

IN THE COURT OF JUDICIAL MAGISTRATE OF THE FIRST CLASS-I,
CHERTHALA

Present:-Smt.Sherin K George, Judicial Magistrate of the First Class-I
Dated this the 27th day of March, 2026

C. C. No.476/2017

Complainant : Sree Gokulam Chit and Finance
Co.Pvt.Ltd., Sree Gokulam Towers,
No.66, Arcot Road, Chennai-24, Cherthala
branch, Gandhi Bazar Shopping Complex,
Canal Road, Cherthala, represented by
Asst. Business Manager and Power of
Attorney Holder, K. Mohanan, S/o.
Kumaran, Kannukulangara, S.N.Puram
P. O, Cherthala.
(By Adv. Sri. K B Harshakumar)

Accused : A1. Venugopal. K. K, S/o. Krishnan Nair,
Anjaly Bhavan, Kuruppankulangara,
Cherthala.
A2. Latha, W/o. Venugopal K K,
Anjaly Bhavan, Kuruppankulangara,
Cherthala.
[By Adv. Sri. P. Rajesh]

Offence : under section 420, 34 of IPC
Plea : Not guilty
Finding : Not guilty
Sentence/order : Both accused are acquitted u/s.248(1) of
Cr.P.C.

DESCRIPTION OF ACCUSED

Sl. No.	Name	Father's/ Husband's name	Occupation	Residence	Age
1	Venugopal K.K	Krishnan Nair	...	Anjaly Bhavan, Kuruppankulangara, Cherthala.	...
2	Latha	Venugopal	...	Anjaly Bhavan, Kuruppankulangara, Cherthala.	...

DATE OF: -

Occurrence	Complaint	Appearance	Released on bail	Commencement of trial	Close of trial	Sentence or order
21/02/2013	10/06/2015	18/09/17	18/09/17	20/08/25	27/03/26	27/03/26
Service of copy of judgment or finding			Explanation for delay.			
....					

This case having been finally heard and this day the court delivered the following:

J U D G M E N T

1) The accused stands trial for offences punishable under Sections 420 r/w 34 of the Indian Penal Code.

2) The gist of the complaint is that the first accused subscribed to a chit scheme of ₹1,00,000/- with the complainant company in 2009, received the prize amount, and thereafter defaulted in repayment. Despite repeated demands and notices, repayment was not made. About a year after maturity, the accused issued Exhibit P2 cheque for ₹92,653/- drawn on Federal Bank, Cherthala branch, which was dishonored for insufficiency of funds as evidenced by Exhibit P3. The complainant alleges that the cheque was deliberately issued from the account of the second accused, thereby deceiving the company and causing wrongful loss.

3) After recording the statement of the complainant and witnesses, the case was taken on file against both accused for offences punishable under Sections 420 r/w 34 IPC. The accused appeared on

summons, were enlarged on bail, and copies of relevant prosecution records were furnished under Section 207 CrPC. After pre-charge evidence, charge was framed for the offence punishable under Section 420 IPC, read over and explained to the accused under Section 240(2) CrPC, to which they pleaded not guilty and claimed to be tried.

4) In order to prove the complicity of the accused, PW1 was examined and Exhibits P1 to P7 were marked. On the basis of the prosecution evidence, the accused were examined under Section 313(1)(b) CrPC. They denied all incriminating circumstances and maintained innocence, alleging that Exhibit P2 was fabricated and obtained by coercion.

5) Heard both sides.

6) On going through the materials on record, the following points arise for consideration:

1. Has the complainant succeeded in proving that the accused, acting in concert, cheated the company and thereby committed the offence punishable under Section 420 IPC read with Section 34 IPC?
2. If found guilty, what shall be the sentence?

7) **Point No.1**:-The prosecution case started when PW1 gave complaint before this court and this court took cognizance for the offence under Sections 406, 415 & 420 of IPC. . The accused is alleged to have committed the offence punishable u/s.420 of IPC. Even a simple cheating

is punishable under section 417 and when there is delivery or destruction of any property or alteration or destruction of any valuable security resulting from the act of the person deceiving, section 420 of IPC comes into operation. For proving the guilt of accused under this section the complainant has to prove that he had parted with his property acting on a representation which was false to the knowledge of the accused and that the accused had a dishonest intention from the outset.

8) Now I shall look *in seriatim* to check whether the evidence tendered by the prosecution would show that the accused had got the dishonest intention at the first outset. On a close reading of PW1's deposition, it becomes clear that while the examination-in-chief sets out a narrative of default in chit repayment and the issuance of Exhibit P2 cheque, the cross-examination exposes several material weaknesses. PW1 asserted that he was the Assistant Manager and power of attorney holder of the complainant company, but he admitted that no document was produced to prove his designation or employment during the relevant period. Exhibit P1 was filed as a general power of attorney, yet its scope was challenged, and PW1 conceded that it was not specifically limited to conducting this case. He further acknowledged that no record was produced to prove that the signatory of Exhibit P1 was indeed the Managing Director, thereby raising doubts about the validity of his authority. Apart from that PW1 admitted that neither the chit agreement nor the promissory note was filed in court, though he claimed such

documents existed. Of course, these are primary records to establish liability, and their absence weakens the foundation of the case. Similarly, although PW1 alleged that Exhibit P2 cheque was issued by the accused, he could not identify whose signature appeared on it, nor did the dishonor memo (Exhibit P3) disclose the account holder's name. No bank records, account opening forms, or testimony of bank officials were produced to prove that the cheque belonged to the second accused. I am of the view that this evidentiary gap is fatal to the allegation that both accused acted in concert.

9) It is also taken note that, PW1 also conceded that the accused had made some repayments, but he did not specify the amounts or produce complete records of payment. He admitted he did not remember how the chit amount was disbursed, which casts doubt on the accuracy of his account. While he claimed that ledger extracts and payment vouchers were filed, these were not sufficient to establish the full transaction history. Moreover, PW1 admitted that no action was taken against the guarantor despite default, which undermines the complainant's claim of genuine enforcement of liability. Finally, PW1 was unable to rebut the defence suggestion that Exhibit P2 was fabricated by inserting the first accused's signature on a cheque leaf belonging to the second accused. Without bank verification or signature comparison, the allegation of forgery remains unanswered. Taken together, these deficiencies show that the complainant has failed to establish the

ownership of Exhibit P2, the authority of PW1, and the existence of binding contractual documents. The gaps in evidence significantly weaken the prosecution's case under Section 420 IPC read with Section 34 IPC, particularly against the second accused.

10) It is also taken note that, PW1 conceded that he had no direct knowledge of the execution of Exhibit P2 cheque, nor could he identify whose signature appeared on it. The dishonour memo (Exhibit P3) did not disclose the account holder's name, and no bank official was examined to confirm that the cheque belonged to the second accused. The chit agreement and promissory note were also not produced. These omissions raise serious doubts about whether the accused had dishonest intention at the outset and whether Exhibit P2 can be safely attributed to them. It is settled law that for proving guilt under Section 420 IPC, the complainant must establish that he parted with property acting on a false representation made by the accused, and that the accused had dishonest intention from the beginning. In the present case, the absence of core transaction documents and the failure to prove ownership of Exhibit P2 cheque leave significant evidentiary gaps.

11) In the present case, it is necessary to examine whether PW1 has succeeded in laying a prima facie foundation to fasten criminal liability upon the accused. PW1 deposed broadly in line with the complaint averments and produced Exhibit P1 as the certified copy of the General Power of Attorney. However, during cross-examination, PW1

conceded that no document was filed to prove his designation as Assistant Manager or his employment during the relevant period, nor was any record produced to establish that the signatory of Exhibit P1 was indeed the Managing Director. More critically, PW1 admitted that he had no direct knowledge of the execution of Exhibit P2 cheque. His testimony was confined to confirming, on the basis of company records, that the accused were indebted to the complainant. He could not identify whose signature appeared on Exhibit P2, and the dishonor memo (Exhibit P3) itself did not disclose the account holder's name. No bank official was examined, nor were account opening forms or specimen signatures produced, leaving a significant evidentiary gap. At this juncture, it is apposite to recall the principle laid down in *Pathrose V. U. v. V. K. Jeevalan* (2017 (2) KHC 297), that when a power of attorney holder neither witnesses nor has personal knowledge of the transaction, such person is incompetent to be examined as a witness. Similarly, in *Narayanan A. C. v. State of Maharashtra* (2013 (3) KHC 885), the Hon'ble Apex Court held that a power of attorney holder must either have witnessed the transaction or possess due knowledge thereof. In the present case, PW1's cross-examination reveals that he lacked personal knowledge of the execution of the cheque, and he did not specify the circumstances under which the accused allegedly issued Exhibit P2. The absence of corroborative evidence from the bank, coupled with the omission to produce the chit agreement or promissory note, raises

reasonable doubts about the complainant's version. These deficiencies materially weaken the prosecution's attempt to establish a prima facie case of cheating under Section 420 IPC read with Section 34 IPC.

12) Considering the evidence on yardstick of probabilities, its intrinsic worth, animus of witness, I am of the view that the prosecution has failed to bring any evidence to link the accused persons with the offences in any manner so as to establish their guilt for the offence punishable under section 420 of IPC. Hence, the above point is found against the prosecution.

13) **Point No.2**:-In the result, both accused are found not guilty of the offence u/s.420, 34 of the Indian Penal Code and they are acquitted for the said offence u/s.248(1) of Cr.P.C. Their bail bonds stand cancelled and they are set at liberty.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 27th day of March, 2026.

Sherin K George,
Judicial Magistrate of the First Class-I,
Cherthala.

APPENDIX

Witnesses for complainant:

PW1 : Ratheesh

Exhibits for complainant:

P1 : Certified copy of Power of attorney marked through PW1

P2 : Cheque marked through PW1

P3 : Dishonour memo marked through PW1

- P4 : Copy of Lawyer's notice marked through PW1
- P5 : Postal receipt marked through PW1
- P6 : AD card marked through PW1
- P7 : Complaint marked through PW1

Defence witness: Nil

Defence exhibit: Nil

Sherin K George,
Judicial Magistrate of the First Class-I,
Cherthala.