

KAGD410019792019



Presented on : 03-08-2019

Registered on : 03-08-2019

Decided on : 07-07-2026

Duration : 06 years, 11 months, 04 days

IN THE COURT OF PRL. CIVIL JUDGE AND JMFC,

AT: RON

-PRESENT-

HULUGAPPA D.

B.A.LL.B.

Principal Civil Judge & JMFC, Ron.

Dated this 7th day of July, 2026

Criminal Case No.802/2019

Complainant:

1. Gajendragad Police Station,
(By the learned APP)

-Versus-

Accused:

1. Venkatesh S/o Venkataramu,
Age: 34 years, Occ:Coolie,
R/o Pujanahalli Kannamangala,
Tq: Devanahalli, Dist:Bengaluru Rural.

(By Sri.S.B.H., Advocate)

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|----|-------------------------------|----|------------|
| 1. | Date of Commission of offence | :: | 01.08.2018 |
| 2. | Date of report of offence | :: | 01.08.2018 |
| 3. | Date of arrest of accused | :: | ----- |
| 4. | Date of evidence commenced | :: | 10.02.2026 |
| 5. | Date of closing of evidence | :: | 08.05.2026 |



6.	Name of the complainant	::	Majunath S/o Kalakappa Binnal
7.	Offences complained of	::	U/Secs.457, 380 of IPC.
8.	Opinion of Judge	::	Accused not found guilty
9.	Order or sentence	::	As per final order

:J U D G M E N T:

1. The PSI of Gajendragad Police station has charge-sheeted the accused for the offences punishable U/Secs.457, 380 of IPC.

The gist of the prosecution case is as under:

2. It is alleged that on 01.08.2018 at around 02:30 a.m, when the complainant had went to sleep in his house which was above the shop, the accused came and broke open the shutter of the Kalakaleshwara Friends Association Bar of the CW.1, the accused entered into Bar and committed theft of cash of Rs.21,000/- and the accused was arrested in crime No.218/2018 of Gajendragad PS and as per voluntary statements of the accused the above said articles were recovered and same were seized under a panchanama in the presence of



CW.6 and CW.7 and thereby the accused has committed the aforesaid offences.

3. The Investigating Officer – CW.12 upon receiving the first information, registered the case and sent the original copy of FIR and complaint to the court, recorded statement of the witnesses and after completion of investigation he has filed the charge-sheet against the accused persons for the aforesaid offences.

4. After submitting charge-sheet, as there was sufficient grounds to proceed against the accused, this court has taken cognizance of the aforesaid offences. In the present case, the accused No.1 and 2 were produced during the course of investigation before this court under body warrant and they were given police custody and thereafter they got released on bail, but the accused No.2 was absconding and it was noted in the charge-sheet that accused No.3 and 4 were absconding and inspite of repeated issuance of process, the presence of accused No.2 to 4 was not secured and as such the case was split up



against accused No.2 to 4 and separate split up case has been registered against the accused No.2 to 4 in C.C. No.28/2025 in which split up charge-sheet has been submitted against the accused No.2 to 4. Copy of the charge-sheet is duly furnished to the accused No.1 as required U/Sec.207 of Cr.P.C. As the case is of warrant trial and since there were no grounds for discharge, the charge was duly framed and read over to the accused No.1. The accused No.1 pleaded not guilty and claimed to be tried. Therefore, matter got posted for trial.

5. In order to establish its case, prosecution cited in all 11 witnesses as PW.1 to PW.11 and Ex.P.1 to Ex.P.10. After completion of the evidence of the prosecution side, statement of accused No.1 is recorded U/Sec.313 of Cr.P.C., in which, he denied all the incriminating circumstances appeared against him, but he did not choose to adduce any evidence on his behalf.



6. I have heard the learned A.P.P. for state and the learned counsel for the accused and therefore the following points that arise for my consideration:

:POINTS:

1. Whether the prosecution proves beyond all reasonable doubt that on 1.08.2018 at about 2.30 a.m in Gajendragad town, the accused came and break open the lock of the Kalakaleshwar Friends Association Bar of the CW.1 and accused entered into the said shop with an intent to commit theft of cash and committed lurking shop trespass and thereby the accused has committed the offence punishable under section 457 of IPC??
2. Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place and during the course of same transaction accused entered into Bar of CW.1 and committed the theft of cash of Rs.21,000/- and thereby accused has committed the offence punishable under section 380 of IPC?
3. What order?



7. My findings to above raised points are as under:

Point No.1 :: In the negative
Point No.2 :: In the negative
Point No.3 :: As per final order
for the following:

:R E A S O N S:

8. Point No.1 and 2:- Since these points are interconnected to each other, they have been taken up together for common discussion in order to avoid the repetition of the facts and evidence.

9. The prosecution has relied upon the oral evidence of PW.1 to PW.11 and also has relied upon documentary evidence which are got marked as Ex.P.1 to Ex.P.10. Ex.P.1 is the Spot panchanama. Ex.P.2 is the first Information. Ex.P.3 is the further statement of Girushiddayya S/o Veerayya Sugirayyanamath. Ex.P.4 is the Spot panchanama. Ex.P.5 is the Photo. Ex.P.6 is the Seizure panchanama. Ex.P.7 is the denial statement of CW.8. Ex.P.8 is the re-statement of CW.8. Ex.P.9 is the complaint. Ex.P.10 is the FIR.



10. CW.2-Kartik S/o Parashuram Rayabagi who is said to be the spot pancha has been examined as PW.1. In his examination in chief, he has deposed that there was a theft at a Friend's bar about 7-8 years ago. The police came to the said bar and enquired him and on the say of police he put his signature about the theft and CW.3 also put his signature with him. The police did a counter check and found nothing there, they stated that there was an attempt to commit theft.

11. CW.3-Limbanna S/o Dyampalappa Rathod who is said to be the spot pancha has been examined as PW.2. In his examination in chief, he has deposed that he identified his signature on the spot panchanama as per Ex.P.1 as Ex.P.1(b). He put his signature near a Friends bar in which theft was committed in the year 2018. The police had come to draw the panchanama and on the say of the police he put his signature.

12. C.W.3 – the complainant has been examined as PW.1. In his examination in chief, PW.1 has deposed that he was working as a manager at Kalakaleshwar Friendss



Association Club in Bhoomareddi Complex. There was a theft in the said club in the year 2018. Every day they used to open the said club at 09.00 am and close it at 11.00 pm. On 31.07.2018, he closed the door of the said club at 11.00 pm and on the same day, at about 02.30 am, Gajanana Kabadi called him and stated that their shops have been stolen. He went there in 5 minutes, their shutters were lifted by approximately 3 feet. There was no theft in their shop, drawer of their shop was opened, there was an attempt to commit theft. Later, he stated the owner. The police were also there. He filed a complaint. The police came to the shop again in the morning and inspected it. He himself showed the place to the police. He did not know about thieves and police have also not stated as to who committed the theft.

13. CW.4-Devaraj S/o Shivappa Chavan who is said to be the spot pancha has been examined as PW.4. In his examination in chief, he has deposed that he identified his signature on the Ex.P.4 Panchanama and he signed the said signature as the police had taken two persons in the night in



the year 2018 in connection with the theft of Bengal Stores and conducted a Panchanama at the place shown by the said persons. He doesn't remember the names of the other persons who signed with him. The police took photograph at the spot.

14. CW.5 to CW.7 are spot and mahazar panchas to Ex.P.4 and Ex.P.6- spot and seizer panchanama. CW.5 to CW.7 have been examined as PW.5 to PW.7, but they have not supported the case of the prosecution. Indeed, they have turned hostile and even though treating them as hostile witnesses by the learned APP but, nothing worth is elicited from their mouth during the course of cross-examination. Therefore, the evidence of PW.5 to PW.7 is not helpful to the prosecution to establish the charges levelled against the accused.

15. CW.8 Gajanana S/o Yallappa Kabadi has been examined as PW.8. In his examination in chief, he has deposed that the name of their shop is Gajanana Mobile Service. They open their shop every day at 10.30 am and close at 09.00 pm. The name of CW.1's shop is Kalakaleshwar Friends Bar. About



5-6 years ago, when he went to their shop at about 10.30 am, the manager, owner and police were near the said bar adjacent to their shop and the people had also gathered. The key of the said bar was broken and the shutters had been opened. When he inquired, CW.1, the manager of the said bar, stated that there was a robbery at his bar last night. The owners of the said bar are Gangadhar Singadi and Parashurama Singadi. On the say of the police he signed on a document and apart from this, he doesn't know anything about this case.

16. CW.11 Mustak S/o Maktumsab Attar has been examined as PW.9. In his examination in chief, he has deposed that he knows Manjunath Binnal – CW.1. About 5-6 years ago, he was working as a supplier at Congress and Friends Bar. He closed the bar at 11.00 pm and left. The next day, at 09.00 am, when they came to the bar, they found that the shutters of the bar had been opened, their owner - CW.1 had stated that money was being stolen in the bar, apart from this, he doesn't know anything else.



17. CW.9 Muttanna @ Adivappa Sangalad has been examined as PW.10. In his examination in chief, he has deposed that their Congress Bar situated near K.K. Circle in Gajendragad. They open every day at 09.00 am and close at 11.00 pm. About 5-6 years ago, Manjunath Binnal – CW.1 was the manager of their bar. Their friend Manjunath called him and stated that there was theft in the bar shop. They tried to steal from their shop, but nothing was stolen. CW.1 has filed a complaint and apart from this, he doesn't know anything.

18. The CW.12 the PSI of Gajendragad Police station has been examined as PW.11 and he stated that on 01.08.2018, when he was at the police station at about 04.15 p.m, on the basis of the computerized complaint given by CW.1 Manjunath S/o Kalakappa Binnal, he registered a case in Crime No.210/2018 and submitted the original complaint and F.I.R. copy to the court and on the same day, he conducted panchanama from 5.30 to 6.30 pm in the presence of the panchas CW.2 and CW.3 at the place shown by CW.1. He sent



their staff CPC-1023 and CHC-864 to search the accused. He recorded statements and re-statements of CW.8 and 9 and the accused were in judicial custody at the Chamarajanagar District Central Jail under Santhamaralli Police Station Crime No. 124/2018 and have obtained a body warrant against them. On 30.01.2019, the accused were taken into his custody and interrogated. On 01.08.2018, the accused confessed that they had tried to break the Shutters of the Kalakaleshwar Friends Association Bar and entered the premises. Similarly, the accused confessed to the theft committed in their Police Station No. 218/2018 and 219/2018. Later, the confession statement of the accused was taken and the accused confessed that the amount stolen in Police Station No. 218/2018 was Rs. 21,000/- cash and Rs. 23,000/- cash was spent for the purchase of watch, cooling glass and other expenses. Panchanama was conducted in the presence of accused, CW.2 and CW.3 from 03.30 p.m to 04.30 p.m and 2 watches and 2 cooling glasses were seized from them. He has produced the accused in the



court. The accused No.1 and 2 have stated that they were involved in the theft along with two other accused namely Gangadhar and Santosh and after completion of investigation, he has submitted the charge-sheet against the accused. The learned counsel for the accused has cross examined the PW.11 at length. In his cross-examination, he has denied the suggestions made by the learned counsel for the accused.

19. On going through the entire material on record, no doubt, the prosecution has examined as many as 11 witnesses. CW.1 who has been examined as PW.3 is the complainant and he is not the eye witness. As far as, recovery aspect is concerned, admittedly pancha witnesses to the Ex.P.4 and Ex.P.6- spot and seizer panchanama have been examined as PW.4 to PW.7. PW.4 has deposed in his cross-examination that he has not read the panchanama and he does not know as to what is written in the panchanama and on the say of police he put his signature. Further, PW.5 to PW.7 have turned hostile and not supported the case of the prosecution. Therefore, on



appreciation of the evidence of PW.4 to PW.7, their inconsistent evidence casts a doubt about conducting spot and seizer panchanama by the police at the place said to have been shown by the accused in the presence of the panchas as per Ex.P.4 and Ex.P.6 and seizer of the articles under the panchanama.

20. On going through the entire material on record, the prosecution has not placed any reliable and cogent evidence to prove that the said articles have been seized in the presence of panchas and, spot and seizer mahazar are conducted in the presence of panchas.

21. It is well settled law that evidence of the official witnesses is not to be disbelieved or discarded merely for the reason that they are official witnesses. If the evidence of the official witnesses inspired the confidence of the court, then court can rely upon the evidence of the said witnesses. In the present case on hand the prosecution has not adduced any cogent evidence to prove that said articles have been seized and, spot and seizer mahazar are conducted in presence of panchas.



Therefore, though the official witnesses have deposed in support of version of prosecution, there is no any such circumstances and evidence which inspires the confidence of the court to rely upon the evidence of the official witnesses.

22. Further, It is well established principle of law that, if any doubt arises in the case of prosecution, then the benefit of doubt should go to the accused No.1. Therefore, on appreciation of oral and documentary evidence adduced by the prosecution and in view of discussion made supra, I am of the opinion that the prosecution has failed to prove the charges levelled against the accused No.1 beyond all reasonable doubt. Accordingly, I answer the Point No.1 and 2 in the negative.

23. Point No.3:- For the foregoing reasons, I proceed to pass the following:-

:O R D E R:

Acting U/Sec.248(1) of Cr.P.C., the accused No.1 is acquitted for the offences punishable U/Secs.457, 380 of IPC.



The bail bond and surety bond shall be in force
for a period of 6 months.

(Dictated to the Stenographer, transcribed and typed by her on the computer, corrected by me and then pronounced in the Open Court on this the 7th day of July, 2026)

(HULUGAPPA D.)
Prl. Civil Judge & JMFC, Ron.

:ANNEXURE:

Witnesses examined for the Prosecution

- PW-1 : Kartik P.Rayabagi
- PW-2 : Limbanna D.Rathod
- PW-3 : Manjunath K.Binnal
- PW-4 : Devaraj S.Chavan
- PW-5 : Sambaji H.Bosale
- PW-6 : Prakash Y.Ambure
- PW-7 : Ramappa P.Ghataraddihal
- PW-8 : Gajanana Y.Kabadi
- PW-9 : Mustak M.Attar
- PW-10 : Muttanna @ Adivappa G.Sangalad
- PW-11 : Ramappa Y.Jalageri

Witnesses examined for the accused: NIL

Documents exhibited for the Prosecution.

Ex.P-1 : Spot panchanama



Ex.P-1(a,b,c)	:	Signatures
Ex.P-2	:	Complaint
Ex.P-2(a)	:	Signatures of PW.3
Ex.P-3	:	Re-statement of Gurushiddayya
Ex.P-4	:	Spot panchanama
Ex.P-4(a,b,c)	:	Signatures
Ex.P-5	:	Photo
Ex.P-6	:	Seizure panchanama
Ex.P-6(a,b,c)	:	Signatures
Ex.P-7	:	Denial statement of CW.8
Ex.P-8	:	Re-statement of CW.8
Ex.P-9	:	Complaint
Ex.P-9(a)	:	Signature
Ex.P-10	:	FIR
Ex.P-10(a)	:	Signature

Material objects marked: NIL

(HULUGAPPA D.)
Prl. Civil Judge & JMFC, Ron.