



Presented on : 25-04-2023
 Registered on : 21-06-2023
 Decided on : 14.07.2026

**IN THE COURT OF THE ADDITIONAL DISTRICT & SESSIONS JUDGE
 ARUPPUKOTTAI**

Present : **Thiru. M. VASANTHA KUMAR, M. L.,**
 Additional District and Sessions Judge, Aruppukottai

Tuesday, the 14th day of July 2026

Criminal Appeal No. 85/2023
CNR. No. TNVR220001912024

Name of the trial Court.	:	District Munsif -cum- Judicial Magistrate Court, Thiruchuli.
Number of the case in trial court	:	C.C. No. 322/2021
Name and description of the Appellant/1 st Accused.	:	Balamurugan, Age : 35/2023 S/o Shanmuganathan, Veppankudi, Tiruchuli Taluk, Virudhunagar District.
Name and description of the Respondent/Complainant.	:	State through The Sub Inspector of Police, Narikudi Police Station Cr. No. 112/2020
To what offence the Trial Court passed the order against the appellant	:	under Section 448, 354, 506(2) of I.P.C.

Sentence and law under it was imposed in the trial court.	The trial court has passed a judgment that the accused is found guilty for the offence under Section 448, 354 and 506(2) of I.P.C. and for the offence under Section 448 of I.P.C. sentenced him to undergo simple imprisonment for six months and for the offence under Section 354 of I.P.C. sentenced him to undergo simple imprisonment for 2 years and also to pay a fine amount of Rs. 2000/- in default sentenced him to undergo simple imprisonment for one month and for the offence under Section 506(2) of I.P.C. sentenced him to undergo simple imprisonment for 2 years in terms of 248(2) Cr.P.C. Further the sentences imposed to the accused are ordered to run concurrently.
Whether the judgment of the trial court : has been confirmed or modified or set-aside?	Appeal is dismissed. Conviction and sentence of the trial court against accused is confirmed.
Finding of this court	In the result, this appeal is dismissed and the Judgment of conviction and sentence passed by the trial court namely District Munsif -cum-Judicial Magistrate Court, Thiruchuli in C.C. No. 322/2021 dated 24.02.2023 is confirmed. The trial court is directed to secure the accused and commit him to prison to undergo the period of sentence.

Date of Presentation of the appeal	:	25.04.2023
Date of taken on file by Principal Sessions Court.	:	21.06.2023
Date of receipt of the Appeal by this court.	:	06.08.2024
Trial Court Judgment date	:	24.02.2023
Date of Judgment	:	14.07.2026

This Criminal Appeal was originally presented on 25.04.2023 before Hon'ble Principal District Judge, Virudhunagar District at Srivilliputtur and taken on file as C.A. No. 85/2023 on 21.06.2023 and made over to the Court of Additional District Judge, Virudhunagar on 20.07.2023 as per the order of Hon'ble Principal District Judge, Virudhunagar District at Srivilliputtur. Wherein this case was proceeded as C.A. No. 85/2023 and during the pendency of this case before Additional District Court, Virudhunagar, on constitution of this court, this case was transferred to this court on 06.08.2024 as per the proceedings of Hon'ble Principal District Judge, Virudhunagar District at Srivilliputtur in D.No. 7001 dated 25.07.2024 and case records were received by this court on the same day and proceeded as C.A. No. 85/2023.

This Criminal Appeal came up before me on 30.06.2026 for final hearing in the presence of Thiru. K. Vellaisamy, learned advocate for the Appellant/ Accused and Thiru. C. Thangapandian, learned Additional Public Prosecutor (incharge) for the respondent/Complainant and having stood over for my consideration and this court delivered the following

JUDGMENT

1. This criminal appeal is filed by the Appellant/Accused to set aside the Judgment of Conviction passed by the learned District Munsif -cum-

Judicial Magistrate, Thiruchuli against him in C.C. No. 322/2021 dated 24.02.2023.

2. **Brief facts of the Prosecution case in C.C. No. 322/2021 is as follows :**

On 25.05.2020 in the night, the defacto complainant's husband namely Veerachamy gone to Mukkullam Village near Narikudi for his work in charcoal fire and the defacto complainant namely Muthu and her son were sleeping alone in their house. Taking advantage of this, the accused Balamurugan, with an intention to have a sex with the defacto complainant, on 26.05.2020 in the early morning at about 01.30 a.m. trespassed into the defacto complainant's house and lay on the defacto complainant and tried to have sex with her. When the defacto complainant refused, the accused threatened her by showing the knife, which was hidden by the accused in his lap and saying that he would stab her to death. When the defacto complainant raised an alarm, the accused abused her with filthy language and also threatened to kill the defacto complainant. Thereby, the accused person had committed the offence under Section 448, 294(b), 354, 506(2) of I.P.C.

3. After taking cognizance of the offence, the trial court furnished copies of the documents relied by the prosecution to the Accused under Section 207 of Cr.P.C. After perusing the material on records, the trial court has questioned the Accused and framed the charge against the accused for the offence under Section 448, 354 and 506 (2) of I.P.C. and accusation was explained to the accused. The accused had denied the **accusation** and claims to be tried. Hence the trial court had proceeded with the trial.

4. To prove the case, prosecution has examined P.W. 1 to P.W. 9 and Ex. P-1 to Ex. P-5 were also marked.

5. **Brief facts of the prosecution case as spoken by the witnesses is as follows :**

5.1 In this case, the defacto complainant namely Muthu was examined as P.W. 1 and her son Veeramuthu was examined as P.W. 4. P.W. 1 deposed that she knew the accused and he belongs to her village. 2½ years ago, when P.W. 1 Muthu and her son P.W. 4 Veeramuthu were sleeping in their house, at about 01.30 am, the accused entered in to P.W. 1's house and lay down near the P.W. 1. P.W. 1 had raised a sound and hence her son P.W. 4 Veeramuthu woke up. The accused threatened them that if they raise a sound, he will stab them with knife. The accused compelled her to have sex with him, but P.W. 1 did not allow him. He tried and fell on P.W. 1 and pulled her saree, but P.W. 1 stopped him. When P.W. 4 Veeramuthu raised an alarm, the mother of the P.W. 1 namely P.W. 5 Guruvammal, P.W. 2 Malaikannan, P.W. 3 Karuppaiah and P.W. 7 Kumarasamy, who were in the neighboring house, came to the occurrence spot. Then the accused scolded P.W. 1 with filthy language and ran away from there. The accused always have a habit of entering house with a drunken mood.

5.2 At the time of giving evidence the age of P.W. 4 Veeramuthu was 16 years and he was studying 11th standard. He also deposed that on 26.05.2020 when he and his mother P.W. 1 were sleeping in their house, at about 01.30 a.m. the accused entered into their house and lay on the P.W. 1. On hearing the sound when he woke up, the accused threatened him with knife. When he and P.W. 1 raised a sound, P.W. 2 Malaikannan, P.W. 3 Karuppaiah and P.W. 7 Kumarasamy came to the occurrence spot. Seeing them the accused scolded P.W. 1 with filthy language, threatened her and ran away from there. P.W. 2 Malaikannan and P.W. 3 Karuppaiah are the brothers of P.W. 1 and P.W. 5 Guruvammal is the mother of P.W. 1 and P.W. 7 Kumarasamy is the relative of

P.W. 1. P.W. 2 Malaikannan, P.W. 3 Karuppaiah and P.W. 5 Guruvammal deposed that on hearing the sound of P.W. 1 and P.W. 4, they came to the P.W. 1's house and seeing that the accused ran away from there. When they enquired, P.W. 1 has stated about the occurrence. P.W. 7 Kumarasamy did not support the case of the prosecution and treated as hostile witness.

5.3 P.W. 1's husband Veerachamy was not at home at the time of incident. He had gone to his charcoal fire work. On the next day morning, when P.W. 1's husband Veerachamy arrived, P.W. 1 told him about the incident and then they went to Narikudi police station and P.W. 1 had lodged a complaint. Ex. P-1 is the complaint.

5.4 On 29.05.2020 at about 18.00 hours, when P.W. 9 Babu, Sub Inspector of Police was on duty in the Narikudi Police station, he received the complaint from P.W. 1 and registered a case in Cr. No. 112/2020. Ex. P-4 is the First Information Report. Then on the same day at about 19.00 hours, P.W. 9 visited the occurrence spot and prepared Observation Mahazar and Rough sketch in the presence of P.W. 6 Kannan and P.W. 8 Ramalingam. Ex. P-2 is the Observation Mahazar and Ex. P-5 is the Rough Sketch. P.W. 6 Kannan and P.W. 8 Ramalingam deposed about the preparation of Observation Mahazar and Rough Sketch and the signature of P.W. 8 Ramalingam in the Observation Mahazar was marked as Ex. P-3. Thereafter P.W. 9 Babu, Sub Inspector of Police interrogated P.W. 1 to P.W. 8 and recorded their statements separately. The accused has obtained anticipatory bail and hence P.W. 9 did not arrest the accused. Then, after completing his investigation, P.W. 9 laid a charge sheet against the accused under Section 448, 354, 294(b) & 506(2) of I.P.C.

6. On completion of prosecution witnesses, the Accused was questioned under Section 313 of Cr.P.C. for the incriminating evidence

emerged against him. The Accused denied the evidence of Prosecution. On the side of defence neither witnesses nor documents were produced.

7. After full trial, the trial court held that the accused is found guilty for the offence under Section 448, 354 and 506(2) of I.P.C. and for the offence under Section 448 of I.P.C. sentenced him to undergo simple imprisonment for six months and for the offence under Section 354 of I.P.C. sentenced him to undergo simple imprisonment for 2 years and also to pay a fine amount of Rs. 2000/- in default sentenced him to undergo simple imprisonment for one month and for the offence under Section 506(2) of I.P.C. sentenced him to undergo simple imprisonment for 2 years in terms of 248(2) Cr.P.C. Further the sentences imposed to the accused are ordered to run concurrently.

8. Aggrieved over the Judgment of conviction passed by the Trial Court against the accused, the Appellant/Accused had preferred this Appeal. In this Appeal, For the sake of convenience, the parties are referred as per the ranking in the trial court.

9. Point for determination

1. Whether the trial court was justified in convicting the accused for the offence under Section 448, 354 and 506(2) of I.P.C?
2. Whether this Appeal has to be allowed or not ?

10 Discussion on Points :

The appellant is the accused who has been suffered with an order of conviction passed by the trial court for the offence under Section 448, 354 and 506 (2) of I.P.C. and sentenced him for the offence under Section 448 of I.P.C. to undergo simple imprisonment for six months and for the offence under Section 354 of I.P.C. sentenced him to undergo simple imprisonment for 2 years and also to pay a fine amount of Rs. 2000/- in default sentenced him to

undergo simple imprisonment for one month and for the offence under Section 506(2) of I.P.C. sentenced him to undergo simple imprisonment for 2 years.

11. The counsel for the accused contended that the trial court had failed to consider the contradictions in the prosecution case and further the trial court has failed to accept the delay in lodging the complaint, which is fatal to the prosecution case. Further there are several contradictions in the evidence of prosecution witnesses and the weapon, which was alleged to be used at the time of occurrence, was not seized by the investigation officer and the reason for non recovery of the weapon was not stated by the investigation officer, which is fatal to the prosecution case. Further the Mahazar witnesses were not supported the case of prosecution. Hence the prosecution has not proved the occurrence, which was alleged to be took place. Further the trial court has failed to appreciate the enmity between the accused and the defacto complainant and prays to allow the appeal.

12. On the other hand, the learned Additional Public Prosecutor submitted that the trial court has correctly weighed the evidence in proper perspective and after analyzing all the materials available before the trial court and appreciating the evidence in proper perspective had rightly convicted the accused and there is no necessity to interfere with the well considered judgment passed by the trial court and prays to dismiss the appeal.

13. By hearing the rival submissions and by perusing the materials available on record, this court finds that the accused was convicted for the offence under Section 448, 354 and 506 (2) of I.P.C. It is the case of the prosecution that on 25.05.2020 in the night, when P.W. 1 and her son P.W. 4 were sleeping in their house, the accused Balamurugan, with an intention to have a sex with P.W. 1, on 26.05.2020 in the early morning at about 01.30 a.m. trespassed into the P.W. 1's house and lay on the P.W. 1 and tried to have sex

with her and when the P.W. 1 refused, the accused threatened her showing the knife by saying that he would stab her to death. When the P.W. 1 raised an alarm, the accused abused her with filthy language and also threatened to kill her.

14. P.W. 1 is the victim in this case. She had been deposed before the trial court stating that 2½ years before the date of evidence at about 01.30 a.m., when P.W. 1 and her son P.W. 4 were sleeping in their house, the accused entered in to P.W. 1's house and lay down near the P.W. 1. When P.W. 1 raised a sound, her son P.W. 4 woke up and the accused threatened them that if you raise a sound, he will stab them with knife. Then the accused compelled her to have sex with him, but P.W. 1 did not allow him and the accused fell down on P.W. 1 and pulled her saree, but P.W. 1 stopped him. The relevant portion of P.W. 1's evidence is extracted hereunder for better reference.

...சுமார் 2 1/2 வருடங்களுக்கு முன்பு எனது வீட்டில் நானும், எனது மகனும் தூங்கிக் கொண்டிருந்தோம். இரவு 1.30 மணியளவில் ஆஜர் எதிரி எனது வீட்டிற்குள் நுழைந்து என்னுடன் வந்து படுத்தார். நான் அலறிவிட்டேன். நான் அலறவும், எனது மகன் வீரமுத்து எந்திரித்துவிட்டான். அலறுனீர்கள் என்றால் கத்தி எடுத்து குத்திவிடுவேன் என்று சொன்னார். எதிரி என்னுடன் படுக்க வேண்டும் என்று வந்தார். நான் விடவில்லை. முயற்சி செய்தார். நான் கத்திவிட்டேன். முயற்சி செய்தபோது என் மீது மல்லுக்கட்டி விழுந்து சேலையை இழுத்தார். நான் தடுத்துவிட்டேன். என் மகன் அலறவும், பக்கத்து வீட்டில் இருந்த எனது அம்மா குருவம்மாள்,

குமரைய்யா, கருப்பைய மலைகண்ணு ஆகியோர்
வந்தனர்...

P.W. 1 was subjected to cross examination by the counsel for the accused. The counsel for the accused contended that the evidence of P.W. 1 is not a true one and there was a enmity between the accused and P.W. 1's family. This court is unable to appreciate the contention raised by the counsel for the accused for the reason that even though the accused pleaded that there was an enmity between the accused and P.W.1 with regard to land dispute, but nothing has been elucidated from the cross examination of P.W. 1. The counsel for the accused failed to mention the extent of the land, in which there was a dispute between the accused, and Survey number, in which the land was situated. It was neither pleaded nor proved by the counsel for the accused. Mere suggestion that there was a land dispute between the accused and P.W. 1 does not help the case of the accused in any way for the reason that the said suggestion was categorically denied by the P.W. 1. Further apart from the P.W. 1, another eye witness examined by the prosecution is that her son who was examined as P.W. 4. On perusing the evidence of P.W. 4, it is seen that it was totally corroborated with the prosecution case and even though P.W. 4 was subjected to cross examination, nothing has been elucidated by the defence counsel upon the cross examination of P.W. 4.

15. Further, the counsel for the accused contended that the other witnesses are all relatives to the P.W.1 namely mother and brothers and they are all come under the category of interested witnesses. Further the counsel for the accused contended that no independent witnesses were produced by the prosecution to prove the case of prosecution. This court is unable to appreciate

the argument advance by the counsel for the accused for the reason that admittedly P.W. 2 and P.W. 3 are the brothers of P.W. 1 and P.W. 5 is the mother of P.W. 1 and they are all neighbors to P.W. 1. In the village naturally the relatives house will be situated one after another and the occurrence was held at mid night (Early morning) 01.30 a.m. and as per the prosecution, no other independent witnesses witnessed the occurrence and no independent person was present during the occurrence time in the occurrence place. Hence the evidence of P.W. 2, P.W. 3 and P.W. 5 are all even thought related to P.W. 1, but it does not throw away the prosecution and does not make any dent in the prosecution case. Further the counsel for the accused contended that there are more infirmities in the evidence of prosecution witnesses. But this court feels that the above alleged infirmities are not vital and it does not throw away the prosecution case in its entirety. On seeing the evidence of prosecution witnesses, this court feels that the accused has committed the offence as alleged in the chargesheet and the trial court has rightly appreciated the oral evidence of prosecution witnesses and there is no reason to disbelieve the evidence of P.W. 1 and P.W. 4 coupled with the other witnesses namely P.W. 2, P.W. 3 and P.W. 5, who are all immediately present in the scene of occurrence on hearing the sound made by the P.W. 1 and P.W. 4. Merely because the P.W. 2, P.W. 3 and P.W. 5 are related to P.W. 1, which does not means that they are make false statement before this court.

16. Further the counsel for the accused contended that there was three days delay in lodging the complaint before the police. The occurrence was took place on 26.05.2020 at about 01.30 a.m. The complaint was given on 28.05.2020. First Information report was registered on 29.05.2020 for the offence under Section 448, 354, 294(b), 506(2) of I.P.C. With regard to outrage the modesty of woman, normally, a woman cannot come forward to lodge a

complaint immediately and there will be an oscillation in the mind of victim either to lodge a complaint or not. In this case the occurrence was took place in the midnight hours at 01.30 a.m. and the husband of P.W. 1 was also went to job and after returning from the job only, they have decided to lodge the complaint, P.W. 1 has lodged a complaint on 28.05.2020. The witnesses are all layman and they have been examined nearly after completion of 2 years from the date of occurrence. Hence they have been deposed that immediately on the next day of occurrence P.W. 1 has lodged a complaint, which is not fatal to the prosecution case. The accused and the P.W. 1 are all belongs to the same village and the identity of the accused was already known to them and the motive, as pleaded by the accused with regard to the civil dispute, was already discussed and the accused has failed to prove the motive alleged by him. Absolutely there was no piece of paper as evidence to substantiate the alleged motive between the P.W. 1 and the accused. In the absence of any material, the evidence of Prosecution witnesses namely the eye witnesses P.W. 1 and P.W. 4 coupled with the other witnesses namely P.W. 2, P.W. 3 and P.W. 5. are all cogent and seems to be reasonable and natural one and there is no reason to discard the evidence of prosecution witnesses. Hence this court feels that the trial court had considered all the relevant aspects and rightly appreciated the prosecution evidence and rightly come to the conclusion that the accused has committed the offence under Section 448, 354 and 506(2) of I.P.C and convicted the accused and there is no error in the trial court's judgment. Hence there is no necessity to interfere with the judgment of conviction of the trial court. There is no merits in this appeal. Accordingly, this appeal is dismissed.

17. In the result, this appeal is dismissed and the Judgment of conviction and sentence passed by the trial court namely District Munsif -cum- Judicial Magistrate Court, Thiruchuli in C.C. No. 322/2021 dated 24.02.2023 is

confirmed. The trial court is directed to secure the accused and commit him to prison to undergo the period of sentence.

Dictated by me to the steno-typist, transcribed and typed by her, corrected and pronounced by me in open court, on this the 14th day of July 2026.

Additional District and Sessions Judge,
Aruppukottai.

Copy to:

The learned District Munsif -cum- Judicial Magistrate,
Thiruchuli.