

KAKP020012652022



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND CJM.,
AT KOPPAL.**

Present: Sri.Malakari .R. Wadeyar
B.A., L.L.B. (Spl).
Senior Civil Judge & CJM.,
Koppal.

Dated : This the 21st Day of August 2025

C.C. No.750/2022

Complainant: The State through
The P.S.I.
Town Police Station, Koppal.
(By the learned Sr. A.P.P., Koppal)

// Versus //

Accused:

1. Sri. Hanumantha S/o Ravi Joshi,
Age: 25 years, Occ: Employed in Pvt Firm,
R/o 12th Cross, Near Ishwar Temple,
Mrutyunjayanagar, Hospete,
Dist: Vijayanagara.
2. Sri. Madhvan @ Venkatesh @ Kariya
S/o K Shivakumar, Age: 19 years,
R/o 28th ward, Near KGS School,
Chapparadahalli, Hospete,
Dist: Vijayanagara.
(Rep. By Sri.M.H.A., Adv.,)



Date of commission of the offence : 06-08-2022
Date of report of offence : 06-08-2022
Name of the informant : Sharath
Date of recording of evidence : 27-05-2025
Date of closing of evidence : 30-07-2025
Offences complained of : U/s. 457, 380 of IPC.
Opinion of the judge : As per final order
Complainant represented by : Learned Sr.A.P.P.
Accused persons defended by : Sri. M.H.A. Adv.,

(Malakari. R. Wadeyar)
Sr. Civil Judge and CJM.,
Koppal.

:: J U D G M E N T ::

This charge sheet is filed by PSI town PS Koppal against accused No.1 and 2 for the offences punishable U/Sec. 457 and 380 of IPC.

2. It is story of the prosecution that, on 06-08-2022 at about 1.30 a.m. behind old District Hospital Koppal, accused No.1 had break opened the house



door lock of CW-6 and entered into the house along with accused No.2 and committed theft of main door center lock set, 14 handles, 20 tower bolts, 1 bronze statue of Goddess Lakshmi, 2 copper jugs, 2 small size copper jugs, 2 bronze plates, 10 door hinges, 1 door lock and a old luggage suitcase.

3. Thereafter on the same day in the same place at about 2.30 a.m. they went to 1st floor MAM TI office, accused No.1 had break opened the office door lock and entered into the office and break opened the almirah and table draw locks, but they could not find anything valuable properties, hence they came out and entered into a cotton shop nearby 150 foot from the house of CW-6, break opened the door lock and entered in to cotton shop and break opened the almirah lock and committed theft of Rs.2,000/-.



4. On the basis of complaint lodged by the Sharath S/o Sidalingappa Havinal Crime No.108/2022 is registered before the Town PS Koppal for the offences punishable U/Sec.457 and 380 of IPC, IO has conducted investigation into the matter, arrested the accused No.1 and 2 on 06-08-2022 at about 6.45 p.m. and produced before the court.

5. On going through the same, cognizance is taken for the alleged offences punishable U/Sec. 457 and 380 of IPC and registered this criminal case against accused No.1 and 2, on service of summons accused No.1 and 2 have appeared before this court and released on bail.

6. After hearing the arguments, charge is framed for the offence punishable U/Sec.457 and 380 of IPC, read over and explained to accused No.1 and 2 but they did not pleads guilty and claims to try the alleged



guilty against them. Meantime accused No.1 and 2 are remind absent and not trecedout, inspite of taking effective steps, lastly accused No.1 and 2 are produced byway of executing the proclamation issued against them and they are in judicial custody.

7. In total prosecution has cited 15 witnesses, out of which, learned Sr.A.P.P. has examined the CW-1, 2, 4, 5, 6, 9, 3, 7, 8, 10, 11 and 15 as per PW-1 to 12 and marked 14 documents as per Ex.P-1 to 14 and marked the case properties as per MO No.1.

8. After completion of the evidence of prosecution, statement of accused is recorded U/Sec.313 of Cr.P.C., wherein they have denied the entire evidence of prosecution and submitted that, they have no defence evidence.



9. Heard the arguments submitted by learned Sr.A.P.P. and learned counsel appearing for the accused No.1 and 2, then the following points arose for my consideration:

POINTS

- 1) Whether prosecution proves beyond all reasonable doubts that, in between 05-08-2022 to 06-08-2022 during night hours accused No.1 and 2 have committed theft by break opening the house door lock of CW-6, MSM TI office and cotton shop behind old District Hospital Koppal and thereby committed an offence punishable under Section 380 of IPC.?
- 2) Whether prosecution proves that, at the same time, place and date during night hours accused No.1 and 2 have lurking house trespass into the house of CW-6, MSM TI office and cotton shop, behind old District Hospital Koppal and thereby committed an offence punishable under Section 457 of IPC.?
- 3) What Order.?



10. My findings to the above 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 reasons.

:: R E A S O N S ::

11. Point No.1 and 2: As per case of the prosecution, accused No.1 and 2 have committed lurking house trespass during night hours in order to the commission of an offence and committed theft of main door center lock set, 14 handles, 20 tower bolts, 1 bronze statue of Goddess Lakshmi, 2 copper jugs, 2 small size copper jugs, 2 bronze plates, 10 door hinges, 1 door lock and 1 old luggage suitcase in the house of CW-6 at behind old District Hospital Koppal, further at 1st floor MSM TI office break opening the almirah and table draw locks, further at cotton shop nearby 150 foot faraway from the house of CW-6 and committed theft of Rs.2,000/-



from a almirah in between 05-08-2022 to 06-08-2022 during night hours.

12. To prove the said fact, CW-1 by name Sharath has deposed his evidence as per PW-1, wherein specifically deposed that, CW-6 is his aunty, he knows about Prashanth, Hulugappa, Kotresh, Rajashekhar, Ravi, Manjunath and Siddalingesh, but he does not knows the accused persons, further he has not given statement before the police, further not identified the accused, complaint is marked at Ex.P-1, signature is marked at Ex.P-1(a), panchanama is marked at Ex.P-2, signature is marked at Ex.P-2(a), photo is marked at Ex.P-3, in total case property is marked at MO No.1. In cross examination by learned Sr. APP he has denied the entire version of the prosecution and his further statement is marked at Ex.P-4.



13. CW2 and 3 are the spot panchas, they are examined as PW2 and 7, in their chief examination deposed that, police have obtained their signatures about 2 – 3 years back, but not conducted spot panchanama in their presence and they do not know anything about this case, treating them hostile to the prosecution case, learned Sr. APP has cross examined them, but nothing has been elicited from their mouth.

14. CW4 and 5 are the property seizure panchas examined as PW-3 and 4, they have also deposed that, police have not conducted this panchanama in their presence and not seized any articles from the custody of the accused persons, said panchanama is marked at Ex.P-5, signatures are marked at Ex.P-5(a) and (b), even in cross examination by learned Sr. APP they have denied the entire version of the prosecution.



15. As per case of the prosecution, CW6 is owner of the case properties and accused persons have committed the theft in her house, she is examined as PW-5, in chief examination deposed that, in between 05-08-2022 to 06-08-2022 during night hours somebody have committed theft in her house by break opening the door lock, so that, her sister's son by name Sharath has lodged the complaint and she has also given statement before the police, but police have not conducted the mahazar in her presence and they have not shown the thieves, treating her hostile to the prosecution case, learned Sr. APP cross examined her, wherein she has specifically denied the suggestion given by the learned Sr. APP, her statement before the police is marked at Ex.P-6.

16. As per case of the prosecution, CW7, 8, 9 and 10 are the witnesses for this incident, in their chief



examination said witnesses have deposed about the commission of the offence byway of break opening the door lock, but they have stated they do not know who have committed this offence, further police have not seized any articles from the custody of the accused persons and police have not shown the accused persons at any point of time, even in cross examination also nothing has been elicited from their mouth, in support of case of the prosecution.

17. CW11 is head constable of the Koppal town PS is examined as PW-11, wherein deposed that, as per the direction of PSI, he has arrested the accused persons on 06-08-2022 along with Manjunatha PC 22, Kotrayya PC 397, Veerash PC 351 at railway station and produced them before the PSI at about 7.00 p.m., he has identified the accused persons, further he has deposed about



seizure of the stolen articles from the custody of the accused persons which are marked at MO No.1, further deposed about conduct of spot mahazar and seizure of articles at Tippu Sultan circle Koppal in the presence of Prashanth and Hulugappa by their PSI, in cross examination by counsel for accused he has reiterated the evidence given in chief examination.

18. IO/CW15 is examined as PW-12, wherein he has specifically deposed about registration of this crime No.108/2022 at about 5.15 pm, on the basis of complaint lodged by the Sharath on 06-08-2022 for the offences punishable U/Sec. 457 and 380 of IPC and sending of FIR to this court, further deposed about conduct of the spot mahazar in the presence of Prashanth and Hulugappa in between 8.30 p.m. to 10.00 p.m. taking photos, recording of the statement of witnesses, recording of confession



statement of the accused persons on 06-08-2022 and produced before this court, filing of PF, conduct of spot mahazar on 07-08-2022 about seizure of properties, signature on complaint is marked at Ex.P-1(b), FIR is marked at Ex.P11, signature is marked at Ex.P11(a), spot panchanama is marked at Ex.P12, signature is marked at Ex.P12(a), seizure panchanama is marked at Ex.P5, signature is marked at Ex.P5(c), another spot panchanama is marked at Ex.P2, signature is marked at Ex.P2(d), further identified the case properties marked at MO No.1, photos are seen and identified which are marked at Ex.P3, confession statements of accused No.1 and 2 are marked at Ex.P13 and 14.

19. In cross examination by counsel for accused persons admitted that, complainant has not furnished any documents in support of his case, he has not collected CC



TV footages, further admits that, this incident is taken place in public area abutting to the main road, identification of parade is not conducted and also not taken use of police dog to trace out the accused persons, finger prints are tallied, further received information about commission of the offences, further denied that, rest of the suggestions given by the learned counsel for accused persons.

20. On going through the evidence available on record, it is noticed that, PW12/IO of this case has fully supported the version of the prosecution, but including the CW1 and 6 rest of the witnesses have not supported the version of the prosecution case, there is no proof of spot mahazar and property seizure mahazar, further there is no evidence of eye witnesses, even owners of the seized properties have not at all supported version of the



prosecution stating that, MO No.1 properties are stolen by somebody from their house, but they do not know about the accused persons, further deposed that, police have not arrested the accused and not seized the case properties from the custody of the accused persons.

21. Further very offences taken place during night hours, CC TV footage is not collected, further IO has not collected any technical evidence in this case, he has relied upon the evidence of CW1 and 6 to file the charge sheet against accused No.1 and 2 for the offences punishable U/Sec. 457 and 380 of IPC, but they have not supported the version of the prosecution.

22. Under such circumstances, this court is of the opinion that, there is no evidence on record to prove the nexus in between these accused persons and the commission of the offence, under such circumstances,



naturally accused persons are entitle for benefit of doubt, hence, giving the benefit of doubt, in favour of the accused persons, this court comes to the conclusion that, prosecution has failed to prove the alleged offences against the accused persons. Hence, I have answered the above **point No.1 and 2 in the Negative.**

23. Point No.3: For the reasons assigned and findings given on the above point No.1 and 2, this court proceed to pass the following;

ORDER

Acting under Section 248(1) of Cr.P.C., accused No.1 and 2 are acquitted for the offences punishable under Section 457 and 380 of IPC.

Bail bond executed by the accused No.1 and 2 and their sureties are stand cancelled.



It is ordered to return the case properties in favour of CW-6.

It is ordered to return the cash of Rs.500/- in favour of CW-9.

Issue release intimation to jail authorities with a direction to release the accused No.1 and 2 from the judicial custody, if they are not required in any other case.

Accused No.1 and 2 are set at liberty.

(Directed to the stenographer directly on computer and typed by him and corrected, signed and then pronounced by me in the open court on this the **21st Day of August 2025**).

(Malakari .R. Wadeyar)
Sr. Civil Judge and CJM.,
Koppal.

:: ANNEXURE ::

1) List of witnesses examined by Prosecution :-

PW-1 : Sri. Sharath
PW-2 : Sri. Prashanth
PW-3 : Sri. Kotresh
PW-4 : Sri. Rajashekhar



PW-5 : Smt. Poornima
PW-6 : Sri. Manjunath
PW-7 : Sri. Hulugappa
PW-8 : Sri. Ravi
PW-9 : Sri. Kashinath
PW-10: Sri. Siddalingesh
PW-11: Sri. Rajasab
PW-12: Sri. Sharanappa

2) List of witnesses examined by Accused: -

::NIL::

3) List of documents exhibited by Prosecution: -

Ex.P-1 : Complaint
Ex.P-1(a) : Signature of PW-1
Ex.P-1(b) : Signature of PW-12
Ex.P-2 : Panchanama
Ex.P-2(a) : Signature of PW-1
Ex.P-2(b) : Signature of PW-12
Ex.P-2(c) : Signature of PW-7
Ex.P-3 : 3 Photos
Ex.P-4 : Statement of Sharath
Ex.P-5 : Seized panchanama
Ex.P-5(a) : Signature of PW-3
Ex.P-5(b) : Signature of PW-4
Ex.P-6-10 : Statements of witnesses
Ex.P-11 : FIR
Ex.P-12 : Spot panchanama
Ex.P-13 & 14: Confession statement of accused.

4) List of documents exhibited by Accused: -

::NIL::



5) List of Material objects :-

MO-1 : Main door center lock set,
14 handles,
20 tower bolts,
1 bronze statue of Goddess Lakshmi,
2 copper jugs,
2 small size copper jugs,
2 bronze plates,
10 door hinges,
1 door lock,
1 old luggage suitcase,
Cash of Rs.500/-,
1 Iron rod.

(Malakari. R. Wadeyar)
Sr. Civil Judge and CJM.,
Koppal.