

TEAM CODE:

SURANA & SURANA NATIONAL TRIAL ADVOCACY
MOOT COURT COMPETITION, 2018

NEW LAW COLLEGE, BHARATI VIDYAPEETH UNIVERSITY, PUNE

Before

THE COURT OF SESSION, PUNNAI

C.C. NO. 100 OF 2018

IN THE MATTER OF

STATE OF SARDAM

PROSECUTION

v.

DEVEN & JEYANT

DEFENCE

FOR OFFENCES RELATING TO

HUMAN BODY & CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

UNDER §§ 307, 354D, 325, 355, 504 & 509 OF THE BARAT PENAL CODE, 1860

WRITTEN SUBMISSIONS ON BEHALF OF THE PROSECUTION

—STATE OF SARDAM—

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TABLE OF ABBREVIATIONS

¶/¶¶	Paragraph/Paragraphs
§/§§	Section/Sections
&	And
AIR	All India Reporter
BPC	Barat Penal Code
CrLJ	Criminal Law Journal
CrPC	Code of Criminal Procedure
HC	High Court
Hon`ble	Honourable
JCC	Journal of Criminal Cases
KLT	Kerala Law Times
LR	Law Reporter
MPWN	Madhya Pradesh Weekly Notes
No.	Number
Pg.	Page
PLR	Punjab Law Reporter
Re.	Reference
SC	Supreme Court
SCC	Supreme Court Cases
SCR	Supreme Court Reporter
v.	Versus

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STATEMENT OF JURISDICTION

The PROSECUTION (State of Sardam) humbly submits the complaint, concerning offences relating to Human Body & Criminal Intimidation, Insult and Annoyance, to the Territorial Jurisdiction of the Hon'ble Court of Session at Punnai, pursuant to § 177 read with § 209 of the Code of Criminal Procedure, 1973.

Thereby, the PROSECUTION submits this memorial which sets forth the facts & the laws on which the arguments are based.

STATEMENT OF FACTS

BACKGROUND

Union of Barat, a developing nation, is infamous for increased crimes in respect of jilted lovers and the way in which the issues are communalised. Deven and Pooja studied in the same college in Vanjiyur, Sardam. Both developed friendship and later an affectionate relationship by travelling in the same bus daily but had a caste disparity. Jeyant, a distant relative of Pooja, who used to study in adjacent college, was interested in her and used to warn her about her friendship with Deven. Three of them moved to Punnai after getting employment there. Gradually, communication between Deven and Pooja reduced. Pooja aspired of becoming an air hostess and this idea was endorsed by her friends, particularly Kavita, who also made fun of Pooja's choice of male friends, Deven and Jeyant. As a result, Pooja severed her relations with Deven. She blocked his number but Deven didn't stop calling her and started standing outside her office.

On June 9th, 2017, Pooja and Deven met in a restaurant. However, after listening to her plans, Deven started dissuading her. In a heated conversation, Deven abused her and commented on her character and clothes. As a result, Pooja slapped him. Later, Deven went back home drunk and called Pooja. Next day, Pooja agreed to meet him.

OCCURRENCE

On June 12th, 2017, Deven met Pooja at the metro station while Jeyant and Kavita stood at a distance. He took out an apple and a knife. Seeing the knife, Jeyant and Kavita panicked. Jeyant threw a stone at Deven which injured him. On seeing this, the public approached Deven. Deven then held the knife against Pooja's neck. Jeyant threw another stone, Deven tried to run pulling Pooja along and the knife slashed her neck and she fell unconscious. Meanwhile, the public started beating and kicking Deven who also fell unconscious. The police arrived and took over the situation.

STATEMENT OF CHARGES

CHARGE I:

Deven (“A1”) has been charged with §§ 307, 354D and 509 of the Barat Penal Code, 1860 for the crime of attempt to murder; stalking; and word, gesture or act intended to insult the modesty of a woman, respectively.

CHARGE II:

Jeyant (“A2”) has been charged with §§ 325, 355 and 504 of the Barat Penal Code, 1860 for the crime of voluntarily causing grievous hurt; assault or criminal force with intent to dishonour a person, otherwise than on grave provocation; and intentionally insult to provoke breach of peace, respectively.

SUMMARY OF ARGUMENTS

**ISSUE I: DEVEN (“A1”) IS LIABLE UNDER §§ 307, 354D AND 509 OF THE BARAT
PENAL CODE, 1860.**

Charge I: § 307 BPC: It is most humbly submitted that the accused is liable for offence under § 307, BPC. He had an intention as well as the knowledge to kill the victim and he acted in furtherance of that intention.

Charge II: § 354D BPC: It is humbly submitted that the accused is liable for an offence as under § 354D BPC. He continued to approach the complainant despite of clear indication of disinterest by her.

Charge III: § 509 BPC: It is humbly submitted that the accused abused the prosecutrix and commented on her character. Hence, he insulted and outraged her modesty and is liable for an offence under § 509 BPC.

**ISSUE II: JEYANT (“A2”) IS LIABLE UNDER §§ 325, 355 AND 504 OF THE BARAT
PENAL CODE, 1860.**

Charge I: § 325 BPC: It is most humbly submitted that the accused is liable for an offence under § 325 BPC as he hurt the victim grievously and the attack was intentional which endangered the life of the victim.

Charge II: § 355 BPC: It is submitted that the accused is liable under § 355 BPC as he used criminal force against the victim and while intending to insult him by creating an implication of him being a murderer.

Charge III: § 504 BPC: It is submitted that the accused intentionally insulted the victim which led him to break the public peace and hence, he is liable under § 504 BPC.

ARGUMENTS ADVANCED**ISSUE I: DEVEN (“A1”) IS LIABLE UNDER §§ 307, 354D AND 509 OF THE BARAT PENAL CODE, 1860.**

It is most humbly submitted that Deven (“A1”) is liable for attempt to murder under § 307; stalking under §354D; and Word, gesture or act intended to insult the modesty of a woman under § 509 of the Barat Penal Code, 1860 (“BPC”).

Charge I: Attempt to murder under § 307 BPC:

1.1.To constitute an offence under § 307 BPC, two ingredients must be established:-

- a) an intention of or knowledge relating to commission of murder; and
- b) the doing of an act towards it.¹

A. Intention or Knowledge:

1.2.Intention is a subjective element which is not *ex-facie* present in any conduct. Every sane person must be presumed to intend the result that his action normally produces.² An act is intentional insofar it exists in idea before it exists in fact; knowledge is awareness of the consequences of the act.³

1.3.§ 307 BPC is constituted by the concurrence of *mens rea* followed by an *actus reus*. Intent *per se* is not an attempt. It implies purpose and attempt is an actual effort made in execution of the purpose. This blameworthy condition of mind may be gathered from direct or circumstantial evidence.

¹ Parsuram Pandey & Ors. v. State of Bihar, (2004) 13 SCC 18; Prakash Chandra Yadav v. State of Bihar (2007) 13 SCC 134.

² (1951) 3 Pepsu LR 635.

³ Ratanlal & Dhirajlal, The Indian Penal Code 1860, Pg. 1270, (32nd Ed. LexisNexis Butterworths) (2010).

1.4. In the present case, the charge of attempt to murder against the accused will be established by a chain of events. The first instance of developing his intention towards the commission of the crime is Deven being dejected with his reduced meetings with Pooja and her ignoring him; thereafter he being humiliated by getting slapped; further his sub-conscious getting influenced by the lyrics of the 'Avada' song.

1.5. On June 10, 2017, Pooja agreed to meet Deven so that she could end all the ties with him and move on in her life. However, she felt unsafe in meeting Deven alone. Hence she asked Jeyant and Kavita to accompany her.

1.6. On June 12, 2017, they met at Indira Nagar metro station while Jeyant and Kavita stood at a distance. Deven took out a knife and an apple from his bag and moved the knife close to Pooja's face. This created a reasonable apprehension of danger to Pooja's life in the minds of Kavita and Jeyant which was confirmed when Deven held the knife against her neck and slashed it. Her shoulder was also wounded indicating the fact that the cut at her neck was very severe.⁴ From the whole incident, *malafide* intention of Deven is inferred.

B. Act towards the intention:

1.7. The second ingredient of § 307 BPC is the actual act towards the commission of murder. It has been observed by the Hon'ble Orissa High Court, "An attempt, in order to be criminal, need not be the penultimate act. It is sufficient in law if there is present an intent coupled with some overt act in execution thereof. The intention of an assailant may be gathered from the nature of weapon used and the parts of body where the injuries were inflicted. Section 307 would apply even if no hurt is caused."⁵

⁴ Moot Problem, ¶ 17-20.

⁵ T. Prasanta Kumar Patra v. State of Orissa, (1984) 2 Crimes 431 (Ori).

1.8. Applying the above observation to the present case, it can be inferred that *actus reus* came into force when Deven held the knife against Pooja's neck and further when he uttered that he does not know what he would do if anyone came forward.

1.9. Nature of weapon and part of body: It has been held that the intention necessary to establish an offence under § 307 of BPC is to be gathered from the nature of the weapon used and the parts of the body where the injuries are inflicted.⁶ Deven had a pen knife which cut Pooja's neck. It was held in *Salim v. State*⁷ that a knife can be deadly. The same has also been held by the Hon'ble Apex Court.⁸ The Delhi HC also observed that any knife irrespective of its size will be a deadly weapon.⁹ This view has been reiterated in *Balan*¹⁰ that if injury is in the ordinary course of nature then too it may be attempt to murder, no matter whether it was only a penknife which was used.

1.10. The next contention is that the neck is a vital part of the body. Division Bench of Karnataka High Court held that neck is a vital part of the body.¹¹ Hence, Deven's intentions can be gathered from the nature of weapon (pen knife), part of the body injured and the severity of the injury. § 307 uses the words 'intention' or 'knowledge'. Knowledge is awareness of the results of acts done by a sane person. When Deven held the knife against Pooja's neck, it was obvious for any prudent person to believe that if the knife hurts the throat, it can be fatal and death shall result in ordinary course of events.

1.11. The Supreme Court has observed that "Where in a scuffle between accused and the victim as per medical report none of vital organs of victim were injured, it would be

⁶ Kumar Majhi v. State of Orissa, 1981 CrLJ 1787 (Cut).

⁷ Salim v. State (Delhi Administration), 1987 (3) Crimes 794.

⁸ Phool Kumar v. Delhi Administration, 1975 SCR (3) 917.

⁹ Rajendra Yadav v. State of NCT of Delhi, MANU/DE/0615/2013.

¹⁰ Balan, In re, 1974 CrLJ 857.

¹¹ State v. Raju s/o Hanumappa Reddy & Anr., 2004 CrLJ 980.

accepted that the accused had knowledge that by inflicting injuries he would be causing the death of the victim”.¹² Similar decision of another Court lays down that an accused when gives knife injury on the victim and the medical evidence to the effect is that the incised wound would have been fatal had not the victim been given timely medical help the offence is an attempt to murder punishable under § 307 BPC.¹³ In the present case, injury was on neck. The Jugular Vein in the neck is a sensitive vein and if it is cut, death is the result due to excessive blood loss if timely medical help is not given.

1.12. Hence, on plain reading of § 307, it is submitted that even if there is no intention but enough knowledge of causing death, offence can be established as the Section uses the word “or” and not “and”. Therefore, on the basis of above contentions and judgements cited, Deven, i.e., A1, is liable under § 307 BPC as both the ingredients are satisfied.

Charge II: Stalking under § 354D BPC:

1.13. According to § 354D BPC, Any man who-

- a) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or
- b) monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking.

1.14. Under the offence of stalking, initial burden lies on the prosecution to prove their case. When the prosecution establishes that beyond reasonable doubt, the burden shifts on the accused to bring the case under the *Proviso* of § 354D (1).

¹² Tukaram Gandu Naik v. State of Maharashtra, 1994 CrLJ 224 (SC).

¹³ Tamma v. State of Maharashtra, (1988) 3 Crimes 120.

1.15. To constitute the offence of stalking, following ingredients are required:

- a) Following a woman and contacting her or any such attempt,
- b) To foster personal interaction repeatedly
- c) Despite clear indication of disinterest by such woman.

A. Ingredients:

1.16. First ingredient: The first ingredient required to be proved is ‘following a woman and contacting her’ which also includes any attempt to do so. As per Aiyar’s, ‘follow’ means ‘to go or come after; to move behind in the same path or direction’¹⁴. In the present case, Pooja and Deven moved to Punnai. After a year, Pooja aspired of becoming an air-hostess and decided to sever ties with Deven. She ignored his calls and changed her number, thereby showing a clear indication of disinterest. She blocked Deven’s number but still there were always notifications from him. However, he did not give up and called her from different numbers. His efforts to meet Pooja reached the zenith when he started standing outside her office on regular basis. This annoyed and embarrassed her.

1.17. Second & Third ingredients: On June 9, 2017, when she revealed her plans, Deven abused her and commented on her short clothes and character. This made Pooja angry and she slapped him and told him explicitly not to contact her anymore. She reminded him that she had told him not to pester her with messages earlier too. But, even after this clear indication, he called her multiple times and when she switched off the mobile, he texted her. These facts clearly establish the second and third ingredients of § 354D BPC.

1.18. Reference is given to *State v. Akbar Malik*¹⁵ in which it was held that the words ‘interaction’ and ‘disinterest’ used in § 354D BPC need to be given wide amplitude.

¹⁴ P.R. Aiyar, Concise Law Dictionary, Pg 513 (5th Ed., LexisNexis) (2014).

¹⁵ State v. Akbar Malik, S.No. 11089/16 (29.04.2017).

This interaction maybe non-verbal as the Act nowhere says that interaction has to be verbal; similarly disinterest may be non-verbal. The moment prosecutrix acts negatively through her actions which may be non verbal, disinterest may safely be inferred.

1.19. In this case, disinterest is deduced from her refusal to take Deven's calls, blocking his number, changing her number and finally from her clear statement in the restaurant. Repeated attempts, on the other hand, can be seen when Deven called from different numbers, kept on messaging, stood outside her office and so on.

B. Object of § 354 BPC:

1.20. Offence of stalking was added to Barat Penal Code in the year 2013 by way of Criminal Amendment Act, 2013 on the recommendation of Justice J.S. Verma Committee. The Committee Report stated, "Rape, sexual assault, eve-teasing and stalking are matters of serious concern – not only because of the physical, emotional and psychological trauma which they engender in the victim, but also because these are practices which are being tolerated by a society ostensibly wedded to the rule of law."¹⁶ Despite of the Amendment Act, this crime remains highly unreported and the citizens of this country have been the witnesses of the same. Stalking is a step before sexual harassment. Hence, it is submitted by the prosecution that the accused is guilty of stalking and should be held liable for the same keeping the object of § 354D in consideration.

Charge III: Word or act intended to insult the modesty of a woman under § 509 BPC:

1.21. The ingredients of § 509 have been laid down by the High Court of Calcutta¹⁷ as follows:

¹⁶ Justice J.S. Verma, Report of the Committee on Amendments to Criminal Law, Pg 1 (Jan 23, 2013), at <http://www.prsindia.org/uploads/media/Justice%20verma%20committee/js%20verma%20committe%20report.pdf>.

¹⁷ Sumit Kumar Gupta & Ors. v. State, CRR No. 2947/2011 (13.07.2012).

- a) The accused uttered some words, or made some sounds or gesture or exhibited any object or intruded upon the privacy of a woman;
- b) The accused must have intended that the words so uttered or the sound or gesture so made or the object so exhibited should be heard or seen respectively by the woman;
- c) The accused thereby intended to insult the modesty of the woman.

1.22. Undoubtedly, the prosecution has to establish all the ingredients beyond reasonable doubt; however, the Supreme Court has observed that the culpable intention is the crux of the matter. The reaction of the woman is very relevant, but its absence is not always decisive.¹⁸

A. Meaning of modesty:

1.23. The word 'modesty' has not been defined anywhere in the BPC nor in §§ 354, and 509, BPC. In the Oxford English Dictionary one of the meanings given for the word 'modesty' is 'womanly propriety of behaviour'.¹⁹ What the legislature had in mind when it used the word modesty in Sections 354 and 509 BPC was protection of an attribute which is peculiar to woman, as a virtue which attaches to a female on account of her sex. The two offences were created not only in the interest of the woman concerned, but in the interest of public morality as well. Acts which are outrageous to morality would be outrageous to modesty of women. No particular yardstick of universal application can be made for measuring the amplitude of modesty of a woman.²⁰ The Apex Court recently held that the modesty of a woman is her sex.²¹ From the above observations, it is lucid

¹⁸ Ramkripal v. State of Madhya Pradesh, (2007) 11 SCC 265.

¹⁹ Ratanlal & Dhirajlal, The Indian Penal Code 1860, Pg. 2849 (32nd Ed., LexisNexis Butterworths) (2010).

²⁰ State of Kerala v. Hamsa, (1988) 3 Crimes 161.

²¹ Supra note 18, at Pg. 7.

that modesty is a quality of a woman. It is closely related to decency of a female human being.

B. *Mens rea* is the gravamen:

1.24. Under § 509 BPC, intention to insult the modesty of the woman is sufficient to make out a case as held in *Santha v. State of Kerala*.²² In the present case, the accused insulted the modesty of the prosecutrix in front of people. On June 9, 2017, Deven commented on Pooja's dress, behaviour and her character as well. Also, the accused abused her.²³ This fact establishes the first ingredient and the words uttered by the accused were heard by Pooja, thereby satisfying the second ingredient.

1.25. § 509 BPC includes words, sounds and gestures. It was held that the Section involves various manifestations of the acts of the person who commits the offence. It may include words spoken, making of any comment or gesture or exhibiting any object.²⁴ In the present case, the accused commented on the dress as well as the character of the prosecutrix which clearly outraged and insulted her modesty. Such comment is directly related to her decency and sense of shame. Further, Deven abused Pooja and it was held that to abuse a woman in obscene terms is an offence covered under § 509 BPC.²⁵

1.26. It was observed by the Hon'ble Apex Court, "It is undoubtedly correct that if intention or knowledge is one of the ingredients of any offence, it has got to be proved like other ingredients for convicting a person. But, it is also equally true that those ingredients being states of mind may not be proved by direct evidence and may have to be inferred from the attending circumstances of a given case."²⁶ On the basis of the above

²² *Santha v. State of Kerala*, (2006) 1 KLT 249.

²³ Moot Problem, ¶9.

²⁴ *Sakeer Hussain v. State of Kerala & Ors.*, MANU/KE/1688/2018.

²⁵ *Dadia Ottamchand Motichand & Anr v. Hemkunver Popatlal & The State*, (1961) 2 Guj LR 196.

²⁶ *Rupan Deol Bajaj (Mrs.) & Anr. v. Kanwar Pal Singh Gill & Anr.*, 1996 AIR 309.

observation, the intention of the accused in this case has to be gathered from the surrounding circumstances. Deven was angry about Pooja's plans and considered them to be downright, and thereafter insulted her. Furthermore, woman's reaction is relevant to determine the culpable intention. Pooja felt insulted by the words of accused and she slapped him. Her reaction proves that the accused outraged her modesty. Therefore, all the ingredients of § 509 BPC are fulfilled and the accused is liable under the same.

**ISSUE II: JEYANT ("A2") IS LIABLE UNDER §§ 325, 355 AND 504 OF THE BARAT
PENAL CODE, 1860.**

It is most humbly submitted that Jeyant ("A2") is liable for voluntarily causing grievous hurt under § 325; Assault or criminal force with intent to dishonour a person under §355; and under § 504 of BPC for Intentional insult with intent to provoke breach of peace.

Charge I: Voluntarily causing grievous hurt under § 325 BPC:

2.1. § 320 provides for grievous hurt and § 322 provides for 'voluntarily causing grievous hurt'. To establish an offence under § 325 BPC, it is necessary to establish § 320 and § 322 both.

A. Grievous hurt:

2.2. Hurt is defined as causing bodily pain, disease or infirmity to any person.²⁷ This hurt is grievous when it falls under any of the eight clauses mentioned in § 320 BPC. Grievous hurt is an exaggerated form of hurt and thus attracts more severe punishment. In the present case, multiple injuries have been caused to the victim and various clauses of § 320 BPC are attracted. The injuries caused to the victim are Open cut (3 cm x 1.5 cm) in the

²⁷ The Indian Penal Code 1860, § 319.

vault of skull, causing haemorrhage, Laceration on spleen, Blood injuries on inner side of the stomach & Fracture on the left leg.²⁸

2.3.As per the Hon'ble Supreme Court²⁹, when there is even a partial cut of skull vault, it is a fracture and as such hurt is grievous, and not simple and attracts clause 7 of § 320 BPC. Further, a laceration on the spleen and blood injuries on the inner side of stomach were reported which are very serious in nature. It has been held that injuries like haemorrhage, shock or injuries implicating important structure or organs cause imminent danger to life.³⁰ These injuries attract clause 8 of § 320 BPC, i.e., 'hurt which endangers life'.

2.4.Primary requisite in order to make an offence fall under § 325 BPC is to prove that grievous hurt has been caused with intention and knowledge. The offender used a stone of an adequate size that which in the ordinary course has the potential to endanger one's life. Due to the nature of the spleen injury and repositioning of the bone flap in order to secure rigid fixation, the victim was bound to stay at the hospital for a period of more than 20 days whereby he couldn't continue with his ordinary pursuits of routine life. Moreover, it is settled that hurt on vital parts like head or abdomen which are likely to cause death are considered to be 'hurts endangering life'.³¹ From the above facts, it is clear that grievous hurt is caused, i.e., first essential of § 325 is proved.

2.5.Injury by a stone: In a case, when the accused threw a stone on complainant's body which hit him in head and caused a lacerated wound, the Court held that the throw was without any aim and as such the act would fall under § 325 BPC.³² In another case, when in the spur of the moment, the accused picked up the stone lying nearby and hit it on the

²⁸ Exhibit E (2), at Pg. XXXIX.

²⁹ State of Punjab v. Naib Singh,(1978) 80 PLR 326; Hari Lal v. State of U.P., AIR 1970 SC 1969.

³⁰ Madan Lal v. State of. H.P., (1989) 2 Crimes 373 (HP).

³¹ R.M. Jhala, Jhala & Raju on Medical Jurisprudence, Pg. 288-289 (15th Ed., Eastern Book Co.) (1988).

³² Bhure Singh v. State of M.P., (1989) 2 MPWN 237.

complainant, conviction under § 325 was given.³³ In the present case also, the accused hit the victim by stones, hence, making out a case under § 325 BPC.

B. Intention & Knowledge:

2.6. The second requirement of § 325 is to prove that the offender had the intention as well as the knowledge that by his act he is likely to cause grievous hurt³⁴. Here in the present case, the accused had an aversion towards the victim from long, based upon their mutual liking of a girl. At various instances the accused pointed this through words and gestures. Eventually, on June 12, 2017, when he finally got a chance to strike his revenge, he firstly hid himself at a position whereby the victim could not spot him; thereafter, he intentionally and knowingly picked up a stone, and threw it targeting the most essential part of the human body, that is the head. To prove that the hurt caused was intentional and not an act of defence, reference is made to a case wherein it was held that when the accused inflicts injuries with vengeful motive, he cannot plead self-defence.³⁵

2.7. Further, the intention of the accused can be gathered from the fact that even after the victim was overpowered by him and the public, he kicked and attacked him brutally. These multiple blows which were coming out of revenge and anger injured the spleen and other body parts. Also, it is the rule that knowledge and intention are to be inferred from the acts of a person. Therefore, it can be clearly pointed out that the accused had intention as well as the knowledge, and hence is liable under § 325 BPC.

³³ Moorthy v. State, MANU/TN/9783/2006.

³⁴ Joseph Cheriyan v. State of T.C., AIR 1953 Trav. Co. 129.

³⁵ State of Assam v. Abinash Dutta, 1982 CrLJ 400 (Gau).

Charge II: Assault or criminal force with intent to dishonour otherwise than on grave provocation under § 355 BPC:

2.8. § 355 BPC provides for Assault or criminal force with intent to dishonour a person, otherwise than on grave provocation. The Section has the following ingredients:

- a) Assault or use of criminal force to another person;
- b) Intention to dishonour that person; and,
- c) Such assault should be used otherwise than on grave provocation given by that person.³⁶

A. Use of assault & criminal force:

2.9. In order to prove that the said accused initiated an assault or criminal force against the ill fated victim, a reference has to be made to § 350 and § 351 of the Penal Code. An offence under § 350 is attracted when criminal force is used against a person without his consent in order to cause injury, fear or annoyance to such person. In the present case, the accused, Jeyant, primarily pelted a stone on the victim and, thereafter, proceeded with others to attack him which created an anticipation of fear in the mind of the victim. In that attack, grievous injury was caused to him and the said criminal force was used without the victim's consent. Moreover, § 351 BPC also comes into force as further anticipation of criminal force by the conduct of the accused was caused in victim's mind, when the accused came running towards him shouting "murder, murder...". This also instigated the crowd; as a result of which they also beat him up. Hence, first ingredient is proved.

B. Intention to dishonour & Absence of Provocation:

2.10. The accused used this criminal assault in order to dishonour the victim. Dishonour as per its plain meaning is insulting someone or using any word or gesture that ridicules the

³⁶ Ratanlal & Dhirajlal, The Indian Penal Code 1860, Pg.1981 (32nd Ed., LexisNexis Butterworths) (2013); State v. Vinod Arya, S.No. 1495/2 (23.01.2013).

honour of a person. The accused in the present case, after striking a stone at the victim, shouted publically “murder, murder...” which was enough to derogate the victim’s dignity in the eyes of the others, as a result of which the people present around the incident were enticed to attack the victim and also developed an image of an offender in their minds.

2.11. If such criminal assault is an outcome of grave and sudden provocation, an accused can evade his liability under § 355. In such a case, the provocation must be such as will upset not merely a hasty, hot-tempered and hyper-sensitive person but would upset also a person of ordinary sense and calmness.³⁷ In the instant case, there has been no provocation caused by the victim and the assault was an act done with the will of the accused uninfluenced by anything. Provocation is an act of exciting anger, resentment or irritation.³⁸ Deven by taking out an apple and a knife cannot be perceived to excite any such annoyance. However, Jeyant’s reaction to the same was unusual and therefore, intentional. Hence, all essentials of § 355 BPC are established and the accused is liable under the same.

Charge III: Intentional insult with intent to provoke breach of peace under § 504 BPC:

2.12. To attract the offence under § 504 BPC, following ingredients are to be proved:

- a) intentional insult;
- b) the insult must be such as to give provocation to the person insulted; and
- c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence.³⁹

³⁷ Shyama Charan v. State of U.P., AIR 1969 All 61.

³⁸ P.R. Aiyar, Concise Law Dictionary, Pg 1033 (5th Ed., LexisNexis) (2014).

³⁹ Fiona Shrikhande v. State of Maharashtra, (2013) 14 SCC 33.

A. Intentional insult:

2.13. Insult, as per Aiyar's Dictionary, means gross indignity offered to another whether by act or word.⁴⁰ Intention to insult and further to provoke breach of public peace or commission of an offence is enough to attract § 504 BPC, irrespective of the reaction of complainant.⁴¹ In this case, when the accused uttered the words "Murder, Murder,..." while pointing towards the victim, he was insulted, thereby creating an anticipation in the minds of the people present around that the victim was a delinquent to the society which resulted the surrounding crowd to breach the public tranquillity and attack the ill fated victim. The words uttered were directly an attack to the honour of the victim.

B. Intent to provoke breach of peace or commission of offence:

2.14. Mere abuse unaccompanied by an intention to cause a breach of the peace or knowledge that a breach of the peace is likely to happen does not come within § 504. On the other hand, an insult which under ordinary circumstances would be likely to provoke the person insulted to cause a breach of the peace is within the provisions of this section, although the person insulted may have been reduced to a state of abject terror so as to render improbable that he would commit a breach of the peace.⁴² In this case too, after the utterance by accused, the victim got terrified and it was improbable for him to commit any breach of peace (what accused actually wanted) but he had to act to protect himself.

2.15. This section is intended to deal with persons who are responsible for the breach of peace of the commission of the offences as those who openly abet or incite them⁴³.

⁴⁰ P.R. Aiyar, Concise Law Dictionary, Pg 664 (5th Ed., LexisNexis) (2014).

⁴¹ Mohammad Sabed Ali v. Thuleswar, AIR 1955 Ass 211.

⁴² Silvester Vaz v. Louis Dias, AIR 1930 Bom 120.

⁴³ Allipuram Subbiah v. Brojja Venkata Subbamma, AIR 1942 Mad 672.

2.16. The intention of the accused is further established from the fact that he had an aversion towards the victim from the beginning and was searching for an occasion to insult him. He knew that it was likely from the utterance of “murder, murder...” which will alarm the victim and he would commit some offence.

2.17. The words, ‘murder, murder...’, resulted in a situation wherein the people present around the crime scene believed the victim (Deven) to be the murderer and hence marched towards him. As a result, the victim was panicked, hence establishing the sudden provocation, thereby breaking the public peace by committing an offence under §307 BPC. Further, the accused did not stop and rained blows on the victim. Hence, all ingredients are satisfied and the accused is liable under § 504 BPC.

PRAYER

Wherefore, in the light of the facts stated, arguments advanced and authorities cited, it is most humbly prayed and implored before this Hon'ble Court, that it may be graciously pleased to adjudge, declare and:

- I. Convict** Deven for offence of attempt to murder, stalking and words with intent to outrage modesty of woman under §§ 307, 354D and 509 of the Barat Penal Code, 1860, respectively.

- II. Convict** Jeyant for offence of voluntarily causing grievous hurt, assault or criminal force with intent to dishonour and intentional insult with intent to provoke breach of peace under §§ 325, 355 and 504 of the Barat Penal Code, 1860, respectively.

AND/OR

Pass any other order that it may deem fit in the interest of justice, equity and good conscience.

For this act of kindness, the Prosecution shall duty bound forever pray.

PLACE: Punnai

S/d-

DATED: 7th September, 2018

Public Prosecutor

ANNEXURE-1(A)

FIRST INFORMATION REPORT

(Under Section 154 Cr.PC)

1. **District:** Punnai **Police Station:** Indira Nagar **Year:** 2017
FIR No.: 110/2017 **Date and Time of FIR:** 12/06/2017, 11:30 hrs.

2.

S.No.	Acts	Sections
1.	Barat Penal Code, 1860	307, 354D, 509

3. **(a) Occurrence of Offence:**
Day: Monday **Date From:** 12-06-2017 **Date To:** 12-06-2017
Time Period: 10 AM Morning
Time From: 09:50 hrs **Time To:** 10:15 hrs

(b) Information Received at P.S.

Date: 12-06-2017 **Time:** 11:00 hrs

(c) Daily Diary Reference **Entry No:** 110/2017 **Date and Time:** 11:20 hrs

4. **Type of Information:** Oral

5. **Place of Occurrence:**

(a) Direction and Distance from P.S.: West, 1 km

(b) Address: Indira Nagra, Metro Station, Punnai

(c) In case, outside the limit of P.S., then

Name of P.S.:

District (State):

6. **Complainant/ Informant:**

(a) Name: Prakash, **Age:** 40 years, **R/o:** Inspector, Police Station, Indira Nagar, Punnai.

(b) Nationality: Baratian

7. **Description of accused:**

Name: Deven S/o Perumal **Age:** 25 **DOB:** 1 April 1993 **R/o:** 1, Canal Street, Chirapalli, Vanjiyur, Sardam – 1 **Mobile:** 99555 99555, Ecotel.

8. **Reason for Delay in reporting by complainant/informant:** No Delay

9. **Property Type, Description, Value and State:** NA

10. **Total value of property (in Rs/-):** NA

11. **Unnatural Death Case No/Information from Morgue if any:** Blank

12. Content of First Information Report (FIR):

I am posted as Inspector of Indira Nagar Police Station in Punnai, Today on 12-06-2017 i.e., Monday, the Police Station received a call from the railway staff of Indira Nagar Metro Station, about 2 persons, a girl and a boy being severely wounded, I went to the crime scene immediately, along with the Police Station staff in government vehicle No. SR 01 8059, and informed the local hospital to quickly send an ambulance at the said Metro Station.

After reaching the Metro Station, we were taken to the crime scene by the railway staff, where I saw a boy and a girl lying on the floor. Both of them were unconscious and bleeding when we arrived and they were rushed to the Govt. General Hospital as soon as the Ambulance arrived. As we made the enquiry, we were informed that the victim (Pooja) came to meet the accused (Deven) with her two friends, one male (Jeyant) and one female (Kavita) accompanying her. She and Kavita met him in person and the male Jeyant was standing behind at some distance. In the course of the conversation between the victim i.e., Pooja and the accused i.e., Deven, asked Kavita to leave them alone. Kavita agreed and stood at a distance. The accused took out a knife and pointed it towards the victim. Her friend Jeyant, from a distance threw a stone at the accused in order to defend the victim. The Accused further did not stop and grabbed the girl with his one hand pulling her throat and the other hand pointing the knife at the neck of the victim. Her friend Jeyant shouted "*murder... murder...*" then the crowd charged towards the accused. The accused proceeding with his intention moved his knife against the neck of the girl and slit her throat that also wounded her shoulder. The girl fell unconscious on the ground. The accused tried to evade but was prevented by the crowd and the crowd along with Jeyant started kicking the accused and attacked him brutally. Noticing the disturbance the Railway Staff intervened and alerted the Police Station. This is the report on my return to the police station. Action may be taken.

13. Action taken since the above Information reveals commission of offence(s) u/s as mentioned at Item No. 2**(1) Registered the case and took up the Investigation****(2) Directed (Name of I.O.: Prakash****Rank: Inspector****No:1510100000BJBM786****or****(3) Refused Investigation due to****or****(4) Transferred to P.S.:
on point of jurisdiction.****District: Punnai**

F.I.R. read over to the complainant/ Informant, admitted to be correctly recorded and a copy given to the complainant/ Informant free of cost.

R.O.A.C.

14. **Signature/ Thumb impression of the complainant/ Informant.**

15. **Date and Time of dispatch to court**

Signature of the Officer-in-charge, Police Station

Name:

Rank:

No.:

ANNEXURE-1 (B)**FIRST INFORMATION REPORT****(Under Section 154 Cr.PC)**

1. **District:** Punnai **Police Station:** Indira Nagar **Year:** 2017
FIR No.: 111/2017 **Date and Time of FIR:** 12/06/2017, 11:40 hrs.

2.

S.No.	Acts	Sections
1.	Barat Penal Code, 1860	325, 355, 504

3. **(a) Occurrence of Offence:**
Day: Monday **Date From:** 12-06-2017 **Date To:** 12-06-2017
Time Period: 11 am Morning
Time From: 09:50 hrs **Time To:** 10:15 hrs

(b) Information Received at P.S.

Date: 12-06-2017 **Time:** 11:00 hrs

(c) Daily Diary Reference **Entry No:** 111/2017 **Date and Time:** 11:30 hrs

4. **Type of Information:** Oral

5. **Place of Occurrence:**

(a) Direction and Distance from P.S.: West, 1 km

(b) Address: Indira Nagra, Metro Station, Punnai

(c) In case, outside the limit of P.S., then

Name of P.S.:

District (State):

6. **Complainant/ Informant:**

(a) Name: Prakash, **Age:** 40 years, **R/o:** Inspector, Police Station, Indira Nagar, Punnai.

(b) Nationality: Baratian

7. **Description of accused:**

Name: Jeyant **S/o** Gajanan **Age:** 25 **DOB:** 10 September 1992 **R/o:** 3, Subhedar Street, Chirapalli, Vanjiyur, Sardam-3 **Mobile:** 88555 77333, Mobtel.

8. **Reason for Delay in reporting by complainant/informant:** No Delay

9. **Property Type, Description, Value and State:** NA

10. **Total value of property (in Rs/-):** NA

11. Unnatural Death Case No/Information from Morgue if any: Blank

12. Content of First Information Report (FIR):

I am posted as Inspector of Indira Nagar Police Station in Punnai, Today on 12-06-2017 i.e., Monday, the Police Station received a call from the railway staff of Indira Nagar Metro Station, about 2 persons, a girl and a boy being severely wounded, I went to the crime scene immediately, along with the Police Station staff in government vehicle No. SR 01 8059 and informed the local hospital to quickly send an ambulance at the said Metro Station.

The victim (Deven) is aged 25 years, is a resident of Chirapalli and is employed in Punnai. On the morning of 11th June 2017, Sunday, he came to the Indira Nagar Metro station to meet his friend (Pooja). Pooja came to meet him with her friends Kavita and another friend, Jeyant i.e., the accused, whose presence was unknown to the victim. She and Kavita met him in person and the accused Jeyant was hiding close by watching them. The Victim on seeing Kavita with Pooja, asked her to leave them alone. Kavita agreed and stood at a distance. The Victim asked Pooja to sit on a bench nearby and offered her an apple from his bag and a knife. The Accused from a distance threw a stone at the Victim, which hit the victim on his head, and as a result the victim started bleeding. The victim pleaded to the girl for help. The accused shouted ‘murder, murder....’ and enticed the public around to attack the victim. The Accused, charging towards the Victim picked up another stone and threw at Accused, which also hit the Victim. As he attained no response from Pooja, in the heat of the passion, he in order to save himself, grabbed the girl in his arms and a knife in his another hand. He warned the crowd to let him go, who by that time had surrounded him, and also repeated the words that he was not sure what will he do and to “back off”. The girl tried to escape and in the scuffle, she got injuries on her neck and shoulder. Meanwhile, the main accused along with the crowd attacked the victim and overpowered him and started kicking him. The accused rained blows and kicks on the victim and so did the crowd who also attacked him brutally. The Victim fell unconscious. Noticing the disturbance the Railway Staff intervened and alerted the Police Station. This is the report on my return to the police station. Action may be taken.

13. Action taken since the above Information reveals commission of offence(s) u/s as mentioned at Item No. 2

(1) Registered the case and took up the Investigation

(2) Directed (Name of I.O.: Prakash

Rank: Inspector

No:1510100000BJBM786

or

(3) Refused Investigation due to

or

**(4) Transferred to P.S.:
on point of jurisdiction.**

District:

F.I.R. read over to the complainant/ Informant, admitted to be correctly recorded and a copy given to the complainant/ Informant free of cost.

R.O.A.C.

14. Signature/ Thumb impression of the complainant/ Informant.

15. Date and Time of dispatch to court

Signature of the Officer-in-charge, Police Station

Name:

Rank:

No.:

ANNEXURE-2**STATEMENT OF WITNESSES****(Under Section 161 Cr.PC)****JEYANT:**

I Jeyant, R/o 3 Subhedar Street, Chirapalli, Vanjiyur, Sardam-03, have been working in Punnai for the past one year. I have known Pooja for quite a long time, as she is my relative and an old friend. I also have known Deven for a long time and also that people like him cannot be trusted. I knew this day would come and I have been warning Pooja since College Days. After moving to Punnai, I had been in constant touch with Pooja and her friend Kavita. I observed her ignorance and annoyance for Deven. On 12 June 2017, Pooja asked me to accompany her to the Indira Nagar Metro Station, in order to meet Deven. Thereafter, I saw Deven, Pooja and Kavita talking; Kavita left them and stood in a corner. Pooja and Deven sat on a bench, I was shocked to see Deven taking out a knife, I feared for Pooja's life and in order to save her I threw a stone lying nearby. I saw Deven grabbing Pooja, I panickingly shouted "murder, murder..." to alert the crowd which then ran towards Deven while running I picked up another stone and threw at Deven. Then, Deven held the knife against her neck. He held Pooja very firmly and slit her neck, and she fell unconscious. The crowd then overpowered him and beat him. The Railway staff intervened; they called the local police authority and an ambulance. Pooja and Deven were moved to the Govt. hospital.

INSPECTOR PRAKASH:

I, Prakash, am posted as an Inspector at the Indira Nagar Police Station in Punnai. On 12th June 2017, the Police Station received a call from the Railway staff of the Indira Nagar Metro Station at around 10:00 hrs about the commission of the said crime. I, along with other police station staff, in government vehicle No. SR 01 8059, also informing the local hospital to quickly send an ambulance to the said Metro Station, reached the crime scene and further interrogated some witnesses. In the due course of interrogation, statements of the witnesses under section 161 Cr.PC were recorded.. The statement of the victim who was admitted in ICU was recorded in the presence of the Magistrate u/s 164 Cr.PC. The required seizures were made at the crime scene and were produced in the Panchnama.

KAVITA:

I, Kavita, am 25 years and a resident of Punnai and work in a reputed Software Firm with Pooja and have known her since last one year. Pooja was a very bright, smart and dedicated individual, who aspired to be an Air-hostess someday. Since a long time she use to remain distressed with her issues with Deven due to his continuous tries to contact her and invading her privacy. Deven often used to call her during working hours, waited outside the office which troubled and annoyed her. I observed that she was disturbed due to this. One day i.e., on 12th June, 2017 Pooja told me and Jeyant to accompany her to the Indira Nagar metro station where she was going to meet Deven. Along with Pooja, we reached the Indira Nagar Metro Station at around 9:45 AM in order to meet Deven. Deven looked at me and cursed me and also blamed me to be the cause of Pooja not talking to him. He asked me to leave and wanted to talk to Pooja alone. I agreed and stood nearby. Deven was wearing a cotton bag on his shoulder. He took out a pen knife from his bag, which scared me. In order to stop him, Jeyant from a distant threw a stone at him, which injured his head. He, then, immediately grabbed Pooja, with a knife placed on her neck. He asked the people not to come any near to him. On this even Jeyant threw another stone at him. While Pooja was held captive by him, he slit her throat. Pooja fell unconscious on the ground and was bleeding. I tried talking to her but got no response. The public approached and caught Deven and started hitting him. Railway staff after noticing the commotion intervned and called the Police Station. Pooja and Deven were moved to the Govt. Hospital.

KANNAN:

I, Kannan, a software engineer, am a resident of Indira Nagar, Punnai. On the morning of 12th June 2017, I bound by my routine, while listening to the music, was waiting to board a metro to go to my work place. I noticed a girl (Pooja) and a boy (Deven) occupying the bench on which I was sitting. Everything was normal until the boy drew a knife from his bag, and was suddenly hit with stone on his head. He started bleeding and caught hold of the girl. I was shocked to see this. Thereafter, the boy (Deven) grabbed the girl in his arm with the knife on her neck and warned the crowd, which was advancing towards him. The next thing I remember is that the girl's neck was slit by the boy and she fell unconscious on the floor. Thereafter, another boy (Jeyant) started hitting and kicking him, and the crowd also started hitting. The railway staff came running to the scene and took over the situation; they alarmed

the local Police. The boy (Deven) and the girl (Pooja) were shifted to the hospital as soon as the Ambulance arrived.

MAGISTRATE:

I was present at the hospital. Statements of Pooja and Deven were recorded in my presence. Both of them were injured and Pooja especially could barely speak and gave a short statement.

(Under Section 164 Cr.PC)

POOJA:

I went to meet Deven at the metro station for the last time. He took out a knife and it created a state of panic for others and he took me as a shield. I could not let go of him and he attacked me. The last thing I remember is falling on the floor, bleeding.

DEVEN:

I Deven, have known Pooja since my college days. She is from Chirapalli, and we stayed in the same locality and commuted in the same bus. I always carried a pen knife in order to cut the fruits that I use to carry regularly and in fact this is how my friendship with Pooja started when I first offered her some cut-pieces of fruits. We became good friends and came closer to each other. After the completion of our courses we both got employed in Punnai. Over the period of one year we continued to meet but the frequencies reduced due to our different work timings. I used to call her on regular basis to make sure everything was fine with her. Kavita was a close friend to Pooja who would often suggest her many things about the choices in her life. Suddenly, I observed a drastic change in her attitude towards me. She did not communicate anything and her phone was switched off or out of reach. I was disturbed as our relationship was not going well, and due to the same reason I was consulting a psychologist. On 9 June 2017 i.e., Friday, she invited me to meet her at the Taj restaurant. She revealed her plans of becoming an Air-hostess and moving to Mumbai with Kavita. I advised her to rethink about her decision and to continue with her current job. In reply she insulted me and told me that I have a backward thinking. She got furious and slapped me. This created a scene in the restaurant. I was humiliated and left the place in embarrassment. On my way home, I met my friend Karan. Looking at me Karan enquired what was wrong and in my reply I told him everything. He took me to a restaurant nearby and ordered some

liquor. By the time we left the place I was quite drunk. Karan dropped me at my place. I called Pooja for forgiveness and asked her to meet me for one last time. The next day, she agreed to meet me, at Indira nagar Metro station. I reached the Metro station by 9:30 am, 15 mins later I saw Pooja arriving with Kavita, I requested Kavita to give us some privacy, I did not anticipate the fact that Jeyant was hiding close by and watching everything. Meanwhile, I requested Pooja to sit on the bench nearby. Remembering the good old happy college days and our time in the bus, I as a gesture of forgiveness offered her an apple from my bag and in order to cut the apple, I took out my pen Knife. Suddenly I was hit by a stone that was thrown at me by Jeyant and I started bleeding, I cried Pooja for help, Jeyant, started shouting “*murder, murder*”, as result the public panicked and started running towards me. Jeyant picked up another stone and hit me. I panicked after seeing everybody and stood behind Pooja. I tried to pull her near and was asking to help me and in the process, the knife touched her and left her injured. She fell unconscious, I was worried for Pooja, but Jeyant along with the mob pinned me down and started hitting me, and then I fell unconscious.

ANNEXURE-3 (A)**INVESTIGATION REPORT**

Case No./FIR No.- 110/2017

Case Diary No and Date-

Name of Accused- Deven, S/o-Perumual, **DOB-**1 April, 1993, **R/o-** 1, Canal Street,
Chirapalli, Vanjiyur, Sardam

Mobile No.- 995555 995555, Ecotel

- Accused is injured and admitted in the Govt. hospital.

Wanted Accused- Two unknown accused wanted

Weapons used in crime- 1. A knife 2. Stones (2)

- Knife and stones sent to the forensic department. Blood stains samples also collected from around the bench and sent to the forensic department.
- All weapons used for the crime have been recovered.

Injuries to witnesses- Pooja was injured and was admitted to the ICU. She has a cut on her throat and shoulder.

Other injured- Pooja, victim, injured, was immediately admitted to the hospital. She has several injuries and is recovering in the hospital.

How the FIR was lodged- Police came to know about the incident when an unknown caller called at the Indira Nagar Police Station to report the incident that was occurring at the Metro Station. Police with ambulance reached the spot within 10 minutes after the call was received. The injured were immediately admitted to the hospital. Evidence was collected from the spot along with the weapons.

Facts of the case-

1. On the 12th June, 2017, at around 10:00 AM, Deven and Pooja were going to meet at Indira Nagar Metro Station. Kavita and Jeyant were accompanying Pooja.
2. Everyone panicked when Deven talking to Pooja took out a knife. After seeing the knife Jeyant alerted the public and threw stones at Deven.
3. Deven took Pooja as a human shield and asked everyone to back off. On seeing the crowd approaching towards him, he used the knife in order to injure Pooja whereby she fell unconscious.
4. Deven was overpowered by the crowd and Jeyant, who started beating him. the ambulance came with police and both were taken to the hospital in a critical state where they were admitted to the ICU.

5. Deven and Pooja knew each other since the college days. Jeyant didn't like Deven as Pooja and Deven were close to each other.
6. They all moved to Punnai after their graduation. Pooja got campus placement whereas Deven was privately employed under a builder.
7. Pooja started distancing herself from Deven after moving to Punnai and Deven was not taking it well. Pooja tried telling him that she wanted to start a new life and to get trained for becoming an air hostess.
8. On 9th June, they met at Taj restaurant where Pooja slapped Deven on Deven abusing her and telling her she had lost her character.
9. Deven then got drunk and called Pooja asking her to meet one last time. They met at Indira Nagar metro station where the incident took place.

Evidence Collected-

- b. Stones that hit Deven
- c. Knife and the cotton bag with fruits
- d. Picture of Deven holding knife against Pooja's neck
- e. Blood stained samples

Efforts are being made to arrest the wanted accused of the crime. The investigation is on and they will be under custody too.

Statements of witnesses were recorded under Section 161 of Cr.PC namely:

1. Deven (A1)
2. Pooja
3. Jeyant (A2)
4. Kavita
5. Kanan
6. Karan
7. Kishore
8. Alex

The investigation regarding the incident is still going on. Efforts are being made to recognise the unknown accused and directions have been given to search for them and reveal their identity.

Sd/-

Prakash, Inspector
Investigating Officer

ANNEXURE- 3(B)**INVESTIGATION REPORT**

Case No./FIR No.- 111/2017

Case Diary No and Date-

Name of Accused- Jeyant, S/o-Gajanan, **DOB-**10 September, 1992 **R/o-** 3, Subedhar Street,
Chirapalli, Vanjiyur, Sardam

Mobile No.- 88555 77333, Mobtel

Wanted Accused- Two unknown accused wanted

Weapons used in crime- 1. A knife 2. Stones (2)

- Knife and stones sent to the forensic department. Blood stains samples also collected from around the bench and sent to the forensic department.
- All weapons used for the crime have been recovered.

Injuries to witnesses- Pooja was injured and was admitted to the ICU. She has a cut on her throat and shoulder.

Other injured- Deven, victim, injured, was immediately admitted to the hospital. He has several injuries and is recovering in the hospital.

How the FIR was lodged- Police came to know about the incident when an unknown caller called at the Indira Nagar Police Station to report the incident that was occurring at the Metro Station. Police with ambulance reached the spot within 10 minutes after the call was received. The injured were immediately admitted to the hospital. Evidence was collected from the spot along with the weapons.

Facts of the case-

1. On the 12th June, 2017, at around 10:00 AM, Deven and Pooja were going to meet at Indira Nagar Metro Station. Kavita and Jeyant were accompanying Pooja.
2. Everyone panicked when Deven talking to Pooja took out a knife. After seeing the knife Jeyant alerted the public and threw stones at Deven.
3. Deven took Pooja as a human shield and asked everyone to back off. On seeing the crowd approaching towards him, he used the knife in order to injure Pooja whereby she fell unconscious.
4. Deven was overpowered by the crowd and Jeyant, who started beating him. the ambulance came with police and both were taken to the hospital in a critical state where they were admitted to the ICU.
5. Deven and Pooja knew each other since the college days. Jeyant didn't like Deven as Pooja and Deven were close to each other.

6. They all moved to Punnai after their graduation. Pooja got campus placement whereas Deven was privately employed under a builder.
7. Pooja started distancing herself from Deven after moving to Punnai and Deven was not taking it well. Pooja tried telling him that she wanted to start a new life and to get trained for becoming an air hostess.
8. On 9th June, they met at Taj restaurant where Pooja slapped Deven on Deven abusing her and telling her she had lost her character.
9. Deven then got drunk and called Pooja asking her to meet one last time. They met at Indira Nagar metro station where the incident took place.

Evidence Collected-

- f. Stones that hit Deven
- g. Knife and the cotton bag with fruits
- h. Picture of Deven holding knife against Pooja's neck
- i. Blood stained samples

Efforts are being made to arrest the wanted accused of the crime. The investigation is on and they will be under custody too.

Statements of witnesses were recorded under Section 161 of Cr.PC namely:

1. Deven (A1)
2. Pooja
3. Jeyant (A2)
4. Kavita
5. Kanan
6. Karan
7. Kishore
8. Alex

The investigation regarding the incident is still going on. Efforts are being made to recognise the unknown accused and directions have been given to search for them and reveal their identity.

Sd/-

Prakash, Inspector
Investigating Officer

ANNEXURE-4**PANCHNAMA**

Date 12/06/2017

Witness No.1

Witness No.2

I, Inspector Prakash, Indira Nagar Police Station, visited the place of the crime i.e, Indira Nagar Metro Station on 12th June at 1200Hrs. When I reached the place of the Incident, I asked two people to become witnesses for the Panchnama. At the place of incident, I found blood stains on the floor, a stone with a blood stain, a pen knife and a cotton bag with some fruits. The exact place where the incident took place was platform No.1 of Indira Nagar Metro Station. From the place of occurrence of the incident, the Metro track was at a distance of 10mtrs to the west. The bench was present on the adjacent side of the victim and the accused that is on the east side from the incident. 10mtrs diagonally from the place of the incident i.e, on the North East side was the entrance door to come to the Platform. There was another entrance diagonally backwards from the said place, i.e, to the South East side, which was equally situated at a distance of 10mtrs from the place of the Incident. From the place of the incident there was also a pillar at a distance of 15mtrs situated on the north from the place of the incident, where Jeyant was standing. There were people roaming on the platform where the incident had been taken place. Things recovered from the place of Incident

1. Blood Stains
2. Pen Knife
3. Apple
4. Cotton Bag with fruits
5. 2 Stones

ANNEXURE-5 (A)**CHARGESHEET****(Under Section 173 Cr.PC)**

1. **District:** Punnai
Police Station: Indira Nagar
Year: 2018 C.R. No. : 110/2017
Date: 20.02.2017
2. **Final report/Charge sheet No.:** 16/ 20 Feb 2018
3. **Date:** 20.02.2017
4. **Provision:** BARAT PENAL CODE, 1860
Act: BPC Section: 307
Act: BPC Section: 354D
Act: BPC Section: 509
5. **Nature of Final Report :** Charge sheet Filed
6. **If Final report is of the nature of did not occur then the reasons:** N/A
7. **If Charge sheet is filed:** Original
8. **Name of the Investigating Officer:** PI Prakash

Designation of Investigating Officer: Police Inspector.
9. **Name of Complainant/ Informant :**
10. **Things obtained at the time of the investigation/ Confiscated and property relied upon/ details of the articles (if necessary add a separate list along with the same)**

Description of the property Estimated value-NA
Sr. no. of the Police Station record diary-NA
Property recovered from whom and from where-NA
Disposal- NA

11. Details of the Accused against whom charge sheet is filed

1. Name & Age: DEVEN, Age 25. DOB: 1 April 1993
2. Identified & how: BY WITNESS
3. Father/Husband's name: Perumal
4. Sex: MALE
5. Nationality: BARATIAN
6. Passport No.: NA Date of issuance: NA
7. Religion: NA
8. If belongs to SC/ST: NA
9. Profession: EMPLOYEE UNDER A BUILDER
10. Address: 1, CANAL STREET, CHIRAPALLI, VANJIYUR, SARDAM-1.
If verified: YES
11. Temporary offender No. : ----/17
12. Regular Offender No.: N/A (If known)
13. Date of Arrest: --/--/2017
14. Date of release on bail: NA
15. Date of sending to Court: --/--/2017
16. Provision of arrest: Sec. 307, 354D, 509 of B.P.C., 1860.
17. Surety's name & address: NA
18. Related previous conviction: NIL
19. Condition of the Accused: NA

12. Details of the examined witnesses:

Sr	Name	Father/ Husband's name	Age (yrs.)	Occupation	Address
1.	Deven's Father	Perumal	NA	NA	Chirapalli, Vanjiyur

2.	Deven's Mother	NA	NA	NA	Chirapalli, Vanjiyur
3.	Karan	NA	NA	NA	Punnai
4.	Kishore	NA	NA	NA	Punnai
5.	Kavita	Subash	25 yrs	Employee at a Software firm	Punnai
6.	Jeyant	Gajanan	26 yrs	Employed	Chirapalli, Vanjiyur

13. Mention the action taken u/s. 182 /211 of the Barat Penal Code if the first information is false: N/A

14. Findings of Lab testing: Blood sample matched with samples from the spot; Intoxicated.

15. Short description of the incident:

On 12 June, 2017, at Indira Nagar Metro Station, the accused slashed the neck of the victim which exposed her larynx. The accused also injured the shoulder of the victim with an incision in the rotator cuff. The accused in his statement stated that this was an outcome of an accident. Prior to this the accused had also tried contacting the victim, following her, and pestering personal interaction with her, against her will. On one occasion he has also humiliated her publically, with imposing a question on her character. However, the accused denies any of such incidents.

On 12th June 2017, Sunday, the police received the information of the said crime. Investigating Officer Prakash along with other police station staff reached the crime scene and further interrogated some witnesses. In the due course of interrogation, statements of the witnesses under section 161 Cr.PC were recorded. Such witnesses were mainly the friends of the accused and the victim. Other independent witnesses which included the college mates of the accused and the victim, who were absent from the occurrence of any of the ill fated incidents, were also interrogated. The statement of the victim who was admitted in ICU was during her recovery gave a short statement in

presence of the Magistrate u/s 164 Cr.PC. The required seizures were made at the crime scene and were produced in the Panchnama.

The police recorded the statement of the accused, who was admitted in the hospital, in presence of the Magistrate.

Therefore the Ld. Public Prosecutor be pleased to frame the above charges before this Hon'ble Court.

16. If notice is issued to concerned person : NA

Dated : NA

17. Date of sending the notice : NA

Endorsed by the Senior Officer/

Officer presenting the Final Report

Officer presenting the Station House

Sd/-

Sd/-

Name: -----

Name: PI Prakash

Designation: ---

Designation: PI

ANNEXURE-5 (B)**CHARGESHEET**
(Under Section 173 Cr.PC)

1. District: Punnai

Police Station: Indira Nagar

Year: 2018 C.R. No. : 111/2017

Date: 20.02.2018

2. Final report/Charge sheet No.: 16/ 20 Feb 2018

3. Date: 20.02.2017

4. Provision: BARAT PENAL CODE, 1860

Act: BPC Section: 325

Act: BPC Section: 355

Act: BPC Section: 504

5. Nature of Final Report : Charge sheet Filed

6. If Final report is of the nature of did not occur then the reasons: N/A

7. If Charge sheet is filed: Original

8. Name of the Investigating Officer: PI Prakash Designation of Investigating Officer :

Police Inspector

9. Name of Complainant/ Informant :

10. Things obtained at the time of the investigation/ Confiscated and property relied

upon/ details of the articles (if necessary add a separate list along with the same)

Description of the property Estimated value-NA

Sr. no. of the Police Station record diary-NA

Property recovered from whom and from where-NA

Disposal- NA

11. Details of the Accused against whom charge sheet is filed

1. Name & Age: Jeyant Age: 26 DOB: 10 September 1992
2. Identified & how: BY WITNESS
3. Father/Husband's name: Gajanan
4. Sex: MALE
5. Nationality: BARATIAN
6. Passport No.: NA Date of issuance: NA
7. Religion: NA
8. If belongs to SC/ST: NO
9. Profession: PRIVATELY EMPLOYED
10. Address: 3, Subhedar Street, Chirapalli, Vanjiyur, Sardam-3
If verified: YES
11. Temporary offender No. : ----/17
12. Regular Offender No.: N/A (If known)
13. Date of Arrest: --/--/2017
14. Date of release on bail: NA
15. Date of sending to Court: --/--/2017
16. Provision of arrest: Sec. 325, 355, 504 B.P.C.
17. Surety's name & address: NA
18. Related previous conviction: NIL
19. Condition of the Accused: NA

12. Details of the examined witnesses:

Sr	Name	Father/ Husband's name	Age (yrs.)	Occupation	Address
1.	Kannan	NA	NA	NA	Punnai
2.	Kishore	NA	NA	NA	Punnai
3.	Deven	Perumal	25yrs	Privately employed	Chirapalli, Vanjiyur

13. Mention the action taken u/s. 182 /211 of the Barat Penal Code if the first

information is false: N/A

14. Findings of Lab testing: N/A**15. Short description of the incident:**

On 12 June, 2017, at Indira Nagar Metro Station, the accused attacked the victim with a stone which hit him on his head. The accused was hiding at a distance, and when he realized the time was right, he attacked the victim. However the accused denies to the same charge and explains his act as a part of a defense with respect of saving his friend. The accused attacked the victim without him knowing his presence and also intentionally gathered crowd against the victim and ridiculed him calling by him a murder. The accused contests that everything that he did was with a bona fide intention, in order to protect his friend.

On 12th June 2017, Sunday, the police received the information of the said crime. Investigating Officer Prakash along with other police station staff reached the crime scene and further interrogated some witnesses. In the due course of interrogation, statements of the witnesses under section 161 Cr.PC were recorded. Such witnesses were mainly the friends and acquaintance of the accused and the victim. Other independent witnesses which included the college mates of the accused and the victim, who were absent from the occurrence of any of the ill fated incidents, were also interrogated. A fact that the accused use to like Pooja (victim's female friend) and had a disliking towards the victim because of the closeness between Pooja and the victim, was noted during the interrogation. The statement of the victim who was admitted in ICU was during her recovery gave a short statement in presence of the Magistrate u/s 164 Cr.PC. The required seizures were made at the crime scene and were produced in the Panchnama.

The police recorded the statement of the accused, who was admitted in the hospital, in presence of the Magistrate.

Therefore the Ld. Public Prosecutor be pleased to frame the above charges before this Hon'ble Court.

16. If notice is issued to concerned person : NA**Dated : NA****17. Date of sending the notice : NA**

Endorsed by the Senior Office

Officer presenting the Final Report

Officer presenting the Station House

Sd/-

Sd/-

Name: -----

Name: PI Prakash

Designation: ---

Designation: PI

EXHIBIT- A, B & C

Exhibit-A



Exhibit-B



Exhibit-C



EXHIBIT-E (1)**WOUND CERTIFICATE (POOJA)**

1. Serial No- 100/2018.....
2. Date and time of Examination-...12/06/2018, Friday; 10:26 AM.....
3. Name-...Pooja..... Age-...25Years..... Sex- Female
4. Identification Marks- a) Mark on the left on the forehead;
b) Birth mark on the left wrist.
5. Brought by (Name & Address)-...Kavita; residing at Indira Nagar, Punnai
6. Requisition (if any) from.....
7. History and alleged cause of injury-The injury caused due to a sharp object; exposed larynx due to Cut Throat Injury (CTI); bruised shoulder.....
8. History was stated by the injured /**
9. Details of injuries: The injury has been caused by a sharp object as a result of a direct attack on the victim. The object has caused an exposed larynx which is grievous in nature. Another injury has been caused on the shoulder of the victim. A wound with an opening of 3cm x 1.5cm on the rotator cuff.

EXHIBIT-E (2)**WOUND CERTIFICATE (DEVEN)**

1. Serial No-101/2018.....
2. Date and time of Examination-...12/06/2018, Friday; 10:34 AM.....
3. Name-...Deven..... Age-...25.Years..... Sex- Male
4. Identification Marks- a) Birth mark on the back
b) NA
5. Brought by (Name & Address)-...Police Inspector PRAKASH.....
6. Requisition (if any) from.....
7. History and alleged cause of injury-Pelted stones, heavy blows with & without weapons.....
8. History was stated by the injured /**

Details of injuries:

- a. Open head injury with an incision of 3cm x 1.5cm, caused by a sharp moving object.
- b. Blood injuries on inner side of the stomach.
- c. Damaged spleen, with laceration.
- d. Left leg fractured with the injury reaching deep causing extensive damage.

EXHIBIT-F (1)**Ref.MLC.** No/MOC.:.....**Date**.....**ORIGINAL****Certificate of collection of material objects from the body of a person for
chemical examination, DNA profiling, examination at FSL, etc****Requisition received from-** Inspector Prakash**Dated-** 12-06-2017**Purpose-**for the collection of blood samples, from the body of a ~~male~~/female, Pooja-
aged 25years, involved in Crime no-110 of 2017 police station at 12:00am / pm, on
Monday. The subject was accompanied by Sub Inspector.**Name & address of the subject-** Pooja, 2, Mettu Street, Chirapalli, Vanjiyur,
Sardam-1**Consent-** YES**Identification marks-** a) Mark on the left on the forehead b) Birth mark on the left
wrist.**Material objects collected-** Blood Samples; Handed over the sealed packets
containing the material objects requested**Tests Performed-** Blood Test for blood group, for matching of blood from the crime
scene and samples**Test Results-** Blood group: B+ve; Intoxication- None

Blood matched from the blood found on the crime scene

Date- 13-06-2017**Name-** Dr.XYZ**Place-** Punnai**Designation-**

Doctor

Name of Institution- Government Hospital,
Punnai**Issued to-** Inspector, Indira Nagar
Police Staion**Received the sealed packet containing the material
objects :(Signature, Name and designation)**

EXHIBIT-G

LYRICS OF THE SONG

Kaathal En Kaathal Athu Kaneerula..
Pochu Athu Pochu Ada Thaneerula..
Ae Machi.. Udra... Ai.. Enna Paada Ududa..
Naa Paadiyae Theeruvaen..
Seri Paadi Thola..

Kaathal En Kaathal Athu Kaneerula..
Pochu Athu Pochu Ada Thaneerula..
Kaayam Puthu Kaayam En Ullukulla
Paalaana Nenju Ippa Veneerula..

Adidaa Avala.. Othadaa Avala..
Vidra Avala.. Thevayae Illa..
Ethuvum Purila.. Ulagam Therila..
Sariyaa Varala.. Onnumae Illa..

Hey Suthuthu Suthuthu Thalayum Suthuthu
Guppunu Adicha Beerinila..
Paduthuka Paduthuka Odane Thelinjudum