



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. OF 2026
(Arising out of SLP(Crl.) No.4516 of 2025)

MANI @ SUBRAMANIYAM

...APPELLANT(S)

Versus

STATE REP BY

THE DEPUTY SUPERINTENDENT OF POLICE

...RESPONDENT(S)

J U D G M E N T

SANJAY KAROL J.

1. Leave granted.

2. The present appeal arises out of the impugned judgment and order dated 13.08.2024, passed by the High Court of Judicature at Madras, in Criminal Appeal No.800 of 2018, whereby the High Court partly allowed the appeal preferred by the appellant-convict. However, while partly confirming judgment passed by the Special Court for Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Principal Sessions Court), Erode¹, in Special Case No.19 of 2018, the High Court *vide* the impugned order acquitted the appellant of offences under the Scheduled Castes and Scheduled Tribes

¹ Hereinafter referred to as the 'Trial Court'.

(Prevention of Atrocities) Amendment Act, 2015² and modified the sentence awarded to the appellant in the following manner:

Section	Trial Court	High Court
294(b) IPC	3 Months of S.I. with fine of Rs.2,000/-	3 Months of S.I. with fine of Rs.2,000/-
326 IPC	5 Years of S.I. with fine of Rs.3,000/-	1 Year with fine of Rs.3,000/-
506 (II) IPC	5 Years of S.I. with fine of Rs.1,000/-	6 Months with fine of Rs.1,000/-

3. The case of the prosecution, in brief, is that on 22.08.2017, an altercation allegedly took place between the appellant and Ramasamy, complainant's brother-in-law, over a land dispute. Two days thereafter, on 24.08.2017 at about 10:45 A.M., the appellant alleged to have quarrelled with and abused the complainant's nephew (PW-4) over the said land dispute. When the complainant (PW-1) intervened and confronted the appellant, the latter allegedly used obscene words and caste-based slurs against him. It is further alleged that the appellant, thereafter, brought a billhook (M.O.1) from his house and assaulted PW-1 on his forehead, nose and left thumb, inflicting multiple injuries. PW-1 was immediately rushed to the Government Hospital, Bhavani, where he was examined by Dr. R. Dhinakar (PW-2), a Senior Civil Surgeon.

4. On the basis of the aforesaid, Sub-Inspector of Police (PW-6) registered an FIR No.227/2017 on 24.08.2017 at PS Appakoodal, under Sections 294(b), 324 and 506(ii) of the Indian Penal Code, 1860³ and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SCST Act 2015.

² 'SCST Act 2015' for short.

³ 'IPC' for short.

5. Upon completion of the investigation, Additional Superintendent of Police, Sivagangai District (PW-7), filed a chargesheet on 24.10.2017. While all the sections mentioned in the FIR were retained, the charge under Section 324 IPC was altered to Section 326 IPC, in view of the grievous injuries sustained by PW-1. The case was thereafter committed to trial wherein four charges were framed against the appellant, who pleaded not guilty.

6. To bring home the guilt of the appellant, the prosecution examined 7 witnesses and exhibited 14 documents. The defence, however, neither examined any witnesses nor adduced any documentary evidence.

7. The Trial Court, in Special Case No.19 of 2018, *vide* judgment and order dated 16.11.2018, convicted the appellant under Sections 294(b) IPC; 3(l)(r) & 3(1) (s) of the SC/ST Act 2015; 326 IPC r/w 3(2)(va) of the SC/ST Act 2015; and 506(ii) IPC r/w 3(2)(va) of SC/ST Act 2015. The Court held that the testimonies of Mahalingam (PW-1), Gunavathi (PW-3) and Ramachandran (PW-4) clearly establish occurrence of the incident. The said witnesses unanimously deposed that the appellant had uttered obscene words against PW-1; insulted and humiliated him, by referring to his caste in a public place; both oral and documentary evidence proved that the appellant had assaulted PW-1 with a billhook and inflicted grievous injuries. Consequently, all the charges framed against the appellant were held to be proved beyond reasonable doubt.

8. Aggrieved thereby, the appellant preferred an appeal before the High Court which, *vide* the impugned judgment and order dated 13.08.2024, acquitted the appellant of offences under the SC/ST Act 2015; however, the High Court confirmed his conviction under Sections 294(b), 326 and 506(ii) of IPC. The relevant extract of the impugned judgment is as follows:

“5.1 Rival submissions are carefully weighed and there is considerable merit in this. This Court carefully perused the entire evidence on record and nowhere it finds that the appellant had abused P.W 1 or P W.2 with reference to their community. Secondly the motive for the offence which gets established through the evidence of P.W.4, where he had deposed in his chief-examination that a certain discussion over the land deal between the appellant and his father had developed into an altercation. This would imply that the appellant did not entertain anything against P W 1 based on his community. Therefore, no offence under the provisions of SC/ST Act will be attracted.

5.2 It is not in dispute that the nasal bone of P.W.I was fractured which imply the injury was a grievous injury, and this Court does not find anything to disbelieve the prosecution-s version that the appellant had assaulted P.W.1.

6. This Court necessarily have to confirm the judgment of the trial Court convicting the appellant for offence under Sections 294(b), 326 and 506(ii) IPC. Turning to sentence part, this Court finds the trial Court has imposed a sentence of five years simple imprisonment on the appellant with a fine of Rs.5,000/-. Given the nature of injury and given the fact that there was no previous enmity, this Court finds that the sentence slapped on the appellant by the trial Court is far excessive and disproportionate to the nature of the offence And this has to be necessarily reduced.

7. In conclusion, this appeal is partially allowed. This Court confirms the judgment of the trial Court convicting the appellant only for the offence under Sec.294(b) and acquits him for all the offences under Section 3(l)(r) & 3(1) (s) of SC/ST (Prevention of Atrocities) Amendment Act, 2015. ...”

9. Still aggrieved, the appellant-convict, pleading his innocence, is before us. Pertinently, neither the State nor the complainant have filed any appeal challenging the acquittal of the appellant under the provisions of the SC/ST Act 2015.

OUR VIEW

10. We have heard learned counsels for the parties, and also Mr. Shailesh Madiyal, learned senior counsel, appearing as *amicus curiae* appointed by us and perused the material placed on record. The issue that arises for our consideration

is whether the conviction of the appellant under Sections 294(b), 326 and 506(ii) of IPC can be sustained in law.

11. We would first examine whether the offence punishable under Section 294(b) IPC is made out against the appellant or not. Section 294 IPC reads as follows:

“294. Obscene acts and songs.—Whoever, to the annoyance of others,
(a) does any obscene act in any public place, or
(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,
shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.”

(emphasis supplied)

A plain reading of this Section shows that in order to secure a conviction under Section 294 IPC, the prosecution is required to prove two essential ingredients. *First*, the offender has done an *obscene* act in a public place or has sung, recited, or uttered any *obscene* word, ballad or song in or near any public place. *Secondly*, such an act or utterance has caused annoyance to others.

12. Pertinently, Section 294 IPC uses the word “*obscene*” which is not defined under IPC. This Court has, however, on several occasions, while interpreting Section 292 IPC, explained the meaning and the tests to determine ‘*what is obscene*’. In the context of Section 292 IPC, it has been held that a material or object can be said to be *obscene* only when, if taken as a whole, it: **(i)** is lascivious; **(ii)** appeals to prurient interests of people; and **(iii)** has a tendency to deprave and corrupt persons who are likely to see, hear or read it. Here, we may refer to few such judicial pronouncements:

12.1. A Constitution Bench of this Court, in ***Ranjit D. Udeshi v. State of Maharashtra***⁴, explained that obscenity is something which can deprave and corrupt the susceptible minds:

“14. The Indian Penal Code borrowed the word from the English Statute. As the word “obscene” has been interpreted by English Courts something may be said of that interpretation first. ... The section of the English Act is long (they were so in those days), but it used the word “obscene” and provided for search, seizure and destruction of obscene books etc. and made their sale, possession for sale, distribution etc. a misdemeanour. The section may thus be regarded as substantially in *pari materia* with Section 292 of the Indian Penal Code in spite of some differences in language. In *Hicklin case* the Queen's Bench was called upon to consider a pamphlet, the nature of which can be gathered from the title and the colophon ... the latter half of the pamphlet according to the report was “grossly obscene, as relating to impure and filthy acts, words or ideas”. Cockburn, C.J. laid down the test of obscenity in these words:

“... I think the test of obscenity is this, whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall ... it is quite certain that it would suggest to the minds of the young of either sex, or even to persons of more advanced years, thoughts of a most impure and libidinous character.”

15. This test has been uniformly applied in India.

16. The important question is whether this test of obscenity squares with the freedom of speech and expression guaranteed under our Constitution, or it needs to be modified and, if so, in what respects. ... The Indian Penal Code does not define the word “obscene” and this delicate task of how to distinguish between that which is artistic and that which is obscene has to be performed by courts, and in the last resort by us. The test which we evolve must obviously be of a general character but it must admit of a just application from case to case by indicating a line of demarcation not necessarily sharp but sufficiently distinct to distinguish between that which is obscene and that which is not. None has so far attempted a definition of obscenity because the meaning can be laid bare without attempting a definition by describing what must be looked for. It may, however, be said at once that treating with sex and nudity in art and literature cannot be regarded as evidence of obscenity without something more. It is not necessary that the angels and saints of Michael Angelo should be made to wear breeches before they can be viewed. If the rigid test of treating with sex as the minimum ingredient were

⁴ 1964 SCC OnLine SC 52.

accepted hardly any writer of fiction today would escape the fate Lawrence had in his days. Half the book-shop would close and the other half would deal in nothing but moral and religious books which Lord Campbell boasted was the effect of his Act.

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21. The Court must, therefore, apply itself to consider each work at a time. ... An overall view of the obscene matter in the setting of the whole work would, of course, be necessary, but the obscene matter must be considered by itself and separately to find out whether it is so gross and its obscenity so decided that it is likely to deprave and corrupt those whose minds are open to influences of this sort and into whose hands the book is likely to fall. In this connection the interests of our contemporary society and particularly the influence of the book etc. on it must not be overlooked... In other words, treating with sex in a manner offensive to public decency and morality (and these are the words of our Fundamental Law), judged of by our National standards and considered likely to pander to lascivious prurient or sexually precocious minds, must determine the result. We need not attempt to bowdlerize all literature and thus rob speech and expression of freedom. A balance should be maintained between freedom of speech and expression and public decency and morality but when the latter is substantially transgressed the former must give way.

22. ... In our opinion, the test to adopt in our country (regard being had to our community mores) is that obscenity without a preponderating social purpose or profit cannot have the constitutional protection of free speech and expression and obscenity is treating with sex in a manner appealing to the carnal side of human nature, or having that tendency. Such a treating with sex is offensive to modesty and decency but the extent of such appeal in a particular book etc. are matters for consideration in each individual case."

(emphasis supplied)

This case was followed by a three-Judge Bench of this Court in ***Chandrakant Kalyandas Kakodkar v. State of Maharashtra***⁵, wherein it was held that the concept of *obscenity* differs from country to country, depending on the standards of morality of contemporary society. We may add, *inter alia*, place, customs, tradition and social background would also matter.

⁵ (1969) 2 SCC 687.

12.2. In *Aveek Sarkar v. State of W.B.*⁶, this Court adopted the community standard test to determine ‘*what is obscenity*’ and held as under:

“Community standard test

23. We are also of the view that *Hicklin test* [*R. v. Hicklin*, (1868) LR 3 QB 360] is not the correct test to be applied to determine “what is obscenity”. Section 292 of the Penal Code, of course, uses the expression “lascivious and prurient interests” or its effect. Later, it has also been indicated in the said section of the applicability of the effect and the necessity of taking the items as a whole and on that foundation where such items would tend to deprave and corrupt persons who are likely, having regard to all the relevant circumstances, to read, see or hear the matter contained or embodied in it. We have, therefore, to apply the “community standard test” rather than the “Hicklin test” [*R. v. Hicklin*, (1868) LR 3 QB 360] to determine what is “obscenity”. A bare reading of sub-section (1) of Section 292, makes clear that a picture or article shall be deemed to be obscene

(i) if it is lascivious;

(ii) it appeals to the prurient interest; and

(iii) it tends to deprave and corrupt persons who are likely to read, see or hear the matter, alleged to be obscene.

Once the matter is found to be obscene, the question may arise as to whether the impugned matter falls within any of the exceptions contained in the section. A picture of a nude/semi-nude woman, as such, cannot per se be called obscene unless it has the tendency to arouse the feeling of or revealing an overt sexual desire. The picture should be suggestive of deprave mind and designed to excite sexual passion in persons who are likely to see it, which will depend on the particular posture and the background in which the nude/semi-nude woman is depicted. Only those sex-related materials which have a tendency of “exciting lustful thoughts” can be held to be obscene, but the obscenity has to be judged from the point of view of an average person, by applying contemporary community standards.”

(emphasis supplied)

13. For adjudication of the present case, we may now consider whether the words uttered by the appellant fall within the ambit of Section 294(b) IPC. To answer this question, it is necessary to draw a distinction between the use of

⁶ (2014) 4 SCC 257.

“*obscene*” and “*abusive*” or “*vulgar*” words. Let’s be clear, legally, obscenity is not synonymous with “*vulgarity*”, “*abuse*” or “*profanity*”. Use of mere swear words, profanities and vulgar expletives, however distasteful or uncivil they may be, cannot be equated with obscenity.

14. The test to determine whether the words complained of are *obscene* or not is to see whether the words are lascivious, appeal to prurient interests and have the tendency to deprave and corrupt the impressionable minds. Further, it must also be shown that the use of such words has caused annoyance to others. Unless presence of essential ingredients is established, the offence of *obscenity* cannot be said to be made out.

15. Words which are merely vulgar or abusive may evoke a feeling of disgust, revulsion or shock, but that by itself does not make them obscene in law. It is for this reason that this Court, through various judicial pronouncements, has held that the use of abusive, vulgar or profane language does not necessarily constitute obscenity.

15.1. This Court, in *Samaresh Bose v. Amal Mitra*⁷, while considering a Bengali novel, held that the use of slang, unconventional words or vulgar language may create a feeling of disgust or revulsion, but that does not necessarily amount to obscenity. Drawing a distinction between “*obscenity*” and “*vulgarity*”, this Court observed that:

“**29.** In England, as we have earlier noticed, the decision on the question of obscenity rests with the jury who on the basis of the summing up of the legal principles governing such action by the learned Judge decides whether any particular novel, story or writing is obscene or not. In India, however, the responsibility of the decision rests essentially on the court. ... The court must take an overall view of the matter complained of as obscene in the

⁷ (1985) 4 SCC 289.

setting of the whole work, but the matter charged as obscene must also be considered by itself and separately to find out whether it is so gross and its obscenity so pronounced that it is likely to deprave and corrupt those whose minds are open to influence of this sort and into whose hands the book is likely to fall. ... The concept of obscenity is moulded to a very great extent by the social outlook of the people who are generally expected to read the book. It is beyond dispute that the concept of obscenity usually differs from country to country depending on the standards of morality of contemporary society in different countries. In our opinion, in judging the question of obscenity, the Judge in the first place should try to place himself in the position of the author and from the viewpoint of the author the Judge should try to understand what is it that the author seeks to convey and whether what the author conveys has any literary and artistic value. The Judge should thereafter place himself in the position of a reader of every age group in whose hands the book is likely to fall and should try to appreciate what kind of possible influence the book is likely to have in the minds of the readers. A Judge should thereafter apply his judicial mind dispassionately to decide whether the book in question can be said to be obscene within the meaning of Section 292 IPC by an objective assessment of the book as a whole and also of the passages complained of as obscene separately. ...

...

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...

35. ... This book is read by teenagers, young boys, adolescents, grown-up young men and elderly people. We are not satisfied on reading the book that it could be considered to be obscene. Reference to kissing, description of the body and the figures of the female characters in the book and suggestions of acts of sex by themselves may not have the effect of depraving, debasing and encouraging the readers of any age to lasciviousness and the novel on these counts, may not be considered to be obscene. It is true that slang and various unconventional words have been used in the book. Though there is no description of any overt act of sex, there can be no doubt that there are suggestions of sex acts and that a great deal of emphasis on the aspect of sex in the lives of persons in various spheres of society and amongst various classes of people, is to be found in the novel. Because of the language used, the episodes in relation to sex life narrated in the novel, appear vulgar and may create a feeling of disgust and revulsion. The mere fact that the various affairs and episodes with emphasis on sex have been narrated in slang and vulgar language may shock a reader who may feel disgusted by the book does not resolve the question of obscenity. ... The observations made by them and recorded earlier go to indicate that in their thinking there has been a kind of confusion between vulgarity and obscenity. A vulgar writing is not necessarily obscene. Vulgarity arouses a feeling of disgust and revulsion and also boredom but does not

have the effect of depraving, debasing and corrupting the morals of any reader of the novel, whereas obscenity has the tendency to deprave and corrupt those whose minds are open to such immoral influences. ... On a very anxious consideration and after carefully applying our judicial mind in making an objective assessment of the novel we do not think that it can be said with any assurance that the novel is obscene merely because slang and unconventional words have been used in the book in which there have been emphasis on sex and description of female bodies and there are the narrations of feelings, thoughts and actions in vulgar language. Some portions of the book may appear to be vulgar and readers of cultured and refined taste may feel shocked and disgusted. Equally in some portions, the words used and description given may not appear to be in proper taste. In some places there may have been an exhibition of bad taste leaving it to the readers of experience and maturity to draw the necessary inference but certainly not sufficient to bring home to the adolescents any suggestion which is depraving or lascivious. ... ”

(emphasis supplied)

[See also: *S. Khushboo v. Kanniammal*⁸]

15.2. This Court in *Madhanagopal v. Lalitha*⁹ held that in order to constitute an offence under Section 294(b) IPC, the words uttered must contain some lascivious element capable of arousing sexual thoughts or feelings and must further be shown to have caused annoyance to others.

It was observed that:

“7. It is to be noted that the test of obscenity under Section 294(b)IPC is whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences. The following passage from the judgment authored by K.K. Mathew, J. (as his Lordship then was) reported in P.T. Chacko v. Nainan Chacko [P.T. Chacko v. Nainan Chacko, 1967 SCC OnLine Ker 125 : 1967 KLT 799] explains as follows : (SCC OnLine Ker paras 5-6)

“5. The only point argued was that the 1st accused has not committed an offence punishable under Section 294(b)IPC, by uttering the words above-mentioned. The courts below have held that the words uttered were obscene and the utterance caused annoyance to

⁸ (2010) 5 SCC 600.

⁹ (2022) 17 SCC 818.

the public. I am not inclined to take this view. In *R. v. Hicklin* [*R. v. Hicklin*, (1868) LR 3 QB 360], QB at p. 371 Cockburn, C.J. Laid down the test of “obscenity” in these words : (QB p. 371) ‘... the test of obscenity is this, whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences....’”

(emphasis supplied)

[See also: *Om Prakash Ambadkar v. State of Maharashtra*¹⁰]

15.3. In *Apoorva Arora v. State (NCT of Delhi)*¹¹, this Court, while referring to Section 292 IPC and Section 67 of the Information Technology Act, 2000, observed:

“41. ... It is well established from the precedents cited that vulgarity and profanities do not per se amount to obscenity. [*Samaresh Bose v. Amal Mitra*, (1985) 4 SCC 289, para 35 : 1985 SCC (Cri) 523 : 1985 INSC 205; *Bobby Art International v. Om Pal Singh Hoon*, (1996) 4 SCC 1, para 29 : 1996 INSC 595; *N.S. Madhanagopal v. K. Lalitha*, (2022) 17 SCC 818 : 2022 SCC OnLine SC 2030 : 2022 INSC 1323.] While a person may find vulgar and expletive-filled language to be distasteful, unpalatable, uncivil, and improper, that by itself is not sufficient to be “obscene”. Obscenity relates to material that arouses sexual and lustful thoughts, which is not at all the effect of the abusive language or profanities that have been employed in the episode. Rather, such language may evoke disgust, revulsion, or shock. [*Samaresh Bose case*, (1985) 4 SCC 289, para 35 : 1985 SCC (Cri) 523 : 1985 INSC 205] ...

43. It is evident from the above passages that the High Court has taken the meaning of the language in its literal sense, outside the context in which such expletives have been spoken. While the literal meaning of the terms used may be sexual in nature and they may refer to sexual acts, their usage does not arouse sexual feelings or lust in any

¹⁰ (2026) 2 SCC 622.

¹¹ (2024) 6 SCC 181.

viewer of ordinary prudence and common sense. Rather, the common usage of these words is reflective of emotions of anger, rage, frustration, grief, or perhaps excitement. By taking the literal meaning of these words, the High Court failed to consider the specific material (profane language) in the context of the larger web series and by the standard of an “ordinary man of common sense and prudence”. When we notice the use of such language in the context of the plot and theme of the web series, which is a light-hearted show on the college lives of young students, it is clear that the use of these terms is not related to sex and does not have any sexual connotation. Neither did the creator of the web series intend for the language to be taken in its literal sense nor is that the impact on a reasonable viewer who will watch the material. Therefore, there is a clear error in the legal approach adopted by the High Court in analysing and examining the material to determine obscenity.”

(emphasis supplied)

[See also: *Sivakumar v. State*¹²]

16. In the present case, during altercation, the appellant allegedly uttered that: *“Hey Motherfucker! You son of a whore! Are you coming in support of your elder sister's son? Just fuck off, you ‘Kurutha’ Fucker’...”*. It is this which is sought to be invoked under Section 294(b) of the IPC. Going by the version of PW-1 himself, the words and verbal slang used by the appellant were, at best, abusive or vulgar in nature. The Collins English Dictionary defines the word “*abusive*” as a language which ‘*is extremely rude and insulting*’¹³. Whereas the word ‘vulgar’ is defined by the Cambridge Dictionary as “*rude and likely to upset or anger people, especially by referring to sex and the body in an unpleasant way*”¹⁴. These definitions clearly show that words may be insulting, offensive or unpleasant without necessarily being *obscene* in law.

¹² 2026 SCC OnLine SC 529.

¹³ <https://www.collinsdictionary.com/dictionary/english/abusive>.

¹⁴ <https://dictionary.cambridge.org/dictionary/english/vulgar>.

17. For an utterance to be considered *obscene*, it must be shown that it was lascivious, appealed to prurient interests and had the tendency to deprave and corrupt the minds of those who are exposed to it. Tested on this anvil, even if all the allegations levelled in the complaint are taken at their face value and accepted to be true in entirety, the same cannot be held to be *obscene*. Such words, howsoever abusive, unpalatable or uncivil, do not satisfy the requirement of Section 294(b) IPC for there being nothing on record to show that they had any one or all three elements referred to hereinabove. Further, it is nobody's case that use of such words caused annoyance to others in a public place, which is a mandatory ingredient of the Section, much less to the complainant. In absence thereof, we find that the offence under Section 294(b) IPC is not made out.

18. Furthermore, we find it equally difficult to sustain the conviction under Section 506 (ii) IPC. For an offence of criminal intimidation to be made out under Section 506 IPC, it must be shown that there was an act of: **(1)** Threatening a person with any injury; (i) to his person, reputation or property; or (ii) to the person, or reputation of anyone in whom that person is interested and **(2)** Such threat was intentional; (i) to cause alarm to that person; or (ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or (iii) to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat. [See: *Naresh Aneja v. State of U.P.*¹⁵]

19. In the present case, the prosecution seeks to establish the charge of criminal intimidation primarily on the basis of the statement of PW-1 contained in the FIR, which reads as: "... *Subramaniam intimidated me waving the billhook at me saying 'You had escaped this day. I will not rest until I hack you' and flung the*

¹⁵ (2025) 2 SCC 604.

billhook right there and left the place". The same position was reiterated by PW-3 and PW-4 in their testimonies. However, in our considered view, even if the aforesaid allegation is accepted in its entirety, the charge under Section 506(ii) IPC is not borne out. Mere use of threatening words during the course of an altercation, without the proof that it was intended to cause alarm to the complainant or to compel him to do or omit to do any act, would not be sufficient to bring in the application of this provision. Apart from the bald assertion referred to above, there is nothing on record to indicate that the appellant intended to cause alarm to PW-1 so as to criminally intimidate him. Thus, we set aside the conviction of the appellant under Section 506(ii) IPC.

20. We shall now consider the conviction of the appellant under Section 326 IPC. Section 326 IPC deals with the offence of voluntarily causing grievous hurt by dangerous weapons or means. The essential ingredients required to attract the said provision are: *(i)* voluntarily causing hurt; *(ii)* the hurt caused must be grievous in nature; and *(iii)* such grievous hurt must have been caused by dangerous weapons or means. [See: *Mathai v. State of Kerala*¹⁶] Grievous Hurt is defined under Section 320 IPC as follows:

"320. Grievous hurt.—The following kinds of hurt only are designated as "grievous":—

...

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits."

(emphasis supplied)

21. In the present case, PW-1 deposed that the appellant had assaulted him with a billhook (M.O.1) on his forehead, nose and left thumb as a result of which he sustained multiple injuries. PW-3 and PW-4 also testified to the same effect. PW-

¹⁶ (2005) 3 SCC 260.

1 was thereafter taken to the hospital, where he was examined by PW-2, Dr. R. Dhinakar, Senior Civil Surgeon, who noticed the following injuries:

- “1. A laceration on the forehead in the dimensions of 2 x 0.5x 1cm
2. A laceration on the nose in the dimensions of 2 x 1 x 1.5cm.
3. Lots of small lacerations in the right palm middle finger, forefinger and thumb”

Subsequently, upon CT scan, it was found that the nasal bone of PW-1 was fractured. On the basis thereof, PW-2 opined that the injuries sustained by PW-1 were grievous in nature and the possibility of such injuries being caused by a billhook (M.O.1) could not be ruled out. The medical evidence, therefore, fully corroborates the testimony of PW-1, PW-3 and PW-4. The appellant, *per contra*, has contended that Section 326 IPC would not be attracted because the injuries sustained were not in the form of incised wounds. We are, however, unable to agree with the said contention. The evidence on record clearly establishes that PW-1 had a nasal bone fracture, which injury squarely falls under the definition of ‘*grievous hurt*’ as laid under Section 320 IPC. The said injury was further proved to have been caused by using a billhook, which is undoubtedly a dangerous weapon. Therefore, upon a careful examination of the evidence on record, we find no reason to interfere with the conviction of the appellant under Section 326 IPC and accordingly affirm the same.

22. However, considering the fact present incident occurred due to animosity between the appellant and complainant’s family over a land dispute, and keeping in view the age of the appellant, who is about 70 years old, and his health condition, we are inclined to modify the sentence to be served by the appellant till the rising of the Court on a day as maybe specified by the concerned Court. He shall also be liable to pay a fine to the tune Rs.50,000/-. The same shall be done within a period of two months.

23. The appeal is allowed accordingly. Pending application(s), if any, shall stand disposed of.

.....**J.**
(SANJAY KAROL)

.....**J.**
(VIPUL M. PANCHOLI)

NEW DELHI;
17 JULY 2026