

IN THE COURT OF JUDICIAL MAGISTRATE NO.1, SRIVAIKUNTAM

Present : Thiru. B.Dharaneether. B. A., L L M.,
Judicial Magistrate No.1,
Srivaikuntam.

Dated : Wednesday, the 22nd day of July 2026

C.C.No.272 of 2022

(CNR No. TNTT090072142022)

State represented by
The Sub-Inspector of Police,
Kurumbur Police Station,
Crime No.28 of 2020.

... Complainant

/Vs/

1. Tr. Murugesan
2. Tr. Ponraj
3. Tr. Alexander
4. Tr.Koilmani
5. Tr. Kalyanasundaram
6. Tr. Ganapathi alias Sekar
7. Tr. Dhamotharan
8. Tr. Durairaj

... Accused

This case having come up for final hearing before this Court in the presence of Ms.M.Seyadali Fathima B.A.,B.L.,M.L., the learned Assistant Public Prosecutor Grade II appearing for the State and advocate Tr.K.Ganesan appearing for accused and upon perusing the records and connected materials and having stood over for consideration till date, this Court delivers the following:

JUDGMENT

The Sub-Inspector of Police, Kurumbur Police Station, laid the final report against A1 to A8 alleging commission of the offences punishable under Sections 147, 294(b), 323 and 506(ii) IPC.

2. The case of the prosecution, in brief, is that on 08.03.2020 at about 3.30 p.m., P.W.1 Guna and his son P.W.2 Nirmal Sekar were standing near Somasundara Vinayagar Temple at Rajapathi. At that time, A1 to A8 allegedly came there in two motorcycles bearing Registration Nos.HR-05-E-1855 and TN-72-K-4146. The accused allegedly questioned P.W.1 regarding his interference in a temple dispute, abused P.Ws.1 and 2 in obscene language and attempted to attack P.W.1. When P.W.2 intervened, A1 and A2 allegedly assaulted him with their hands on his back, while A3 to A8 allegedly pushed him into a thorny bush and kicked him. It is further alleged that all the accused threatened P.Ws.1 and 2 with death and left the motorcycles at the place of occurrence.

3. On receipt of the complaint from P.W.1, a case was registered in Crime No.28 of 2020 under Sections 147, 294(b), 323 r/w 149 and 506(ii) IPC. The investigating officer inspected the place of occurrence, prepared the observation mahazar and rough sketch, seized the two motorcycles, examined the witnesses, obtained the wound certificate and, after completing the investigation, filed the final report against A1 to A8.

4. Upon appearance of the accused, copies of the documents relied upon by the prosecution were furnished to them under Section 207 Cr.P.C. Charges

for the offences punishable under Sections 147, 294(b), 323 r/w 149 and 506(ii) IPC were framed against the accused. The accused denied the charges and claimed to be tried.

5. In order to prove its case, the prosecution examined five witnesses as P.Ws.1 to 5 and marked eight documents as Exs.P1 to P8.

6. After completion of the prosecution evidence, A3 failed to appear before the Court and did not submit himself for examination under Section 313(1)(b) Cr.P.C. Since the presence of A3 could not be secured and the case against the other accused was ready for further proceedings, the case against A3 was ordered to be split up and separately numbered as C.C.No.336 of 2026. The present case therefore proceeded against A1, A2 and A4 to A8 alone. The copy of this case records shall be a part of C.C.No.336 of 2026

7. The incriminating circumstances appearing in the prosecution evidence were put to A1, A2 and A4 to A8 under Section 313(1)(b) Cr.P.C. They denied the same as false. No witness was examined and no document was marked on the side of the accused.

Points for determination

8. The following points arise for determination:

- 1) Whether the prosecution has proved beyond reasonable doubt that A1, A2 and A4 to A8 were members of an unlawful assembly with the common

object of committing offences against P.Ws.1 and 2, thereby committing an offence punishable under Section 147 IPC?

- 2) Whether the prosecution has proved beyond reasonable doubt that the accused uttered obscene words in or near a public place, causing annoyance to others, thereby committing an offence punishable under Section 294(b) IPC?
- 3) Whether the prosecution has proved beyond reasonable doubt that the accused in furtherance of common object voluntarily caused hurt to P.W.2, thereby committing an offence punishable under Section 323 r/w 149 IPC?
- 4) Whether the prosecution has proved beyond reasonable doubt that the accused threatened P.Ws.1 and 2 with death with the intention of causing alarm, thereby committing an offence punishable under Section 506(ii) IPC?

Evidence of the prosecution witnesses

9. P.W.1 Guna is the defacto complainant and the father of P.W.2. In his chief-examination, he stated that about four or five years earlier, at about 8.30 p.m., he was standing near the Pillaiyar Temple in his village. According to him, a group of about 10 to 20 persons came in the darkness and attacked his son Nirmal Sekar. He stated that he lodged a complaint at Kurumbur Police Station and thereafter went to the hospital. He admitted only his signature in the

complaint, which was marked as Ex.P1. He did not identify any of the accused as the assailants and did not support the contents of the complaint.

10. P.W.1 was therefore treated as hostile. During cross-examination by the prosecution, the entire prosecution version that the accused came in two motorcycles, abused him, assaulted P.W.2 and issued a death threat was suggested to him. P.W.1 denied the suggestion and did not support the prosecution case.

11. P.W.2 Nirmal Sekar is the alleged injured witness. He stated that P.W.1 is his father and that he knew the accused. However, he categorically stated that he did not know anything about the case. He did not state that any of the accused assaulted him, caused injuries or threatened him. He was also treated as hostile and denied the prosecution suggestion regarding the occurrence.

12. P.W.3 Manivannan was projected as an eyewitness. He stated that he knew P.Ws.1 and 2 and the accused, but that he did not know anything about the case. He further stated that the police had not examined him. He was treated as hostile and denied having witnessed the occurrence.

13. P.W.4 Kandasamy was also projected as an eyewitness. He stated that he knew the parties but did not know anything about the case and that the police had not examined him. He further stated that another listed witness, Muthuraman alias Ganesan, had died. P.W.4 was treated as hostile and denied the prosecution version in its entirety.

14. P.W.5 Pillaimuthu is a formal police witness. He stated that he was acquainted with the signatures of the police officers who registered the FIR and completed the investigation. Through him, the complaint, FIR, observation mahazar, rough sketch, seizure mahazar, Form 91 and wound certificate were marked as Exs.P2 to P8. He was not a witness to the occurrence.

15. P.W.5 further stated that the investigating officer seized two motorcycles bearing Registration Nos.HR-05-E-1855 and TN-72-K-4146 and obtained the wound certificate relating to the injured witness. Thereafter, the final report was filed on 06.06.2020.

Discussion

16. The prosecution case rests primarily upon the evidence of P.W.1, the defacto complainant, P.W.2, the alleged injured witness, and P.Ws.3 and 4, the alleged eyewitnesses. However, none of these witnesses has supported the prosecution.

17. P.W.1 has not stated that A1, A2 or A4 to A8 were present at the place of occurrence. On the contrary, his substantive evidence is only that a group of about 10 to 20 persons came in darkness and attacked his son. He did not identify even one of the accused as a member of that group. His admission of the signature in the complaint does not amount to proof of the contents of the complaint.

18. A complaint is not substantive evidence. Its contents must be proved through the evidence of its author. When the author of the complaint does not support its contents and denies the prosecution version, the complaint by itself cannot be relied upon to convict the accused.

19. P.W.2 is the person who is alleged to have been assaulted and injured. He has categorically stated that he knows nothing about the occurrence. He has not identified any accused as his assailant and has not spoken about the nature or manner of assault. His evidence therefore completely fails to establish the offence under Section 323 IPC.

20. The marking of Ex.P8 wound certificate through a police witness cannot, by itself, establish that the injuries were caused by the accused. The medical officer who allegedly examined P.W.2 was not examined. More importantly, even medical evidence proving an injury would establish only the existence and nature of the injury. It cannot identify the person who caused it. Since the injured witness himself has not implicated the accused, Ex.P8 does not advance the prosecution case.

21. P.Ws.3 and 4, who were cited as independent eyewitnesses, have categorically denied witnessing the occurrence. Nothing was elicited in their cross-examination by the prosecution to prove the alleged incident or the involvement of the accused.

22. Merely because a witness has been declared hostile, his entire evidence does not become inadmissible. The Court may rely upon any portion of the

evidence which is credible and corroborated by other materials. In the present case, however, there is no incriminating portion in the substantive evidence of P.Ws.1 to 4 which connects the accused with the occurrence.

23. To establish an offence under Section 147 IPC, the prosecution must prove the assembly of five or more persons, the common object of that assembly and the participation of each accused as a member of such unlawful assembly.

24. P.W.1 has referred only to an unidentified group of 10 to 20 persons in darkness. He has not identified any of the present accused as members of that group. P.Ws.2 to 4 have not supported the occurrence. Therefore, the identity of the accused, their presence and the alleged common object have not been proved. The mere naming of the accused in the police records is insufficient to establish an unlawful assembly.

25. Similarly, to constitute an offence under Section 294(b) IPC, the prosecution must prove that the accused uttered obscene words in or near a public place and that such utterance caused annoyance to others.

26. None of the witnesses has stated before the Court that any of the accused uttered the words alleged in the final report. There is also no evidence that any particular words caused annoyance to P.Ws.1 and 2 or to any member of the public. Therefore, the essential ingredients of Section 294(b) IPC have not been established.

27. The final report attributes the assault upon P.W.2 to the accused. However, P.W.2 has not supported the prosecution and has not identified any assailant. P.W.1 has also not identified the accused. P.Ws.3 and 4 have denied witnessing the incident. In the absence of substantive evidence identifying the assailants, the offence under Section 323 IPC is not proved.

28. To establish an offence under Section 506(ii) IPC, the prosecution must prove a threat of death, grievous hurt or other aggravated consequence and that such threat was made with the intention of causing alarm.

29. No witness has spoken about any threat issued by any of the accused. There is no evidence that P.Ws.1 or 2 were placed under alarm due to any words spoken by the accused. The allegations contained in the complaint and final report cannot substitute substantive evidence before the Court.

30. The evidence on record does not establish the identity or participation of A1, A2 and A4 to A8. It also does not prove the alleged obscene abuse, assault, unlawful assembly or criminal intimidation. Suspicion, however strong, cannot take the place of legal proof. The prosecution has therefore failed to prove the charges against A1, A2 and A4 to A8 beyond reasonable doubt. They are entitled to the benefit of doubt.

31. Accordingly, all the points for determination are answered against the prosecution and in favour of A1, A2 and A4 to A8.

Result

In the result, A1 Murugesan, A2 Ponraj, A4 Koilmani, A5 Kalyanasundaram, A6 Ganapathi alias Sekar, A7 Dhamotharan and A8 Durairaj are found not guilty of the offences punishable under Sections 147, 294(b), 323 and 506(ii) IPC and are acquitted under Section 248(1) Cr.P.C.

The bail bonds, if any, executed by A1, A2 and A4 to A8 shall stand cancelled. However, they shall each execute a bond for a sum of Rs.10,000/- under Section 437-A Cr.P.C. to appear before the appellate Court, if so required, and the said bonds shall remain in force for a period of six months.

The case against A3 Alexander has already been split up and separately numbered as C.C.No.336 of 2026. Therefore, the original records, exhibits and case properties required for the trial of the split-up case shall be retained until the disposal of C.C.No.336 of 2026.

Typed by me, corrected and pronounced by me in open Court on this the 22nd day of July 2026.

**Judicial Magistrate No.I,
Srivaikuntam**

APPENDIX

Prosecution witnesses

Witness	Name	Nature of witness
P.W.1	Guna	Defacto complainant
P.W.2	Nirmal Sekar	Eyewitness

Witness	Name	Nature of witness
P.W.3	Manivannan	Eyewitness
P.W.4	Kandasamy	Eyewitness
P.W.5	Pillaimuthu	Police witness

Prosecution exhibits

Exhibit	Marked through	Description
Ex.P1	P.W.1	Signature of P.W.1 in the complaint
Ex.P2	P.W.5	Complaint
Ex.P3	P.W.5	FIR
Ex.P4	P.W.5	Observation Mahazar
Ex.P5	P.W.5	Rough Sketch
Ex.P6	P.W.5	Seizure Mahazar
Ex.P7	P.W.5	Form 91
Ex.P8	P.W.5	Wound Certificate

Defence witnesses

Nil

Defence exhibits

Nil

Material objects

Nil

**Judicial Magistrate No.I,
Srivaikuntam**

Note

1. A1, A2 and A4 to A8 acquitted.
2. Case against A3 split up and numbered as C.C.No.336 of 2026.
3. Records, exhibits and case properties required for the split-up case shall be retained.
4. Result of the case informed to the concerned police.
5. Date of judgment 22.07.2026
6. Date of uploading 22.07.2026

Copy submitted to

The Hon'ble Chief Judicial Magistrate, Thoothukudi