

IN THE COURT OF JUDICIAL MAGISTRATE No. I
THANJAVUR DISTRICT.

Present: S.T. Kanimozhi, L.L.M.,

Judicial Magistrate No. I

Thanjavur.

Monday, the 08th day of June 2026

CALENDAR CASE No: 170 of 2024

CNR. No. TNTJ05-002333-2024

The State Represented by
The Sub-Inspector of Police,
East PS, Thanjavur in
Crime No: 414/2023

..... Complainant.

Vs

1. Anand, Aged 37/2026,
S/o. Chandran
2. Manikandan, Aged 28/2026,
S/o. Balasubramanian

....Accused.

In this case cognizance was taken on 09.07.2024 and came up for final hearing on 08.06.2026 before this court, in the presence of Assistant Public Prosecutor Grade II for the state and Mr. A. Rajeshkannan Advocate for the accused, having stood over for consideration till this day, upon perusing the records and hearing both side arguments, this court doth delivers the following

JUDGMENT

I. The brief facts of Prosecution case is that, on 31.05.2023 at 09.00 hrs, when the defacto complainant taking his vehicle, which was parked at Viswas Textiles, Old Bus stand Complex, Thanjavur, the accused persons who are running the Lakshmi Garments in that complex, have uttered abusive words, and A1 accused attacked him with Centering Rod on his head and A2 accused pushed him on the floor, then they were threatened him in dire consequences. Therefore, the Sub-Inspector of Police, East PS, Thanjavur had laid a chargesheet against the accused **A1 u/s. 294(b), 324, 506 (2) of IPC, A2 u/s.294(b), 323, 506 (2) of IPC.**

II. Upon scrutiny of the Final Report, this court has taken cognizance of the offence and issued summons to the accused persons. On appearance of the

accused person, copies were furnished under section 207 of the Criminal Procedure Code. When the charges were explained against the accused, in terms of section 251 of the code, the accused person accused **A1 u/s. 294(b), 324 of IPC, A2 u/s.294(b), 323, 506 (2) of IPC** was pleaded not guilty and claimed for trial. Since the accused was denied, the charges framed against them, to prove the prosecution case, summons was issued to the witnesses.

III. The prosecution witnesses **PW1 to PW7 and ExP1 to ExP7** were exhibited. Upon the closure of the prosecution evidence, the accused were questioned under section 313(1) (b) of the code of Criminal procedure with regard to the incriminating circumstance that appeared against them, in the evidence of prosecution witness, they were denied the same as false evidence. None has been examined on the side of defense. After perusing the case records and the hearing of arguments of both sides, now the point is

IV. Let me now adumbrate the evidences on record,

1. The **PW1/LW1 - Pandian** deposed that, doing a Textile Business in name of Viswas Garments at Thiruvaiyaru Complex, near Old Bus stand. In the end of the 5th month 2023 at night 8.30- 09.00 pm, when he taking his vehicle in the parking place, the accused Anand told him, “...வாகனத்தை ஏன் எப்படி நிறுத்துகிறீர்கள்..” then he replied that, “.. நான் ஒழுங்காக தான் நிறுத்தினேன் என்று சொன்னதற்கு ..”. Then there was a scuffle between them. Then, they attacked him with a rod object on his head. Since the 108 Ambulance was delayed, they went to the medical college hospital in his two -wheeler. He was unconscious when he was examining by the police. Hence his friend told about the incident to the police. The **complaint was marked as ExP1**. He denied all suggestions put forth by the defense side.

2. The **PW2 Baskar deposed that he is running a travels**. The PW1 Pandian is his younger brother. When he went to his shop, he went to take his vehicle from the two-wheeler parking lot, after closing the shop. Then he heard

a noise. When he went there, he was hit on the head and was bleeding. Then he told him that Anand and his friends had attacked him. Then Anand and the people there shouted bad words, then he prevented them. Since Pandian had blood on his head, he took him to Thanjavur Medical College Hospital in his two-wheeler. He denied all suggestions put forth by the defense side.

3. The **PW3 Babu (Observation Mahazar witness)** deposed that he is running a shop and he signed as witness in the Observation Mahazar and his **1st witness signature in the Mahazar was only marked as ExP2**. On 01.06.2023 at around 8.00 pm, he put a signature in the Srinivasa Imitation Jewellery Shop, old bus stand, Thanjavur. He did not know who signed along with him. He denied all suggestions put forth by the defense side.

4. The **PW4 – Mohammed Sadiq** deposed that he is running a **Horizon Air Travels in a commercial complex**. The PW1 Pandian has a shop near his shop. The accused in this case also have shops near his shop. On 31.05.2023, at around 9.00 pm, when all the shops in the commercial complex were closing and he was also closing his shop, at that time, he heard a noise and when he went downstairs, he saw that there was a verbal altercation took place between Anand and Pandian and bleeding from PW1's head. The people who gathered there, sent Pandian to the hospital on a two-wheeler with his friend Bhaskar. He denied all suggestions put forth by the defense side.

5. The **PW5 Sudhakar** deposed that he is running an Optical shop in the said complex. He knows the A1 accused. On 31.05.2023 at around 9.00 pm, he heard the noise from ground floor, when he saw that the blood was coming from PW1's head. Later, the PW1 was sent to the hospital. he did not know anything else about this case. He did not know the owner. His shop is on the upper floor of the commercial complex. He denied all suggestions put forth by the defense side.

6. The **PW6 Saravanan** deposed that, he is running the imitation Jewelry shop. PW1, PW4, PW5 were also running a shop in that complex. He does not

know the accused. On 31.05.2023 at 9.00 pm, when he was closing his shop, someone nearby said that there was a problem in the ground floor. When he saw that there was a bleeding on PW1's head. Then one Baskar took him to the hospital . He denied all suggestions put forth by the defense side.

7. The **PW7 Tirunavukarasu who is the investigation officer** in this case and his evidence is for depicting the various stages of investigation which conducted by him. The AR intimation, FIR, Observation Mahazar, Rough Sketch and Wound certificate were marked as **Exp3 to Exp7**. After completion of investigation, he had laid a chargesheet against the accused persons. He has prepared a final report on the charges against the accused and filed on 06.07.2023 u/s.294(b), 323, 324 and 506(ii) of IPC. He denied all suggestions put forth by the defense side.

8. After the completion of prosecution evidence, prosecution side evidence as closed and statement of accused u/s 313 Cr.PC was recorded wherein he alleged false implication and claimed innocence. Accused opted not to lead evidence in his defense.

9. During the course of arguments, Ld. APP has argued that the prosecution witnesses have supported the prosecution case and their testimonies have remained unrebutted. It has further been argued that on combined reading of testimonies of all the prosecution witnesses, offences u/s. **294(b), 323, 324 and 506(ii) of IPC** against the accused persons have been proved beyond reasonable doubt.

10. Per contra, Ld. Counsel for accused has argued that there is no legally sustainable evidence against the accused and that the accused has been falsely implicated by the police officials at the behest of complainant. Arguing further, Ld. Counsel for accused has inter-alia submitted that the story of prosecution cannot be believed as no independent public persons were associated in the investigation or were examined during the prosecution evidence. It has also been argued that the material prosecution witnesses have admitted that at the

spot of incident none were found present nor any recovery of materials were affected either from the said spot, which makes the story of prosecution unbelievable. It has also been argued that on the date of incident i.e. an occurrence was happened on 31.05.2023 at 09.00 pm and the complaint was given only on 01.06.2026 at 19.00 hrs and therefore, there was no motive on the part of accused to indulge in the alleged offence. It has also further been argued that due to lacunae and in-coherency in the story of the prosecution, accused be given benefit of doubt and are therefore, entitled to be acquitted.

I have heard submissions of Ld. APP for the State and Ld. Defense Counsel and have also perused the record carefully.

With the impression of prosecution witnesses, let us discuss the case in detail ,

11. **The prosecution story is that,** on 31.05.2023 at 09.00 hrs, when the defacto complainant taking his vehicle, which was parked at Viswas Textiles, Old Bus stand Complex, Thanjavur, the accused persons who are running the Lakshmi Garments in that complex, have uttered abusive words, and A1 accused attacked him with Centering Rod on his head and A2 accused pushed him on the floor, then they were threatened him in dire consequences. Hence the complaint.

12. To support the case of prosecution the **LW1 informant Pandian** has been examined as PW1 and in his cross that, there are Abirami hotel, Imitation jewelry shops and Anbu Milk Booth near to the SOC. However, in this case none of the persons have examined in the said shops. The police officials present in the Police Beat/Booth for 24 hours. Admittedly, the informant has not lodged any complaint to the police officials in the said police beat immediately. The vehicle can be parked who are having a shop in that complex. The problem arose when taking of vehicle from parking lot. The CCTV cameras have been installed around the incident place. On perusal, an Investigation Officer neither

seized/recovered the CCTV camera nor verified the footages. His shirt was fully with blood that was caused by the accused on the day of the incident. It is observed that the PW1 has not handed over the said blood stained shirt to the police. Admittedly, the said Jahangir who is having a Milk booth, has not come to the spot at that time. One Sadiq is running an E - Seva Centre and one Sudhakar is running an optical Shop near the SOC and their shops are situated in the first floor of the complex. The PW1 denied that there was a dispute regarding business between him and the accused. Admittedly, the complaint has written by the police as said by his friend Baskar and he only signed in the paper as he was unconscious at that time. Admittedly, he said to the medical officer that 10 people attacked him. The police have obtained only his signature on the complaint after the incident. They did not record Re- Statement from him. Admittedly, he was not stated to the police and in his Complaint that the person who attacked him, used what kind of weapon it was. **Admittedly, he was not handed over the blood-stained shirt to the police.** It appears in **the cross of PW2** is that, the police examined him on the day of the incident itself. The PW1 is his relative. He denied that he was not stated to the police that the PW1 is his younger brother. **He admitted that he was not seen the incident directly.** He denied all suggestions put forth by the defense side. It appears **in the cross of PW3 by the A1, A2 accused is that**, he is running a Srinivasa Imitation Jewelry Shop, Old Bus stand, Thanjavur and it is on the floor of said complex. Admittedly, there are Imitation Jewelry Shops, Milk Booth, Hair saloon, Hotel in the ground floor. There is a JTM Imitation Jewelry Shop in the ground floor of the said complex. The PW1 is the shopkeeper next to his shop. JTM is the shopkeeper next to PW3's Shop. However, he was not examined by the police. **He signed only upon request of PW1.** They had prepared a rough Sketch and an observation Mahazar before he went to the scene of the incident. The PW1 took down his name and address and told the police before he went to the place.

13. It appears **in the cross of PW4** is that, **he did not know anything about the fight that happened there. He did not directly know about the cause for bleeding of PW1's head.** The police examined him within a week of the incident. LW3 Sudhakar also came with him. He was examined by the police in his office. It appears **in the evidence of PW5 Sudhakar is that he did not know anything directly about the incident. He did not know how PW1 got injured.** He denied all suggestions put forth by the defense side. It appears in the cross of **PW6 Saravanan** is that, he did not know the accused persons. When he saw PW1 that the blood was oozing from his head. Then one Baskar took him to the hospital. It appears that there were centering wires/rod were lying near at the scene of the incident. It appears in **the cross of PW7 /IO** is that, when the centering work was going on at the scene, the victim was hit with the rod by the accused. He admitted that the Rough Sketch does not show any evidence of **centering wire work.** There are shops near the SOC. None of independent witnesses have been examined. He has implicated only the people near the shop as witnesses. May I Help you police Booth is opposite to the SOC and the PW1 has not lodged any complaint with the police beat. He denied all suggestions put forth by the defense side.

Whether the prosecution has proved the alleged offence against the accused persons?

Let us discuss the provisions of law

14. The first offence alleged against the accused person is under section 294, IPC which lays down the punishment for any person who does any obscene act in any public place to the annoyance of others. If we look at the evidence of the witnesses, we see that it was only P.W1 one who has not stated that the accused had verbally assaulted him using slang language. He was not stated about the word that it was wounding him. Moreover, he failed to clarify or exemplify her statement by specifying the kinds of words used to abuse him. The term **“abusive language”** is an open-ended term that may differ from person to

person. What might be abusive to one may not be abusive to another. In the absence of any concrete and specific evidence as to the language used and the fact that the said allegation was not corroborated by any of the other witnesses, it is impossible to judge whether the alleged words if any were indeed thrown were obscene in nature or not. Therefore, the reasonable doubts would arise about the prosecution case and the prosecution has failed to prove the charge under Section 294(b) IPC. Further, there is no any evidence that the Accused got annoyance due to the obscene words uttered by the Accused. However, PW1 has not stated in his evidence about the slang words that used by the accused at that time. The **PW1** was stated to be the eye witness in this case and they were not stated about the word that spoken by the accused persons. Moreover, the prosecution witnesses have not deposed that which accused uttered abusive words against the PW1. Mere uttering of un parliamentary words shall not amount to an offence under Section 294, I.P.C unless the words used are also obscene. Calling a person singularly will not amount to committing an obscene act. Hence, considering the above evidences, it cannot be said that the accused uttered obscene words against the defacto complainant and the prosecution has miserably failed to prove the guilt of the accused under Section 294(b) of IPC beyond all reasonable doubts.

15. In addition to the aforementioned provision, I would also like to discuss the allegation of criminal intimidation under section 506, IPC against the accused as the factual scenario surrounding the incident co-relates to one another. In the present case, none of the PW's, including PW1 have also deposed that the accused person threatened or criminally intimidated him. However, the PW1's story has accepted only if the other PWs have been corroborated the version of PW1. The PW's have not deposed, which accused threatened or criminally intimidated the PW1. Hence the prosecution has miserably failed to prove the guilt of the accused under Section 506(ii) of IPC beyond all reasonable doubts.

16. [Section 319](#) IPC Hurt Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt. [Section 321](#) IPC Voluntarily causing hurt Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "**voluntarily to cause hurt**". [Section 323](#) IPC Punishment for voluntarily causing hurt Whoever, except in the case provided for by [Section 334](#), voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Ingredients of the offence of voluntarily causing hurt:

- (i) An act is done by the accused which has caused bodily pain, disease or infirmity to the victim.
- (ii) Such act has been done by the accused either with the intention to cause hurt or with the knowledge that the accused is likely to cause hurt to the victim.

17. Further the IO has also admitted that there was a crowd at the spot but he did not record the statement of the said witnesses. The complainant has clearly stated that both accused A1, A2 assaulted the complainant with centering wire / rod .However, he did not recover anything from the spot. The persons who examined in this were deposed that they were reached the spot after hearing of noise. The **PW2, PW4, PW5, PW6 (eye witnesses)** were deposed that when they saw, the blood was oozing from PW1's head. It was revealed one thing from the above PW's, that there was a scuffle or fight occurred. But they were not clarified that **an occurrence happened between whom or the PW1 was attacked by whom. They were not stated that the PW1 attacked with which weapon. They were not stated that there any entering work going on.** It appears in the AR Intimation and the wound certificate (Exp3, Exp7) that the PW1 was assaulted by 2 known persons with hands and keys in the old bus stand, Thanjavur. It appears that he is having an injuries that Laceration 3x0.5 cm scalp depth left Temporal region of head, Laceration 3x0.1 cm scalp depth

on right parietal region of head, swelling around right Eye, reduces in right Eye. It appears that he was discharged from the hospital on 04.06.2023 (5 days). The investigation officer failed to recover the keys or anything which was used by the accused for assault. It was stated by the PW1 in his chief that he was assaulted with centering rod and which was also not recovered by the investigation officer in this case. Thus, the above somehow, it was proved from medical evidence and document that there was a scuffle between them and the FIR (**ExP4**) provides corroboration for the necessary particulars regarding the fact that both the accused beat the complainant with hand blows and on his face. Therefore, it is proved that bodily pain was caused to the complainant PW1 on being attacked by both the accused. Hence, this ingredient stands proved. This court has not placed reliance on the MLC alone for basing its conviction but has placed reliance on the testimony of the witnesses which sounds true and reliable in material particulars.

18. The IO has examined none public witnesses. None property seized either from the accused nor in the SOC. The PW7/IO has deposed only about the investigation which conducted by him. It is observed that the PW1 has been taking treatment for 5 days in the hospital. laceration in the right parietal region of his head and left temporal region of his head, swelling on his right eye.

19. The **PW2 Baskar** is the younger brother of PW1. He is stated to be an eye witnesses in this case and it is observed in his evidence that he came to the spot after the incident. He was only admitted the PW1 to the hospital. He came to know from PW1 only that the PW1 was attacked by accused A1 A2. the evidence of PW2 evidence is not at all relevant for the reason, that as per his own statement. It appears that the problem arose when taking of vehicle from parking lot. The CCTV cameras have been installed around the incident place have not been searched or inspected by the investigation officer. His shirt was fully with blood that was caused by the accused on the day of the incident . It is observed that the PW1 has not handed over the said blood stained shirt to the

police. Admittedly, the said Jahangir who is having a Milk booth and one Sudhakar, One Sadiq is running an E - Seva Centre near the SOC have not been examined. **Admittedly, the complaint has written by the police as said by his friend Baskar and he only signed in the paper as he was unconscious at that time.** Similarly, the testimony of **PW3(observation Mahazar)** is not at all relevant as in his testimony, he did not state anything relate to the case. The PW2 , PW4, PW5, PW6 are the eye witnesses and they have deposed they have not seen the incident directly. The investigation officer neither conducted his personal search nor recorded his disclosure statement and nothing prepared the pointing out memo. Even he had not filed any photographs of the place of the incident at the incident of IO.

20. Ex facie, those words are obscene words. Nothing found on perusal of case records, complaint, charge sheet and 161 statement of defacto complainant that the accused persons were uttered abusive words towards that PW1 at the time of incident. If any un parliamentary words used in the public place will get insulted because of the obscenity attached to the words alleged to have been uttered by the accused. In this case, nothing could be elicited from the evidence of PW's and including PW1 also not stated anything about the word that spoken by the accused persons at that time. So, an offence under **Section 294(b) I.P.C.** not arises. Overt act of the accused must create instant, immediate fear in the mind of the victim. Telling a person that by mere saying that she will left the world will not create fear. The fear must relates to danger to one's life. So, **Section 506(ii) I.P.C.** is not attracted. Hence the prosecution has miserably failed to prove the guilt of the accused under Section 294(b), 506(ii) of IPC beyond all reasonable doubts.

21. Further, the PW3 was the observation Mahazar witness and he did not state anything about the case and he is only witnessing the spot. Nothing could be elicited from his evidence about the alleged occurrence. On perusal the PW's have deposed that PW2 Baskar only admitted him to the hospital. He was

also not directly saw the incident and other PW's have also not seen the incident. The PW7 is the investigation officer who deposed the facts stood as an official capacity. Even though, there are some discrepancies in the evidence of PW1 and the said minor discrepancies are not affected the prosecution case. On perusal of **AR intimation (Exp3, Exp7)**, that one Baskar only admitted him to the hospital. The Baskar only explained about the occurrence to the medical officer and the police.

22. It is relevant to mention the provision u/s. 134 of Indian Evidence Act, where it has been laid down that no particular number of witnesses shall in any case be required for the proof of any fact. It is not the quantity but quality of evidence that matters. As a general rule, a court can and may act on the testimony of a single witness though uncorroborated. One credible witness outweighs the testimony of a number of other witnesses of indifferent character. Moreover, Hon'ble Supreme Court of India, repeatedly, reiterated that relationship with a witness does not affect the credibility of the evidence and such evidence cannot be rejected on that ground. A sole eye witness cannot be branded as related or interested witness because he is merely a friend or relative of victim.

23. The PW1 deposed that an incident was happened around 21.00 hrs, and there are 7-8 persons were gathered at that time. Defense mainly relied upon suggestions but such suggestions without any cogent evidence are at best speculations. Defense could not shake the testimony of the prosecution witness PW1. The Evidence of injured victim could not be shaken during cross-examination and supported by medical evidence. According to the doctor **Mr. Rajesh (LW7)**, **Mr. Vishnu (LW8)**, that the injury was simple in nature. The report of medical officer is duly corroborated by the evidence of witnesses (PW1 and PW7/IO). However, the case property has not been seized by the investigation officer. Therefore, on considering the pain that caused to the PW1, LW1, this court opines that the prosecution has successfully proved the alleged

offence u/s. 323 of IPC, though weapon not proved.

24. While appreciating the evidence of witnesses I find that apart from minor inconsistencies, In spite of lengthy cross-examination, the defense could not shake their credibility. In the deposition of witnesses there are always some normal discrepancies, however honest and truthful they may be. It is well-settled that the medical report is corroborative in nature. It appears that the version of PW1 is well supported by medical report on record and there is no ground to disbelieve their testimony. Admittedly, no weapon of offence had been handed over to the I/O by the prosecution witnesses and no weapon of offence has been seized by the I.O. from the place of occurrence. There is also no evidence that the accused acted on grave and sudden provocation.

25. In this case the prosecution allegation is that the accused inflicted injuries on the body of the injured (PW1) by attacking with a keys or centering rod, which weapon used for the offence not proved by the prosecution. However, it must be proved that voluntarily causing hurt by dangerous weapon or means. It specifies that if someone intentionally inflicts hurt on another person using weapons or methods that are likely to cause death or serious harm, they can be punished under this section.

26. In this case, the prosecution or the defacto complainant have not stated that which type of pot used the accused persons at that of incident. An injury could be a simple in nature and as such, cannot be said to be a weapon of offence, likely to cause death. To decide whether a particular KEY or CENTERING ROD brought before the Court as material object used for infliction of injury, is a weapon of offence likely to cause death, there must be some evidence regarding the nature of the said KEYS OR CENTERING ROD or the size of the said KEYS, and also regarding the way in which the KEYS OR ROD was used in the process of assault for infliction of injury. Further, when the prosecution allegation is that grievous injuries were inflicted by the accused persons on the body of the victim/PW1 with a KEYS OR ROD, the

prosecution does not have any explanation, as to what happened to the KEYS OR ROD, or why it is not produced in court as a material object. In a case like this the prosecution must produce the weapon before the Court, it must be shown to the medical witness, and the prosecution must elicit materials from the medical witness regarding the nature of the pot and its size, type or model and also regarding the possibility of death being caused, if the said KEYS OR ROD is used as a weapon of offence, or the possibility of death being caused due to the grievous injuries inflicted with the said KEYS OR ROD. But in this case, an investigation officer has not elicited before this court about the alleged weapon used by the accused at the time of occurrence. **It is fatal to the prosecution case that non seizure of material object by the police.**

27. Further, in the absence of such necessary materials for deciding whether the alleged weapon of offence is likely to cause death, and in the absence of such a weapon before the Court as material object, we find that this case cannot be taken as a case of infliction of grievous hurt by means of any weapon of offence. **Accordingly, we find that the conviction in this case under section 324 of IPC is not sustainable under the law.** Consequently, it will have to be found that infliction of simple injuries alleged in this case will have to come under section 323IPC.

28. To constitute an offence u/s 323 IPC, accused has fulfilled the essential ingredients of the said offence by causing bodily pain voluntarily to PW1, and committed it with the knowledge that thereby he was likely to cause hurt or grievous hurt to the victim /PW1. But, it has not been proved by the prosecution that an injury was caused only by **a keys or centering rod**. Hence, this Court has no hesitation to hold that the accused A1 having not found guilty under section 324 of IPC and the prosecution has successfully proved the alleged offence under section 323 IPC against A1, A2.

29. In the light of the evidence as discussed above, no doubt whatsoever is left in the mind of this Court, that the accused voluntarily caused hurt to the

victim of the present case and accordingly they were held to be guilty of the offence punishable under Section 323 of the IPC and convicted for the said offence. The accused A1, A2 are guilty of commission of the offence U/S 323 IPC and accordingly, convicted of the said offence.

30. In the light of the findings above, as regards the correct penal section attracted, I find that the conviction in this case under section 323 IPC and provisions under section 324 of IPC not attracted. On facts, the prosecution case stands well proved by the evidence of the defacto complainant and also the medical evidence, though the other incident witness examined by the prosecution as PW1.

31. Besides from cross- examination of PW7 who is the I/O of East Police station and who submitted the charge-sheet, it transpires that the alleged KEYS OR ROD used to injured the victim is not seized by the I/O of this case. Now from perusal of the Ext.P1 and the evidence adduced by **wound certificate herein ExP3, ExP7**, it is evident that the injury was caused to the victims. But the prosecution failed to prove that an injury was caused only by a KEYS OR ROD. But the non-recovery of the alleged property used by the accused also casts upon a doubt in mind as to the veracity of the evidence adduced by prosecution witnesses. However, it does not affect the fatal to the prosecution case, whereas in the FIR and in the evidence adduced by PW1, it was mentioned clearly about the case property however, it was not proved, which type of pot it was. Either in the FIR or in the evidence adduced by PW1 not sated about the pot. So, the evidence adduced by PW1, who is the victim itself clear as to the commission of the alleged offence by the accused.

32. Defense had a duty to adduce evidence. The accused failed to do so and his explanation in Section 313 Cr.P.C. statement is not found reasonable. Thus, from the evidence on record, it is clear that, the accused persons A1, A2 had assaulted the victim with a pot and in the instant case, the investigation officer has not proved that which type of pot used by the accused on the victims at the

time of occurrence. However, the victims had a **swelling on his ear, Laceration on his right and left side head**. It is not necessary that the victim would have sustained grievous injuries on his body. However, feeling of pain is enough to prove the offence u/s 323 of IPC. Hence, the charge under Section S.323 of IPC stands proved. On perusal of entire evidences available with the record, this court has found that the prosecution has succeeded to prove its case on the charged offences of Section 323 of IPC against accused person.

33. Thus, the above discussion, the allegation that all the prosecution witnesses are related to each other thus interested or relative witnesses having relationship with the victim, by itself is not sufficient for disbelieving their testimony unless any motive is alleged and proved against them. So, mere interested witness by itself is not a valid ground for discarding or rejecting the sworn testimony and nor can it be laid down as an invariable rule that interested evidence can never form the basis of conviction. Be it also noted that so far the plea of previous enmity or cross case is concerned, I would say that it is settled law that every case is decided solely on the basis of its own merit and not on the basis of cross case or previous enmity unless the case in hand is disproved or found not believable.

34. In the instant case, the prosecution has not recovered any material object that involved in the offence (pot) and the case property (pot) whether it is Silver or which type of weapon whether **centering rod or key chain** have not been proved in this case and it was not also seized by the investigation officer. The victim/PW1 sustained simple injury have been clinically established by medical officer Mr. Vishnu/LW8. Hence, this court holds that the accused A1 guilty for the alleged offence under section 323 of IPC and instead of 324 and A2 u/s.323 of IPC.

35. Therefore, this court holds the accused guilty for the alleged offence under section 323 IPC. The accused A1 Anand can't be convicted under the charged offence of Section 324 IPC. However, he can be convicted under

Section 323 IPC as per Section-222 of Cr.P.C. The prosecution has succeeded to prove the offence of Section 324 IPC as its consisting of several particulars, constitutes a complete minor offence of Section 323 IPC. The said minor offence has been proved, but use of weapon has not been proved in the instant case, hence the accused can be convicted for the offence of Section 323 of IPC though A1 was not charged with it in view of Section-222 of Cr. P. C. Thus, the above, the A1 accused can't be convicted under the charged offence of Section 324 of IPC. However, A1 accused be convicted under Section-323 of IPC. The prosecution has succeeded to prove the offence of Section-323 of IPC against the accused A1. Further, the prosecution failed to prove the alleged charges under s.294 (b), 324, 506(ii) of IPC against accused A1 beyond all reasonable doubt. The prosecution has successfully proved the alleged charges under S.323 of IPC against A1 accused. Hence, the accused A1, A2 are held liable for the above-alleged offence.

36. In the light of the evidence as discussed above, no doubt whatsoever is left in the mind of this Court, that the accused voluntarily caused hurt to the victims of the present case and accordingly he is held to be guilty of the offence punishable under Section 323 of the IPC and convicted for the said offence. The accused is guilty of commission of the offence U/S 323 IPC and accordingly, convicted of the said offence.

37. The allegation of the prosecution is that the accused persons also threatened to cause injury to the informant. If the evidences of the PWs are considered, it can be seen that there is no iota of allegation in the evidences of PWs to the effect that the accused persons threatened to cause injury to the informant. As such it can be said that the prosecution failed to prove that the accused persons threatened to cause injury to the informant in future. Hence this point is decided against the prosecution.

38. In view of the above discussion, the prosecution has not successfully proved the alleged offence **u/s. 294(b), 324 and 506(ii) IPC**

against the accused person **A1 Anand**, u/s. 294(b), 323 and 506(ii) IPC against the accused **A2 namely Manikandan**. The prosecution has successfully proved the offence u/s.323 of IPC against accused **A1, A2**. Hence this court convicted the accused **A1, A2** u/s. 323 of IPC and having regard to the nature of the offence committed by the accused/convict namely, **A1, A2**, submission of the convict as well as the facts and circumstances of the case, the character of the convict and no previous criminal activity of accused before this case, therefore this court considers that the conviction is proved against them. In the above discussion and the view of the court, that the accused **A1, A2** be extended the benefit of Section 3 of the Probation of Offenders Act, 1958.

39. The offenses in question were not pre-meditated and were apparently committed in the heat of the moment and there is no evidence on record to show that the offenses were pre-planned or that the convicts harbored any enmity against the complainant prior to the said offences. There is nothing on record to show that the convicts harassed or troubled the complainant subsequent to the day of the incident. The convict has shown remorse and has undertaken to not repeat similar offenses in future.

40. The convict has remained on bail throughout and have faced ordeal of the trial since 2024, i.e., when the charge-sheet was filed. The **convict A1 Anand, A2 Manikandan have** not been involved in any other case and the convict has deep roots in the society and the convict is not a threat to the society. The offences proved against the convict is not punishable with death or imprisonment for life and I am of the opinion that having regard to the circumstances of the case, it is expedient to release her on admonition.

41. That, they have no criminal antecedents. That, incarcerating they would in fact be extending the penalty to the family members as in their absence they would be deprived of their day to day requirements and means of livelihood and if such person is sent to jail along with other habitual offenders, the mind of such first time offenders would be criminalized. Considering all the above,

along with the facts and circumstances of the case under which the offences were committed by A1, A2 and I am of the considered opinion that they deserves to get the benefit as provided u/s-3 of the Probation of Offenders Act, 1958. As such, the accused persons A1Anand, A2 Manikandan are released after due admonition.

V. In the result : -

42. In view of the above discussion, the prosecution has not successfully proved the alleged offence u/s. 294(b), 324 and 506(ii) against A1, u/s. 294(b), 506(ii) of IPC against A2. However, the prosecution successfully proved an offence u/s. 323 of IPC the accused person **A1 Anand, A2 namely Manikandan**. Hence, this court convicted the accused persons A1, A2 u/s. 323 of IPC and sentenced for one month SI. Hence, they are convicted u/s.248(ii) of CRPC.

43. The accused A1, A2 are convicted under section 323 IPC. The accused A1 acquitted from the charges u/s.294(b), 324 and 506(ii) of IPC and A2 accused is acquitted under section 294(b) and 506(ii). The accused persons A1, A2 are not sentenced to imprisonment but they are released after due **admonition under section 3 of the Probation of Offenders Act, 1958**. The accused is admonished and they are cautioned to control their temper and not to repeat such type of offences in future.

44. The bail bond of accused person shall stand for another period of six months as per the new amended provisions u/s.437 A CRPC. No property remanded in this case.

The judgment is dictated to the steno typist and taken print out and made necessary corrections and pronounced by me in the open Court on this is the 08th June 2026.

Judicial Magistrate, No. I
Thanjavur.

ANNEXURE:-

List of prosecution side witnesses:-

1. PW1 - Mr. Pandiyan (Defacto complainant)
2. PW2 - Mr. Baskar (Eye witness)
3. PW3 - Mr. Babu (Observation Mahazar)
- 4.PW4 - Mr. Mohamed Sathik (Eye witness)
- 5.PW5 - Mr. Sudhakar (Eye witness)
- 6.PW6 - Mr. Saravanan (Eye witness)
- 7.PW7 - Mr. Thirunavukarasu (Investigation officer)

List of prosecution side exhibits:

1. Exp1: - 01.06.2023 - Complaint
2. Exp2: - 01.06.2023 - PW'3 Signature of Observation Mahazar
- 3.Exp3: - 31.05.2023 - AR intimation
- 4.Exp4: - 01.06.2023 - First Information Report
- 5.Exp5: - 01.06.2023 - Observation Mahazar
6. Exp6: - 01.06.2023 - Rough Sketch
7. Ex.P7: - 04.06.2023 - Wound certificate

Material objects: - Nil

List of witness on the side of accused : -Nil

List of exhibits on the side of accused : -Nil

Note: -

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

Judicial Magistrate No. I
Thanjavur.