

KAKP420011092025



**IN THE COURT OF THE I ADDITIONAL DISTRICT
AND SESSIONS JUDGE KOPPAL
(SIT AT GANGAVATHI)**

Dated this the 2nd day of July 2026

Present: **SRI.VEDAMOORTHY B.S.,** B.A.(L.), LL.B.,
I Addl. District & Sessions Judge, Koppal (Sit at Gangavathi)

**CRIMINAL APPEALS No.11/2025,
12/2025 AND 2/2026**

APPELLANT IN : Manjunatha Kodakundi,
CRIMINAL APPEAL S/o Ramappa,
No.11/2025 Age: 20 years, Occ: Coolie,
R/o Murahari Nagar,
Gangavathi, Dist: Koppal.
(Accused No.2)

(By Sri.H.N.Kumar, Advocate)

APPELLANT IN : Khajapasha @ Kurha,
CRIMINAL APPEAL S/o Hussainsab,
No.12/2025 Age: 25 years, Occ: Coolie,
R/o Ward No.25,
Gundamma Camp,
Gangavathi, Dist: Koppal.
(Accused No.4)

(By Sri.T.Manjunath, Advocate)

APPELLANTS IN : 1. Abdul Sameer,
CRIMINAL APPEAL S/o Imamuddin @ Yunus
No.2/2026 Khan Daragad,
Age: 20 years, Occ: Coolie,
R/o Daggi Camp,

Amar Bhagavath Singh Nagar,
Gangavathi,
Now R/o Prashanth Nagar,
Gangavathi, Dist: Koppal.
(Accused No.1)

2. Altaf, S/o Late Davalsab Syed,
Age: 23 years,
Occ: Gujar Collector,
R/o KEB Tanda, Tq : Indi,
Dist: Vijayanagar,
Now R/o Ward No.06,
Mehaboob Nagar, Gangavathi,
Dist: Koppal.
(Accused No.3)

(By Sri.P.S.Udupi, Advocate)

V/s

RESPONDENT : State of Karnataka through
Gangavathi Town Police Station,
Represented by the learned
Public Prosecutor, Gangavathi.

COMMON JUDGMENTS

The above named appellants being aggrieved by the judgment of conviction and order of sentence passed by the trial Court dated 24.09.2025 in C.C.No.2877/2023 have filed these appeals under Section 415 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. The parties to these appeals are hereinafter referring to as per their ranks before the trial Court.

3. Before the trial Court, the Sub-Inspector of Police, Gangavathi Town Police Station has filed Police Report in the form of Charge Sheet against the accused persons alleging that they have committed the offence punishable under Section 380 of the Indian Penal Code.

4. The brief facts of the case of the Prosecution set up in the Charge Sheet were that on 18.08.2023 between 2:00 p.m. and 6.00 p.m., the accused persons have entered into the compound of Gangavathi Sub-Divisional Hospital, Gangavathi within the territorial jurisdiction of Gangavathi Town Police Station and committed theft of AC Copper wire worth Rs.40,000/- from Modular Operation Theater, 4 meters of copper wire worth Rs.6,000/- from 2 Ton AC of the room of the Chief Medical Officer, 40 feet length 42 mm copper wire of Liquid Tank pipeline

worth Rs.50,000/-, 40 feet length 42 mm copper wire of Oxygen Generation Plant pipeline worth Rs.50,000/- and copper tel pipes of Oxygen Manifold Room worth Rs.25,000/-.

5. Based on the First Information of CW1-Dr.Eshwar S. Savadi, the crime in Crime No.166/2023 was registered at Gangavathi Town Police Station about the alleged incident. During investigation, on 25.08.2023, accused No.1 to 4 were arrested and produced before the trial Court. On 04.10.2023, accused No.2 was released on bail. On 30.01.2024, accused No.3 and 4 were released on bail. On 17.02.2024, accused No.1 was released on bail. After filing of the Charge Sheet, the trial Court took cognizance for the offence punishable under Section 380 of the Indian Penal Code and registered the Criminal Case against the accused persons in C.C.No.2877/2023. The trial of the said Criminal Case was commenced by framing the charges against the accused persons. The accused persons pleaded not

guilty and claimed to be tried for the offences charged against them.

6. To prove the charge framed against the accused persons, the Prosecution has produced the oral evidences of 11 witnesses as PW1 to PW11, the documentary evidences Ex.P1 to Ex.P16 and the Material Object – MO1 before the trial Court.

7. After examination of the accused persons under Section 313 of the Code of Criminal Procedure and hearing the arguments of the learned Assistant Public Prosecutor and the learned Counsels for the accused persons, the trial Court passed the impugned judgment of conviction holding that from the evidences produced by the Prosecution, it has proved the guilt of the accused persons for the charge framed against them punishable under Section 380 of the Indian Penal Code, convicted the accused persons for the said offence and sentenced them to undergo simple imprisonment for a period of

3 years and to pay fine of Rs.5,000/- with default sentence to undergo simple imprisonment of 15 day in case the fine amount is not paid. The above judgment of conviction and order of sentence passed by the trial Court are the subject matters in these appeals.

8. The grounds urged in Criminal Appeals No.11/2025 and 12/2025 are one and the same. They are as follows:-

- i. The impugned judgment of conviction and order of sentence dated 24.09.2025 passed by the trial Court is illegal, erroneous and contrary to law and materials on record.
- ii. The learned trial judge has not only approached the decision of the matter from the erroneous point of view, but also mis-constrained the materials on record and arrived to wrong conclusion in the matter which are unwarranted in law and facts. The impugned judgment is perverse and warrants the interference of this Court.

- iii. The learned trial judge has not appreciated the evidences on record. The Prosecution has failed to establish the guilt against the accused by producing truthful and credible evidences. Based on the presumption and assumption, the accused cannot be convicted. The well settled principles of law are that the duty of the Court is not presume the things. It has to be appreciate by considering the clinching evidence of record.
- iv. The trial Court has not considered the doubtful version in the cross-examination of CW1/PW7. He has admitted that CCTV cameras have been installed in every part of the hospital, 36 cameras were installed and they were functioning. By the time he lodging the complaint, he verified each CCTV cameras and provided the images to the Police.
- v. The learned trial judge accepted the whole case of the Prosecution and not considered the admissions of the witnesses in the cross-examination.

9. The grounds of appeal urged in Criminal Appeal No.2/2026 are as follows:-

- i. The judgment under appeal is not sustainable either in law or on facts. It is passed by the trial Court contrary to the law and facts.
- ii. The trial Court has not applied its mind judiciously. It came to a wrong conclusion and proceeded to pass the impugned judgment.
- iii. The trial Court has not properly perused the exhibits and oral evidences adduced by the Prosecution which caused miscarriage of justice.
- iv. If the Court perused the list of witnesses adduced on behalf of the Prosecution, they are all interested witnesses and there are so many contradictions in their evidences. The trial Court has not considered the contradictions and discrepancies in the evidences of PW1 to PW11.
- v. The reason assigned by the trial

Court are arbitrary, beyond the scope and ambit of Code of Criminal Procedure and Indian Evidence Act. Therefore, the impugned judgment is devoid of merits.

- vi. The Prosecution has intentionally not adduced the evidences of material witnesses. Therefore, the Prosecution has failed to prove the case.
- vii. The trial Court has only perused the chief examination of the Prosecution witnesses. But, it failed to consider the cross-examination. The trial Court only on pre judged mind, convicted accused No.1 and 3 without considering the materials.

10. There is delay of 73 days in filing the appeal in Criminal Appeal No.2/2026. Therefore, the appellants in Criminal Appeal No.2/2026 have filed I.A.No.1 under Section 5 of the Limitation Act to condone the delay

in filing the appeal by assigning the reason that since the appellants have sent to judicial custody after pronouncement of the judgment, they could not inform either to their Counsel or their relatives to file the appeal. Recently when their relatives have met the appellants, then only they have informed to arrange to file the appeal. Thereafter, upon obtaining the certified copy of the judgment, the appeal is filed without any delay.

11. The Prosecution has not filed any objections to I.A.No.I.

12. The trial Court record is secured. Heard the arguments of the learned Counsels for the appellants and the learned Public Prosecutor. Perused the materials available on record.

13. The points that are arisen for the consideration of this Court are that:

1. Whether the appellants in Criminal Appeal No.2/2026 have shown

sufficient reasons to condone the delay in filing the appeal?

2. Whether the findings of the trial Court that from the evidences produced by the Prosecution, it has proved beyond all reasonable doubts that on 18.08.2023 between 2:00 p.m. and 6.00 p.m., the accused persons have entered into the compound of Gangavathi Sub-Divisional Hospital, Gangavathi within the territorial jurisdiction of Gangavathi Town Police Station; committed theft of AC Copper wire worth Rs.40,000/- from Modular Operation Theater, 4 meters of copper wire worth Rs.6,000/- from 2 Ton AC of the room of the Chief Medical Officer, 40 feet length 42 mm copper wire of Liquid Tank pipeline worth Rs.50,000/-, 40 feet length 42 mm copper wire of Oxygen Generation Plant pipeline worth Rs.50,000/- and copper tel pipes of Oxygen Manifold Room worth Rs.25,000/- and thereby they have committed the offence punishable under Section 380 of the

Indian Penal Code is correct?

3. Whether the impugned judgment of conviction and order of sentence passed by the trial Court needs the interference of this Court?

4. What order?

14. My answers to the above Points are as follows:

Point No.1 : In the Affirmative,

Point No.2 : In the Negative,

Point No.3 : In the Affirmative,

Point No.4 : As per final Order for the following

REASONS

15. **POINT No.1** :- The impugned judgment and order of conviction of the trial Court is dated 24.09.2025. The period of limitation to file the appeal by the accused persons is 30 days from the date of the said judgment and order. The appellants in Criminal Appeal No.2/2026 ought to have been filed the appeal on or before 24.10.2025. But, the appeal is filed by them on 05.01.2026. There is delay of 73 days in filing the appeal. It is only a marginal delay. The reason assigned in I.A.No.1 for cause of such

delay is that since the appellants have sent to judicial custody after pronouncement of the judgment, they could not inform either to their Counsel or their relatives to file the appeal. Recently when their relatives have met the appellants, then only they have informed to arrange to file the appeal. Thereafter, upon obtaining the certified copy of the judgment, the appeal is filed without any delay. The said reason is satisfactory to condone the marginal delay of 73 days in filing the appeal. Therefore, the appellants in Criminal Appeal No.2/2026 have shown sufficient reasons to condone the delay in filing the appeal. Hence, I answer Point No.1 in the Affirmative.

16. **POINT No.2** :- As stated above, the charges leveled against the accused persons are that on 18.08.2023 between 2:00 p.m. and 6.00 p.m., the accused persons have entered into the compound of Gangavathi Sub-Divisional Hospital, Gangavathi within the territorial jurisdiction of Gangavathi Town Police Station; committed theft of AC Copper wire

worth Rs.40,000/- from Modular Operation Theater, 4 meters of copper wire worth Rs.6,000/- from 2 Ton AC of the room of the Chief Medical Officer, 40 feet length 42 mm copper wire of Liquid Tank pipeline worth Rs.50,000/-, 40 feet length 42 mm copper wire of Oxygen Generation Plant pipeline worth Rs.50,000/- and copper tel pipes of Oxygen Manifold Room worth Rs.25,000/- and thereby they have committed the offence punishable under Section 380 of the Indian Penal Code. The accused persons denied the said charges. Therefore, out of 14 witnesses cited in the Charge Sheet by the Investigation Officer, the Prosecution examined 11 witnesses as PW1 to PW11. Among them, PW7 Dr.Eshwar Savadi is the First Informant. PW3 Maruthi and PW4 Hanumanthappa are the Spot Mahazar witnesses. PW8 Shankar, PW9 M.G.Sanjay and PW10 Lingappa are the witnesses about theft took place in the Hospital. PW2 Mahamad and PW5 Sameer are the Seizer Mahazar witnesses. PW11 Chiranjeevi is the

Police Official who secured the accused persons. PW6 Shankar Gouda and PW1 Kamanna are the Investigation Officers of this case.

17. Before the trial Court, the Prosecution has also produced the documentary evidences Ex.P1 to Ex.P16. Among them, Ex.P1 is the Seizure Mahazar, Ex.P2 and Ex.P3 are Photographs, Ex.P4 is Seizure Mahazar, Ex.P5 to Ex.P9 are the Photographs, Ex.P10 is the Spot Mahazar, Ex.P11 to Ex.P14 are the Photographs, Ex.P14 is the First Information and Ex.P16 is the First Information Report. The Prosecution has also produced 9 copper pipes as MO1.

18. It appears from the trial Court records that based on the First Information given by PW7 as per Ex.P15, the law was set into motion by registering the Crime in Crime No.166/2023 for the offence punishable under Section 379 of the Indian Penal Code. Ex.P16 is the First Information Report. PW7 in

his examination-in-chief has deposed that on 21.08.2023 at 4:00 p.m., he gave First Information at Police Station as per Ex.P15 about the theft at hospital. PW6 has deposed in his examination-in-chief that on 21.08.2023 at 4:00 p.m., when he was in-charge of the Police Station, PW7 came; he produced the First Information Ex.P15; based on it, he registered Crime No.166/2023 and forwarded the First Information Report as per Ex.P16. During cross-examination of PW6 and PW7, nothing has been elicited to disbelieve the aforesaid evidences deposed by them in their examination-in-chief.

19. As per the contents of Ex.P15, there was theft of AC Copper wire and spare parts worth Rs.40,000/- from Modular Operation Theater, 4 meters of copper pipeline wire worth Rs.6,000/- from 2 Ton AC, 40 feet length 42 mm copper wire of Liquid Tank pipeline worth Rs.50,000/-, 40 feet length 42 mm copper wire of Oxygen Generation Plant pipeline worth Rs.50,000/- and copper tel pipes of Oxygen Manifold

Room worth Rs.25,000/- from Gangavathi Sub-Divisional Hospital. As per the contents of the said document, the approximate date and time of commission of the said theft was between 17.08.2023 at 12:00 hours during night and 20.08.2023 at 4:00 a.m. PW7 in his examination-in-chief has deposed the above facts except the value of the properties stolen.

20. PW8 to PW10 are the employees of Gangavathi Sub-Divisional Hospital. They have deposed in their examination-in-chief that on 20.08.2023 when they saw, the pipelines of Liquid Oxygen Plant situated near mortuary were laying in broken condition; the pipelines from Oxygen Liquid Plat to Oxygen Manfold were disconnected; AC Copper pipe of X-Ray Room, Copper Pipe of Operation Theater and Copper Pipe of CMO Chamber were also disconnected. PW10 deposed in his examination-in-chief that at that place, the pipes were not there.

21. The oral evidences of PW6 are that on the next day of the receipt of the First Information, he went to the place of incident; conducted Mahazar at the place of incident between 10:00 a.m and 11:45 a.m. in the presence of PW3 and PW4 as per Ex.P10 and took Photographs of the place of incident as per Ex.P11 to Ex.P14. PW3 and PW4 in their oral evidences deposed in their examination-in-chief have identified their signatures in Ex.P10 and themselves in the Photographs Ex.P11 to Ex.P14. PW3 further deposed in his examination-in-chief that on 22.08.2023, the Police came to Gangavathi Sub-Divisional Hospital; took his signature on a printed paper and informed him that theft took place in the said hospital.

22. PW4 has deposed in his examination-in-chief that on 22.08.2023, when he was at Gangavathi Sub-Divisional Hospital, the Police came to the said hospital in the matter of the theft of copper pipes; called him and took his signatures on Ex.P10. He has further deposed in his examination-in-chief that the

Police have not conducted any Mahazar in his presence. He has been considered as hostile witness and cross-examined at the request of the Prosecution. During cross-examination, he has denied the Mahazar conducted at the place of incident as per Ex.P10 in his presence. The oral evidences of PW4 deposed in his examination-in-chief that on 22.08.2023, the Police came to hospital in the matter of the theft of copper pipes; called him and took his signatures on Ex.P10 are remained undisputed by the accused persons.

23. As per the case of the Prosecution, the Investigation Officer PW1 deputed PW11 and CW9 to CW12 to secure the accused persons involved in the theft in question. They have received the information from the informants about the involvement of accused No.1 and his friends in commission of the alleged theft. While they were collecting the information about the whereabouts of the accused persons, on 24.08.2023 at about 9:00 a.m., they

went to New Market place of Gundamma Camp of Gangavathi town and caught hold the accused persons and produced them before PW1 at 9:30 a.m. On enquiry of the accused persons, they have stated in their confession statement that they committed theft of copper pipes from Gangavathi Sub-Divisional Hospital; among them, they have sold small pipes; spent its money and hidden the remaining pipes in a bag inside the bushes at APMC near Taluk Playground. As per the Confession Statements of the accused persons, PW1 seized 9 pieces of copper pipes as shown by them in the presences of PW2 and PW5 by conducting Mahazar.

24. PW1 in his examination-in-chief has deposed that on 22.08.2023, he deputed PW11 and CW9 to CW12 to secure the accused; on 24.08.2023 at 9:00 a.m., they produced the accused persons before him; he recorded the Confession Statements of the accused persons; called two Panchas; informed them about the matter and seized the copper pipes at the

place shown by the accused persons by conducting mahazar as per Ex.P1; took Photographs in the said place as per Ex.P2 and Ex.P3; conducted mahazar at the place of incident in the presence of PW2 and PW5 between 1:30 p.m. and 2:30 p.m. as per Ex.P4 and took Photographs in the said place as per Ex.P5 to Ex.P9.

25. PW11 in his examination-in-chief has deposed that he and CW10 to CW12 were deputed to secure the accused persons of the subject crime; PW10 informed him that accused No.1 and his friends might have involved in the theft; thereafter, they got information that the accused persons were committed theft; they secured the accused persons at Gundamma Camp Market; they produced the accused persons before PW1 at 9:30 a.m.; before PW1, the accused persons admitted the commission of theft; they have stated in their confession statement that they have sold small pipes; spent its money; they hidden the remaining copper pipes in a

bag inside the bushes at APMC near Taluk Playground; they will show if they are taken to the said place; when the accused persons were taken to the said place, they took a bag from bushes; there were 9 pieces of copper pipes in the said bag; they were seized by PW1 in the presence of PW2 and PW5 by conducting mahazar between 11:45 a.m. and 12:45 p.m.; the accused persons shown place of theft committed by them behind Gangavathi Sub-Divisional Hospital; PW1 conducted mahazar at the said place in the presence of PW2 and PW5 between 1:30 p.m. and 2:30 p.m. PW1, PW7, PW10 and PW11 have identified MO1 before the Court.

26. Though PW2 and PW5 in their examination-in-chief have identified their signatures in Ex.P1 and Ex.P4, they have deposed that the Police have not seized anything in their presence. They have been considered as hostile witnesses and cross-examined at the request of the Prosecution. During cross-examination, they denied the seizure of MO1 by

conducting Mahazar as per Ex.P1 and the mahazar conducted at the place shown by the accused persons as per Ex.P4 in their presence.

27. The arguments of the learned Counsels for the appellants are the trial Court has not properly appreciated the evidences produced by the Prosecution. The said evidences are not sufficient to prove the guilt of the accused persons for the charges framed against them. The seizure mahazar witnesses have not deposed any evidences with regard to the seizure of MO1 supporting the case of the Prosecution. Without proof of seizure of the stolen property, the Prosecution cannot prove the charges leveled against the accused persons. Therefore, there are reasonable doubts in the case of the prosecution. PW7 has deposed in his cross-examination that he gave CCTV Footage to the Investigation Officer. But, the Investigation officer PW1 has denied it. PW7 has admitted in his cross-examination that the hospital is working 24 hours in a day; the watchmen and staff

are working in the hospital and nobody can went out of the hospital hiding the material objects. It clearly shows that the accused persons have not committed the theft in question. All the theft properties are not seized. Therefore, there are benefit of doubts and they shall be given to the accused.

28. The learned Public Prosecutor during her arguments supported the findings of the trial Court contenting that the Prosecution has proved the theft committed at Gangavathi Government Sub-Divisional Hospital and its recovery. The Investigation Officer deposed about the seizure of MO1. Though the seizure mahazar witnesses have not deposed any evidences supporting the case of the Prosecution, the evidences of the Investigation Officer can be believed.

29. In a case of theft of a movable property, the Prosecution shall prove every parts of the crime i.e., dishonest intention of the accused persons to take

any movable property out of the possession of any person without his consent. The degree of proof is beyond all reasonable doubts. To raise a presumption under Section 114 Illustration (a) of the Indian Evidence Act, the Prosecution shall prove that the goods which was in possession of the accused persons soon after the theft was a stolen goods. In this case, as state above, the specific case of the Prosecution is that the accused persons have committed theft of AC Copper wire worth Rs.40,000/- from Modular Operation Theater, 4 meters of copper wire worth Rs.6,000/- from 2 Ton AC of the room of the Chief Medical Officer, 40 feet length 42 mm copper wire of Liquid Tank pipeline worth Rs.50,000/-, 40 feet length 42 mm copper wire of Oxygen Generation Plant pipeline worth Rs.50,000/- and copper tel pipes of Oxygen Manifold Room worth Rs.25,000/- from Government Sub-Divisional Hospital, Gangavathi. As per the case of the Prosecution, there is no direct evidences with regard to the theft of the

above properties committed by the accused persons. At the first instance, the Prosecution shall prove the theft of the above properties from hospital. There are oral evidences of PW7 to PW10 that the above properties were stolen from the hospital. During cross-examination of PW8, he has deposed that on 20.08.2023, he found the pipes laying in the condition of cut. It means, the pipes disconnected were laying at hospital itself. He has further deposed that the pipes were cut and they were taken from the hospital. Though the accused persons during the cross-examination of PW7 to PW10 have taken several other defences with regard to the theft of the above properties from the hospital, they could not elicit anything from them to disbelieve their evidences deposed by them in their examination-in-chief with regard to the theft of the above properties from the hospital.

30. As rightly argued by the learned Counsels for the appellants, PW7 in his cross-examination has

admitted that the hospital is working 24 hours in a day; the watchmen and staff are working in the hospital and nobody can went out of the hospital hiding the material objects. PW8 has also deposed that the hospital will be open for 24 hours in a day and the attenders are working as watchman. This is one clinching evidences elicited from PW7 and PW8 to thrash the case of the Prosecution regarding the possibility of theft taken place at hospital as alleged.

31. To show that the accused persons have stolen them, there are no direct evidences. PW7 to PW10 have not deposed anything about the persons who committed theft of the above properties from the hospital. PW11 has deposed in his examination-in-chief that PW7 told that accused No.1 might have committed theft. But, PW7 has not deposed this fact in his oral evidences. PW7 has deposed in his cross-examination that CCTV are installed in every parts of the hospital; there are 36 CCTV cameras; all the said cameras were working; before he gave First

Information, he verified all cameras and gave its photographs to the Police. But, PW1 has deposed in his cross-examination that PW7 has not given CCTV footage to him. PW8 has deposed in his cross-examination that there are CCTV around the hospital and they were viewed everyday. PW9 has also deposed in his cross-examination that he has information that as on the date of the incident, there were CCTV cameras.

32. CCTV footage is a direct documentary evidence with regard to the commission of an offence to identify the person who committed the said offence. PW7 has deposed that there was CCTV footage about the commission of the theft in question and he gave the photographs to the Investigation Officer. When the same is not produce before the trial Court as an evidence, an adverse inference has to be drawn under Section 114 Illustration (g) of the Indian Evidence Act that if the said CCTV footage are produced, it would be unfavorable to the Prosecution.

33. PW7 to PW10 have identified accused No.1 stating that he was doing the community services in the hospital as per the order of Juvenile Justice Board. Therefore, their identification of accused No.1 before the Court is not a clinching evidence. PW7 has also identified accused No.2 to 4 before the Court that he saw them when the Police took them to hospital at the time of mahazar. It is also not a clinching evidence. What would be the clinching evidence that he saw the accused persons in the CCTV footage while they committing theft at hospital and on its basis, he is identifying them. PW11 has deposed in his examination-in-chief that PW7 told that accused No.1 and his friends might have committed theft in the hospital. But, PW7 has not deposed this fact in his oral evidences before the trial Court. Therefore, non-production of the CCTV footage by the Prosecution before the trial Court is fatal to its case.

34. It appears from the materials produced by the

Investigation Officer along with the charge sheet that the entire case of the Prosecution is based on the recovery of MO1 made in furtherance of the information given by the accused persons in their Confession Statements under Section 27 of the Indian Evidence Act. In fact, under Section 27 of the Indian Evidence Act, the discovery of MO1 in consequence of the information received from the accused persons when they were in custody of a Police Officer is relevant, admissible and it may be proved. PW1 and PW11 have deposed in their examination-in-chief that MO1 was discovered inside the bushes at APMC near Taluk Playground in furtherance of the information given by the accused persons during their custody with PW1. In view of the settled law, the evidences of PW1 and PW11 with regard to the seizure of MO1 can be believed even in the absence of the supporting evidences of the independent seizure mahazar witnesses PW2 and PW5 with regard to the seizure of MO1. But, the

Prosecution during the examination-in-chief of PW1 has not brought such portion of the Confession Statements of the accused persons in its evidence. Therefore, No evidenciary value can be attached to seizure of MO1 that it was discovered in furtherance of the information given by the accused persons during their custody with PW1.

35. It is also relevant to note that MO1 seized in this case is not complete recovery of the stolen properties. As per the case of the Prosecution and oral evidences of PW11, the accused persons stated before PW1 that they sold the copper pipes; made use of its money and hidden remaining pipes near APMC. PW1 has not deposed this fact in his examination-in-chief. PW7 has deposed in his examination-in-chief that he will identify the stolen properties. But, he has not deposed any evidences identifying MO1. He has only deposed in his examination-in-chief that the stolen properties were marked as MO1. Though PW8 and PW9 have deposed

in their examination-in-chief that they may identify the stolen properties, they have not identified MO1 before the trial Court. PW10 has deposed in his examination-in-chief that he cannot identify the stolen property. For the above reasons, there are no evidences from the Prosecution that MO1 was one of the properties stolen from the hospital.

36. Upon considering the evidences of the Prosecution in its entirety, for the reasons stated above, it appears that the Prosecution has failed to produce two materials evidences to prove the guilt of the accused persons for commission of the offence charged against them. They are CCTV footage which is a direct evidence and the relevant and admissible portion of the Confession Statements of the accused persons which led to discovery of MO1. It appears from the admissions of PW7 and PW8 during their cross-examination that the possibility of theft of the properties as alleged are very remote. The Prosecution has also not proved the fact that MO1

was the property stolen from the hospital. The other evidences produced by the Prosecution i.e., the oral and documentary do not prove the commission of the offence of theft by the accused persons at hospital as alleged. For the above reasons, from the evidences produced by the Prosecution before the trial Court, it has not proved beyond all reasonable doubts that on 18.08.2023 between 2:00 p.m. and 6.00 p.m., the accused persons have entered into the compound of Gangavathi Sub-Divisional Hospital, Gangavathi within the territorial jurisdiction of Gangavathi Town Police Station; committed theft of AC Copper wire worth Rs.40,000/- from Modular Operation Theater, 4 meters of copper wire worth Rs.6,000/- from 2 Ton AC of the room of the Chief Medical Officer, 40 feet length 42 mm copper wire of Liquid Tank pipeline worth Rs.50,000/-, 40 feet length 42 mm copper wire of Oxygen Generation Plant pipeline worth Rs.50,000/- and copper tel pipes of Oxygen Manifold Room worth Rs.25,000/- and thereby they have

committed the offence punishable under Section 380 of the Indian Penal Code.

37. I read the impugned judgment of conviction and the order on sentence passed by the trial Court. In the said judgment, it has referred all the evidences produced by the Prosecution. On perusal of the discussion made by the learned trial Judge in the impugned judgment, it appears that the findings of the trial Court are based on two aspects. One is that the accused persons have not denied the evidences produced by the Prosecution with regard to the theft of properties at hospital and another is that MO1 was seized by PW1 based on the information given by the accused persons. But, the appreciation of the evidences of the Prosecution by the trial Court is not in proper perspective and in accordance with law. As stated above, there are lack of evidences in the evidences produced by the Prosecution to found the accused persons guilty, to convict and sentence for the offences charges against them. Therefore, the

findings of the trial Court that from the evidences produced by the Prosecution, it has proved the guilt of the accused persons for the offence punishable under Section 380 of the Indian Penal Code and sentenced them for the said offence is not correct. For the above reasons, the impugned judgment of conviction and order of sentence passed by the trial Court needs the interference of this Court. Hence, I answer **Point No.2 in the Negative and Point No.3 in the Affirmative.**

38. **POINT No.4** :- In view of the findings on Point No.1, I.A.No.1 filed by the appellants in Criminal Appeal No.2/2026 is liable to be allowed and the delay of 73 days in filing the appeal is liable to be condoned. In view of the findings on Points No.2 and 3, all the appeals are liable to be allowed and the impugned judgment of conviction and order of sentence passed by the trial Court are liable to be set aside. In the result, I proceed to pass the following:

ORDERS

I.A.No.I filed by the appellants in Criminal Appeal No.2/2026 is hereby allowed.

The delay of 73 days in filing the said appeal is hereby condoned.

The appeals in Criminal Appeals No.11/2025, 12/2025 and 2/2026 are hereby allowed.

The impugned judgment of conviction and order of sentence passed by the trial Court dated 24.09.2025 passed in C.C.No.2877/2023 are hereby set aside.

The accused persons are acquitted for the offence punishable under Section 380 of the Indian Penal Code.

Their bail bonds and surety bonds executed consequent to the order of this Court are stand canceled.

Send back the trial Court record to the trial Court along with copy of this judgment.

The printouts of this judgment are taken in three sets. One set kept in each appeals.

(Typed by me in the laptop, printout taken, corrected and then pronounced by me in the open court today on this the 2nd day of July 2026)

(VEDAMOORTHY B.S.)

I Addl. District & Sessions Judge,
Koppal (Sit at Gangavathi)