



**IN THE COURT OF DISTRICT AND SESSIONS JUDGE,  
MAYILADUTHURAI.**

PRESENT: Dr. L.S. SATHIYAMURTY, M.A., M.L., Ph.D.,  
District and Sessions Judge, Mayiladuthurai  
State of Tamilnadu  
Monday, the 09<sup>th</sup> day of March 2026

**Criminal Appeal No. 40/2024  
CNR.No. TNMY-0100-4001-2024**

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From what court the appeal is preferred	: Assistant Sessions Court, Sirkali
Number of the case in that court	: SC. No. 119/2021
Name and description of the appellant /accused	: Mohamed Haaji, 54/2024 S/o. Abdulla, East Main Road, Kiliyanur, Tharangambadi Taluk.
Name of description of the appeal respondent / Complainant	: State through the Inspector of Police, Perambur Police Station, Cr. No. 186/2018.
The sentence and law under which it was imposed in the lower court	: The accused was found guilty for the offence U/s. 294(b) IPC convicted and sentenced him to undergo 1 month S.I and U/s.342 of IPC, convicted and sentenced him to undergo 3 months S.I and U/s.307 of IPC, convicted and sentenced him to undergo 5 years S.I and imposed a fine of Rs.1000/- i/d sentenced him to undergo further S.I for 1 month.
Whether confirmed, modified or reversed and if modified, modification	: Reversed
Date of presentation	: 28.10.2024 and 14.11.2024
Date of filing	: 16.11.2024
Date of hearing	: 03.03.2026
Date of judgment / order	: 09.03.2026

This appeal came up before me on 03.03.2026 in the presence of Tr. T. Chandrasekaran, Advocate appeared for the appellant and the Tr. R. Seyon, Public Prosecutor for the respondent and after hearing both side arguments and considering connected records and having stood over till this day for consideration this Court delivered the following;

### **JUDGMENT**

This appeal is preferred against the Judgment dated 30.09.2024 in SC No.119/2021, delivered by the Assistant Sessions Judge, Sirkali.

#### **2. THE CASE OF THE PROSECUTION AS SETOUT IN THE FINAL REPORT IN BRIEF, IS AS FOLLOWS:-**

One Mohamed Harithu was running a Forex Money Exchange Shop in East Main Road, Kiliyanur. His neighbour is one Mohamed Haaji, who had been in abroad for several years. There was a family dispute between his wife and the said Mohamed Haaji, a legal separation of family by Mohamed Harithu was facilitated as per Mohammedan Law through a Khaji in Thanjavur. Therefore, the said Mohamed Haaji was of the view that his family was separated by the said Mohamed Harithu, the defacto complainant.

3. Due to this previous enmity on 27.06.2018 at about 09.15 PM, when the said Mohamed Harithu was moving to his house in a motor cycle after closure of the shop the said Mohamed Haaji restrained him and abused with filthy language and also put a knife on the neck and attempted to kill him. Mohamed Harithu managed to escape from the clutches and ran away from their and hide in the counselor's house. The said Mohamed Haaji abused with bad words and threatened him with dire consequences.

4. On the next day at about 12.30 PM the said Mohamed Harithu went and lodged

a complaint and the Perambur police registered a case in crime no.186/2018 U/s.294(b), 342 and 307 IPC.

5. The Inspector of Police after investigation filed the final report before the District Munsif cum Judicial Magistrate, Tharangambadi and the same was taken on file as PRC No.15/2019. On appearance of the accused copies of the case records were furnished U/s.209 Cr.P.C and also committed to the Sessions Court, Nagapattinam. After the compliance of the legal formalities this case was assigned to Assistant Sessions Court, Sub Court, Sirkali.

**6. TRIAL, EVIDENCE AND FINDINGS OF THE TRIAL COURT:-**

In the trial there are 10 witnesses examined on the side of the prosecution and 9 exhibits marked through them and a material object exhibited through them. The defacto complainant has spoken to the occurrence and the complaint lodged by him. He has also exhibited M.O.1. His wife also examined as PW.2, she came out after hearing noises in the street and found that the accused person was chasing her husband. PW.3, PW.4 and PW.5 are ocular witnesses and their evidence regarding occurrence are recorded. The rough sketch and the observation mahazar are preferred in the presence of PW.6. The PW.7 is the attestor of the confession statement and also the recovery mahazar.

7. The Special Sub Inspector, who received the complaint from the defacto complainant and registered the case examined as PW.8. The PW.9 is the investigating officer, whose spoken to the process of the investigation. The PW.10 is also a attestor of the recovery mahazar. Ex.P3 to Ex.P4 he said to have signed along with PW.1.

8. The trial court after analyzing the oral and documentary evidence available on record came to a conclusion that the prosecution has proved the charges beyond all

reasonable doubts and found that the accused was guilty U/s. 294(b), 342 and 307 IPC and imposed 3 months imprisonment each for 294(b) and 342 IPC and also awarded 5 years Simple Imprisonment for the offence U/s.307 IPC with a fine of Rs.1000/-.

9. Aggrieving against the judgment of the trial court the sole accused has preferred this appeal.

**10. THE GROUNDS OF APPEAL AND SUBMISSIONS OF BOTH SIDES:-**

The learned counsel appearing for the appellant has submitted that the trial court has not properly considered the delaying in lodging FIR and there is no proper explanation offered from the prosecution. The trial court has failed to appreciate the contradictions between the evidence of the witnesses and their pre trial statements regarding U/s.161(3) Cr.P.C.

11. Per contra, the learned public prosecutor submitted that the trial court has appreciated the evidence properly and came to a conclusion with reasons and the findings are sustainable. There is no grounds to preferred this appeal and the appeal is not maintainable both under law and on facts.

**12. ANALYSIS AND FINDINGS:**

In this appeal, the trial court found the sole accused was guilty under the following provisions of law and awarded sentences as given in the table

	Provision of Law	Sentences imposed by the trial court
1.	Section 294(b) of IPC	3 months Simple Imprisonment
2.	Section 342 of IPC	3 months Simple Imprisonment
3.	Section 307 of IPC	5 years Simple Imprisonment along with a fine of Rs.1,000/-

The accused person has preferred this appeal against the conviction and sentence imposed in this case.

13. This court carefully read the oral and evidence of PW.1 to PW.10 and the documents Ex.P1 to Ex.P9 and also perused the M.O.1. The arguments advanced on either sides are also carefully considered.

14. Coming to the criminal law set into motion, by in this case, the occurrence took place at 09.15 PM on 27.06.2019. There was no external injuries or fractures sustained to the defacto complainant. The police station is about 4 km on the North West of the scene of crime. But, the complaint was lodged only on 28.06.2018 at about 12.30 PM (Noon Hours). There was about 15 hours delay in registration of the case. The victim had not sustained any grievous injuries and he was not immobilized due to any fracture and he had also not visited to any hospital for treatment. In his evidence PW.1 has specifically stated that he didn't consult with any doctor nor got medical treatment in any one of the hospital. But, the complaint was lodged only on the next day afternoon at 12.30 hours. There is no clear or convincing explanation offered by prosecution for the delay of about 15 hours in the task of criminal set into motion, by the defacto complainant.

15. The case was registered U/s.294(b), 342 and 307 of IPC in crime no.186/2018 on the file of the Perambur Police. The FIR and the complaint were despatched to the court only on 28.06.2019 at about 09.25 PM. The signature of the Judicial Magistrate is not found in the endorsement made in the FIR. Further, the writings made within the bracket is also not legible. The FIR and the complaint were received from whom is also not mentioned in it. But, the only fact clear from the endorsement which comes to light is that the FIR was received only on 28.06.2018 at 09.25 PM. The FIR has reached the court with 20 hours delay. It is also not known why such a enormous delay occurred in despatching the FIR and complaint to the court after the registration

of case on the previous day noon hours.

16. Therefore, the delay in registration of case coupled with despatch the records to the court creates suspicion upon the foundation of the case. The prosecution is not explained by either through PW.1 or through PW.9 who investigated the case. Above all, the case was registered by a Special Sub Inspector of Police, Sivanandham, as the endorsement found in complaint Ex.P1 and Ex.P5. In the said Sivanandham has not been examined as a witness on the side of the prosecution. This material fact also creates another suspicion upon the case of the prosecution.

17. The PW.1, who is the defacto complainant in his evidence has stated that when the accused was chasing him, ran away and took asylum in the house of the village counselor. But it is not stated in his complaint Ex.P1. and the village counselor in whose house, the defacto complainant went and hide inside has not been examined as a witness on the side of the prosecution. Therefore, the case of the prosecution that the accused person chased the PW.1 and PW.1 ran away inside the village counselor's house and hide in it, which is a material fact in this case has not been proved either by the examination of the village counselor or his family members.

18. The PW.1 in his evidence has stated that there are abrasion in his neck sustained through the occurrence and also took first aid on his own. The case of the prosecution is silent about the subsequent treatment said to have got for the alleged injuries sustained in the neck to punish the accused in the grievous nature of offence U/s.307 IPC. No doctor examined and no medical records produced to show the alleged injuries sustained to PW.1. Therefore, in the absence of examination of doctor and proof for the treatment for the injuries it is not appropriate to convict the accused for the offence punishable U/s.307 IPC.

19. PW.1, in this case is a panchayat president, this fact was brought to the notice

of the court through PW.4 in his cross examination. But, PW.1 not revealed this fact in his evidence and the non revealing of such a material fact by PW.1 makes his evidence to scrutiny it with more care and caution.

20. According to PW.1, the complaint was lodged by him and he went to the police station with all people from village. The complaint was a verbal statement made by him and the same was recorded by the inspector of police. The relevant portion from the evidence of PW.1 is as follows:-

"புகார் கொடுக்க நான் ஊர்காரர்களுடன் சேர்ந்து தான் சென்றேன்.  
புகாரை யார் எழுதிக்கொடுத்தது என்றால் நான் சொல்ல சொல்ல  
ஆய்வாளர் அவர்களால் எழுதிக்கொண்டார். புகாரை  
படித்துப்பார்த்தேன்."

21. But, Ex.P1 would go to show that it was not a statement of complaint but, a complaint addressed to the Sub Inspector of Police (பெறுநர்:- காவல் உதவி ஆய்வாளர்). The contents in complaint Ex.P1 would show that it was received by a Sub Inspector of Police, but there is no endorsement regarding the complaint was written by the Inspector of Police, as deposed by PW.1 in his cross examination. The entire evidence of PW.1 is not inspiring the evidence of this court. The PW.3 is a hear say witness and there is substance in his evidence to connect the crime with the accused person. There is no other cogent and concrete evidence available on record to prove the charges beyond all reasonable doubts.

22. For the aforesaid reasons this court is of the view that the trial court has arrived the findings without any evidentiary basis and they are infirmities in it. Therefore, the Judgment of the trial court requires interference from this court.

**In the result**, this appeal is allowed. Consequently, the Judgment dated 30.09.2024 in SC No.119/2021 delivered by the Assistant Sessions Court, Sirkali is set aside. The fine amount paid if any, shall be refunded to the accused.

Dictated to the steno-typist, taken by her in short hand, transcribed by her in computer, corrected and pronounced by me in the open court this 09<sup>th</sup> day of March 2026.

District and Sessions Judge,  
Mayiladuthurai.

Copy to:  
Assistant Sessions Court, Sirkali

Judgment:  
CA No.40/2024  
Dated: 09.03.2026