

IN THE COURT OF THE JUDICIAL MAGISTRATE, OMALUR, SALEM**Present: S. SHARMILA B.A.B.L.(Hons.) L.L.M.**

Judicial Magistrate, Omalur.

Thursday, the 09th day of April, 2026**CALENDAR CASE NO: 458/2025**

in

CNR NO: TNSA100045872025

STATEMENT AS PER RULE 106 OF CRIMINAL RULES OF PRACTICE, 2019

1.	Serial Number	Calendar Case No:458/2025
2.	Name of the Police Station and the Crime Number of the offence	State of Tamil Nadu represented by, Sub - Inspector of police, Omalur Police Station in Crime No.824/2021 u/s.294(b), 323, 506(ii) of Indian Penal Code,1860.
3.	Name, and Father's name of the accused	A1.Mr.Viji @ Chandru (29/26) , (Labourer), S/o.Anbazhagan, RC Chettipatti, Omalur Tk, Salem Dt. A2.Mr. Gowtham @ Gowthaman (29/26) , (Labourer), S/o.Govintharaj, RC Chettipatti, Omalur Tk, Salem Dt. A3.Mr.Kalaiguru (30/26) , (Labourer), S/o.Shankar, RC Chettipatti, Omalur Tk, Salem Dt.
4.	Occupation	
5.	Residence	
6.	Age	
7.	Date of Occurrence	05.11.2021
8.	Date of Complaint (Date of final report)	20.01.2022
9.	Date of filing final report	25.08.2025
10.	Date of Apprehension	A1, A2 – Accused were arrested on 06.11.2021 A3 - Accused was not arrested
11.	Date of Release on bail	A1, A2 – Accused were released on bail on 15.11.2021 A3 - Accused was released on anticipatory bail on 08.12.2021

12.	Commitment	Not applicable
13.	Commencement of Trial	15.10.2025
14.	Charges framed against accused	A1 - u/s.294(b), 323, 506(ii) of Indian Penal Code,1860. A2 – u/s.294(b), 506(ii) of Indian Penal Code,1860. A3 – u/s.506(ii) of Indian Penal Code,1860.
15.	Closure of Trial	09.04.2026
16.	Sentence or Order	In the result, the accused A1 (Viji @ Chandru) is FOUND NOT GUILTY of the offence under section 294(b), 323, 506(ii) of Indian Penal Code,1860 and Accused A2(Gowtham @ Gowthaman) is FOUND NOT GUILTY of the offence under section 294(b), 506(ii) of Indian Penal Code,1860 and Accused A3(Kalaiguru) is FOUND NOT GUILTY of the offence under section 506(ii) of Indian Penal Code,1860. Hence all accused are ACQUITTED of the charges framed against them under section 271(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023. Earlier bond executed by the accused shall stand cancelled. The accused shall execute a fresh bond under section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for their appearance before the appellate Court and the bond shall be in force for a period of 6 months. No property was produced on both sides. Hence no order relating to property is made under section 498 of Bharatiya Nagarik Suraksha Sanhita, 2023.
17.	Service of copy of judgment or finding on accused	No. Judgment is forthwith uploaded in e-courts portal.
18.	Explanation of delay	No delay.

In this case cognizance was taken on 25.08.2025 and came up for final hearing on 09.04.2026 before this court, in the presence of Mr.M.Suresh Assistant Public Prosecutor, for State and Advocate Mr.P.Ramasamy, M/S.No.872/2004 Counsel for the accused, having stood over for consideration till this day, upon perusing the records and hearing both side argument, this Court doth delivers the following:

JUDGMENT

1. This case was instituted on the police report under section 173(2) of Criminal Procedure Code, 1973 for offence under section 294(b), 323, 506(ii) of Indian Penal Code, 1860 against the accused.

I. BRIEF OF PROSECUTION CASE

2. The case of the prosecution, in brief, is that on 05.11.2021 at about 09.00 p.m., when the de-facto complainant, Raghul, and one Lawrance were conversing near the mosque at RC Chettipatti, the accused persons were riding a two-wheeler at high speed in the street, thereby endangering the safety of children who were playing in the vicinity. When the de-facto complainant and the said Lawrance questioned and objected to such rash conduct, the accused persons abused them in filthy language. Thereafter, the accused Viji assaulted the de-facto complainant Raghul with his hands, and all the accused persons criminally intimidated them with dire consequences.
3. Thereafter the de-facto complainant lodged a complaint and First Information Report was registered in crime number 824/2021. On completion of investigating final report was filed against the accused for offence under section 294(b), 323, 506(ii) of Indian Penal Code, 1860.

II. COGNIZANCE AND CHARGES

4. Upon scrutiny, this Court took cognizance of the offence under section 210(1)(b) of the Bharatiya Nagarik Suraksha Sanhita, 2023. On appearance of the accused, copies were furnished to them free of cost under section 230 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Upon hearing both sides, charges were framed against the accused under the following heads:

Ranking of accused	Charges framed
A1 – Viji @ Chandhru	u/s.294(b), 323, 506(ii) of Indian Penal Code, 1860

A2 – Gowtham @ Gowthaman	u/s.294(b), 506(ii) of Indian Penal Code,1860
A3 – Kalaiguru	u/s.506(ii) of Indian Penal Code,1860

5. The above charges were read and explained to the accused and they were questioned under section 263(2) of Bharatiya Nagarik Suraksha Sanhita, 2023 as to whether they plead guilty of the offence or not. The accused denied the charges and claimed to be tried.

III. EVIDENCE OF THE PROSECUTION

6. During trial, petition under section 359 of the Bharatiya Nagarik Suraksha Sanhita, 2023 was filed and dismissed as the offence is non-compoundable. On the side of the prosecution, out of 8 witnesses mentioned in the list of witness L.W.1 and L.W.2 were examined as P.W.1 and P.W.2 respectively. The Head constable of Omalur Police Station Mr.Arasu, was examined as P.W.3 in lieu of the Investigating Officer. Ex.P:1 to Ex.P:7 were marked. L.W.2 to L.W.7 were dispensed at request of the learned Assistant Public Prosecutor. No property was produced on either side.

IV. EXAMINATION UNDER SECTION 351 (1) (b) OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023

7. After the prosecution evidence, the accused were questioned as to incriminating materials appearing against them in terms of section 351(1) (b) of the Bharatiya Nagarik Suraksha Sanhita, 2023 and they denied the same as false. However, they did not adduce any evidence on their side.

V. POINTS FOR DETERMINATION

- I. Whether the prosecution has proved beyond reasonable doubt that the accused have committed the offences charged against them?
- II. If proved what shall be the sentence?

VI. APPRECIATION OF EVIDENCE

8. As per the prosecution case the accused abused the de-facto complainant, attacked him and criminally intimidated him and his friend. Hence charges were framed against the accused under section 294(b), 323, 506(ii) of Indian Penal Code, 1860.
9. P.W.1 (Raghul) is the de-facto complainant and an injured witness in this case. He deposed that the accused are his acquaintance. He deposed that on 05.11.2021, when he was talking with Lawrance near Mosque in R. C. Chettipatti, the accused persons were driving their two-wheeler in high-speed endangering the life of kids in the vicinity. P.W.1 deposed that when he advised the accused persons to drive slowly, a verbal conflict broke out between them. P.W.1 deposed that, upon hearing the commotion, members of the public gathered at the spot and pacified them.
10. P.W.1 further deposed that, apprehending escalation of the dispute with the accused persons, he proceeded to the police station and informed the police about the occurrence. He stated that the police reduced his statement into writing and obtained his signature. Though he identified his signature in the complaint marked as Ex.P.1, he stated that he was unaware of the contents thereof. He further deposed that the matter was subsequently settled amicably between him and the accused, and his signature in the compromise petition was marked as Ex.P.2. Significantly, P.W.1 has not attributed any overt to any of the accused. P.W.2 (Lawrance), who is also a victim in this case, corroborated the testimony of P.W.1 and deposed that there was only a verbal altercation between the accused persons and the complainant party. He also deposed that the matter was subsequently settled amicably between them and his signature in the compromise petition was marked as Ex.P.3.
11. It is pertinent to note that, P.W.1 has stated that the police obtained his signature when he went to police station to inform about the verbal conflict and that he does not know the contents of the complaint. This casts serious doubt on the voluntariness and authenticity of the complaint itself. More importantly, P.W.1 has admitted that the

dispute has since been compromised, and their signatures on the compromise petitions stand admitted.

12. Therefore, independent witness turned hostile to the prosecution and cross examination of the witness by calling party was permitted as per section 157 of Bharatiya Sakshya Adhiniyam, 2023. However, no evidence was extracted in favour of prosecution case, during cross examination of P.W.1 and P.W.2. Further no other independent witnesses mentioned in the list of witnesses were examined by the prosecution. In the absence of any allegation of assault or corroborative evidence connecting the injury to any overt act of the accused, the testimony of P.W.1 and P.W.2 do not establish the essential ingredients of the offences alleged. Their evidence, taken as a whole, does not inspire confidence and is insufficient to fasten criminal liability on the accused.
13. Failure on the part of prosecution to examine any other witness, who was present at the scene of crime is a vital flaw. When the de-facto complainant and injured witness turned hostile to the prosecution case, the other witnesses mentioned in the list of witnesses were not examined, the guilt of the accused stands not proved. Failure of the prosecution to produce the best evidence when available is fatal to the case and gives rise to adverse presumption under Illustration (g) of section 119 of Bharatiya Sakshya Adhiniyam, 2023.
14. The Head constable of Omalur Police Station Mr. Arasu, was examined as P.W.3, by the prosecution, in lieu of the Investigating Officer. He deposed about recording of complaint, registration of First Information Report, preparation of observation mahazar and rough sketch. Complaint was marked as Ex.P.4, First Information Report was marked as Ex.P.5, observation mahazar was marked as Ex.P.6, rough sketch was marked as Ex.P.7 through P.W.3.
15. The prosecution has not produced any document to show that P.W.1 was hurt. Therefore, it was argued that P.W.1 did not sustain any injury as alleged by the

prosecution. In fact, the same was admitted by P.W.1 in his evidence before this Court. The prosecution witness has not alleged the accused persons for the injury sustained by him and his evidence does not incriminate the accused.

16. When the injured witness has turned hostile to the prosecution case, in the absence of an independent witness it is unjust to convict the accused on the sole basis of the evidence of P.W.3. Above all, it is the settled law that presumption of innocence is a fundamental right forming part of fair trial guaranteed under Article 21 of the Constitution of India.

17. In **Ashish Batham v. State of M.P.** [2002 (7) SCC 317], the Hon'ble Supreme Court of India, while discussing on the presumption of innocence observed the following:

“Mere suspicion, however strong or probable it may be, is no effective substitute for the legal proof required to substantiate the charge of commission of a crime and graver the charge is, greater should be the standard of proof required. Courts dealing with Criminal cases at least should constantly remember that there is a long mental distance between ‘may be true’ and ‘must be true’ and this basic and golden rule only helps to maintain the vital distinction between ‘conjectures’ and ‘sure conclusions’ to be arrived at on the touchstone of a dispassionate judicial scrutiny based upon a complete and comprehensive appreciation of all features of the case as well as quality and credibility of the evidence brought on record.”

18. In the light of the above judgment, on careful examination of the material evidence produce by the prosecution, there is no probability leading to the guilt of the accused. The prosecution should prove the guilt of accused beyond reasonable doubts and there should be no other hypothesis inconsistent with the guilt of the accused. Here, the case is based on the evidence of P.W.3 alone, who is an official witness giving evidence based on records prepared by the investigating officer.

19. It is a settled principle of criminal jurisprudence that the burden of proof lie on the

prosecution and it has to prove a charge beyond reasonable doubt. The presumption of innocence and the right to fair trial are twin safeguards available to the accused under our criminal justice system. Therefore, on considering the evidence of material witness, exhibits, this Court is of the view that there is no proof attributing to the guilt of the accused. Therefore, the accused are entitled to benefit of doubt.

VII. DECISION

20. In the result, **the accused A1 (Viji @ Chandru) is FOUND NOT GUILTY** of the offence under section 294(b), 323, 506(ii) of Indian Penal Code, 1860 and **Accused A2 (Gowtham @ Gowthaman) is FOUND NOT GUILTY** of the offence under section 294(b), 506(ii) of Indian Penal Code, 1860 and **Accused A3 (Kalaiguru) is FOUND NOT GUILTY** of the offence under section 506(ii) of Indian Penal Code, 1860. Hence all accused are **ACQUITTED** of the charges framed against them under section 271(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023.
21. Earlier bond executed by the accused shall stand cancelled. The accused shall execute a fresh bond under section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for their appearance before the appellate Court and the bond shall be in force for a period of 6 months.
22. No property was produced on both sides. Hence no order relating to property is made under section 498 of Bharatiya Nagarik Suraksha Sanhita, 2023.

This judgment was directly typed by me in my official laptop and after correcting typographical errors, pronounced by me in the open Court on this, the 09th day of April, 2026.

Judicial Magistrate,
Omalur.

LIST OF PROSECUTION SIDE WITNESSES:

S.No	Witness	Name of Witness	Description	Date of Examination
1.	P.W.1	D.Ragul	First Informant	06.04.2026
2.	P.W.2	K.Lawrance	Eye Witness	09.04.2026
3.	P.W.3	C.Arasu	Investigating Officer	09.04.2026

LIST OF PROSECUTION SIDE EXHIBITS:

S. No.	Exhibit	Date of exhibit	Description of Exhibit	Marked through
1.	Ex.P.1	06.11.2021	Signature of P.W.1 Complaint Statement	P.W.1
2.	Ex.P.2	06.04.2026	Signature of P.W.1 Compromise Petition	P.W.1
3.	Ex.P.3	09.04.2026	Signature of P.W.2 Compromise Petition	P.W.2
4.	Ex.P.4	06.11.2021	Complaint Statement	P.W.3
5.	Ex.P.5	06.11.2021	First Information Report	P.W.3
6.	Ex.P.6	06.11.2021	Observation Mahazar	P.W.3
7.	Ex.P.7	06.11.2021	Rough Sketch	P.W.3

Defence side list of witness: Nil

Defence side list of exhibits: Nil

Material object: Nil

Anexure: Case Summary

Note: -

- 1.No witness has been retained for more than three times.
2. Accused remained on bail at the time of trial.
3. Result of this case is informed to the concerned police station.

Judicial Magistrate,
Omalur.

CASE SUMMARY

S.No.	Description	Remarks		
1.	Period of remand of the accused	A2 – 06.04.2026 to 09.04.2026		
2.	The date of filing of the Complaint/final report in the Court	25.08.2025		
3.	The date of committal of the case to the court of Session	Not applicable		
4.	The date of questioning of the accused under section 263 of the Bharatiya Nagarik Suraksha Sanhita, 2023	06.04.2026		
5.	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	CMP No	Petition	Result
		1240/2026	Petition u/s. 359 of BNSS	Dismissed
		1296/2026	Petition u/s. 348 of BNSS	Allowed
6.	Date of examination in-chief and cross-examination of a witness	Witness	Chief	Cross
		P.W.1	06.04.2026	Hostile
		P.W.2	09.04.2026	Hostile
		P.W.3	09.04.2026	09.04.2026
7.	Date of examination of the accused under section 351(1)(b) Bharatiya Nagarik Suraksha Sanhita, 2023	09.04.2026		
8.	Details of abscondence of an accused and his appearance/production, as the case may be	Nil		
9.	Grant of stay by superior Courts and the results thereof	Nil		

Judicial Magistrate,
Omalur.