him on his back. The overtact attributed against the 1st accused in the charges is of 3 counts that he has punched on the face of PW.1 and bite on his right chest, apart from throwing cement brick by him. But PW.1 has not spoken about the throwing brick stone by the 1st accused. At the same time, he has categorically spoken about the punch blow given by the 1st accused on his face and also bite injury caused by the 1st accused on his chest. This part of evidence of PW.1 has been corroborated by the medical evidence of PW.6, as evidenced from Ex.P2 wound certificate. Moreover, presence of PW.1 and the 1st accused at the place of occurrence and the scuffle erupted between them has been categorically spoken by PW.2 and PW.3, whose evidence has not been denied by the 1st accused by cross examining them. Therefore, though PW.2 and PW.3 have been treated as hostile, part of their evidence available in favour of prosecution can be relied on by this court. Hence, even if the interested evidence of PW.4 and PW.5 is discarded, from the evidence of PW.2 and PW.3 and PW.6, the medical evidence the evidence of PW.1 is clearly corroborated and as a consequence of the same, this court is of the view that

the assault made by the 1st accused on the PW.1 is clearly proved and the delay in lodging of complaint and non recovery of weapon could not be a reason to discard the well found evidence of PW.1. Furthermore, when the evidence of PW.1 is corroborated by medical evidence as well as the evidence of eye witnesses PW2 and PW.3, the earlier money dispute is not a reason to discard the evidence of PW.1.

v). In view of the above discussion, this court comes to the conclusion that the prosecution has proved the overtact of 1st accused, punched on the face of PW.1 and causing a bite injury as noted in Ex.P2 wound certificate beyond all reasonable doubts. Hence the judgment of Hon'ble Supreme Court relied by the 1st accused are not applicable to the facts of this case.

vi). The learned trial court has convicted the 1st accused for the offences u/s.323 and 324 IPC, but as provided u/s.71 IPC, when the injured person is PW1 alone, the 1st accused could not be convicted for the offence u/s.323 as well as 324 IPC and for two counts. Hence if this case is considered as per sec.71 of IPC, the 1st accused could be convicted and punished for the one count only, as the teeth is not a dangerous weapon as held by **Hon'ble Supreme Court in Shakeel Ahmed vs. State of Delhi** (2004- 10 SCC 103), the 1st accused could not be convicted for the offence u/s.324 IPC. Hence the conviction for the offence u/s.324 IPC rendered by learned trial court is liable to be modified. Accordingly this court comes to a conclusion that the 1st accused has committed the offence punishable u/s.323 IPC only and liable to

be sentenced for the same, as the 1st accused has been sentenced to Rs.1000/- as a fine the same requires no interference in this appeal. Accordingly this point is answered.

11. Point No. 2

In view of the findings arrived to Point No.1 this court comes to the conclusion that this appeal is a partly allowable one. Accordingly, this point is answered.

In Result,

This appeal is partly allowed as follows:

1. that the impugned judgment passed by learned Judicial Magistrate No.VI, Madurai dated 31.04.2023, convicting the 1st accused for the offences u/s.323 IPC with the sentence of fine of Rs.1000/- in default to undergo simple imprisonment for one month is hereby confirmed and in respect of the same, this appeal is dismissed.

ii) that this appeal is allowed in respect of the conviction and sentence imposed by the learned trial court for the offence u/s.324 IPC and in result of the same, the conviction and sentence of fine of Rs.2000/- imposed by the learned trial court is hereby set aside and fine amount if any paid by the 1st accused in this regard, is ordered to be refunded to the 1st accused, as per the rules after the expiry of further appeal time.

Dictated to steno typist by me, transcribed and typed by her in computer, corrected and pronounced by me in open court, on this 16th day of July 2026.

IV Additional District Judge,
Madurai

List of Witnesses and Documents on Appellant side : - NIL -

List of witnesses and Documents on Respondent side : - NIL -

IV Additional District Judge,
Madurai

Copy to :

The Judicial Magistrate No.VI,
Madurai.