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

Present:- Smt.Anupama S.Pillai, Judicial First Class Magistrate-I

Dated this, the 30th day of April 2026.

<u>C.C.1888/2018</u>

Complainant	:	State of Kerala represented by the Sub Inspector of Police, Chengannur P.S. in Crime No.77/16 **[By APP, Chengannur]**
Accused	:	Nirmala, Aged 56/16, S/o Raveendran Pillai, Soma Bhavanam, Ulanthoor Muri, Kulanada Village. ***[By Adv. K Usha]***
Offence	:	U/Ss.420, 447(A), 409 of IPC.
Plea	:	Not guilty
Finding	:	Not guilty
Sentence or order	:	The accused is found not guilty of the offences punishable under Sections 420, 477A and 409 of the Indian Penal Code and he is acquitted under Section 248(1) Cr.PC. The bail bond, if any, stands cancelled. The accused is set at liberty

<u>DESCRIPTION OF THE ACCUSED</u>

No	Name	Husband's name	Caste	Calling	Residence	Taluk	Age
1	Nirmala	Raveendran Pillai			Soma Bhavanam, Ulanthoor Muri, Kulanada Village		56/16

DATE OF				
Occurrence	Complaint	Apprehension	Released on bail	Commencement of trial
02.01.2013	18.04.2017	05.03.2021	05.03.2021	08.04.2022
Commencement of evidence	Close of trial	Sentence or order	Explanation for delay	Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr.P.C
13.08.2024	27.04.2026	30.04.2026	No delay	Nil

This case coming on this day for consideration, the court delivered the following: -

<u>**J U D G M E N T**</u>

1. This case arises out of Crime No.77/2016 of Chengannur Police Station, charge-sheeted by the Sub Inspector of Police alleging commission of offences punishable under Sections 420, 477A and 409 of the Indian Penal Code against the accused.

2. <u>**The Prosecution case in brief as follows:-**</u> The accused , while working as the Post Master at Mulakkuzha Kotta Post Office within the jurisdiction of Mavelikkara North Sub Division, committed acts of cheating and misappropriation in the course of his official duties. Thw witness CW2, a Postal Life Insurance policy holder, had entrusted a sum of ₹10,000/- to the accused for remittance towards Policy No. RKEA 614091. However, the accused remitted only ₹4,384/- towards the premium for the month of January 2015 and failed to remit the premiums for the subsequent months, while retaining the passbook in her possession. The accused, in respect of CW3, who maintained a savings bank account bearing No. 63152 in the same post office, dishonestly withdrew a sum of

₹1,100/- on 02.01.2013 without the knowledge of CW3 and retained the passbook of the said account in her possession. The accused, by making false entries and manipulations in the official records of the post office, committed financial irregularities and thereby cheated CW2 and CW3 as well as the Postal Department of the Central Government. Thus the accused allegedly committed the offence punishable under Section 420 of IPC.

3. The Crime was registered, investigation was conducted and the final report was laid by CW-4 under Section 173(2) of CrPC.

4. After taking cognizance of the offence, taking the case on file as the afore CC, this court issued summons to the accused. The accused appeared on 05.03.2021 and she was enlarged on bail. Copies of relevant prosecution records were served on her under Section 207 of CrPC. On 08.04.2022,, the charges of the offence under Section 420,477-A and 409 of IPC were framed against the accused. The charges were read over and explained to her. She pleaded not guilty and claimed to be tried. This Court then proceeded with the evidence of the prosecution.

5. The prosecution cited five witnesses, of whom PW1 to PW-4 were examined. CW3 could not be examined due to her medical condition. Hence, the evidence of prosecution was closed without examining CW3. Exhibits P1 to P2, P2(a), P3, P3 (a), P3 (b), Exhibits P4, P4(a), P5- P6, P6 (a), P7, P7 (a), Exhibits P8 to P10 were marked.

6. On the closure of prosecution evidence, the accused was examined u/s.313(1)(b) of CrPC. She denied the allegations against her and maintained the plea that she is innocent of the accusations.

7. No evidence was adduced by the accused.

8. Heard both sides.

9. The following points arose for consideration;

POINTS

i. *Has the prosecution proved that during the period from 02.01.2013 to 01.01.2015, at Kotta Branch Post Office under Mavelikkara Postal Division, the accused, while working as Postmaster, dishonestly and fraudulently induced CW2 to entrust a sum of ₹10,000/- towards Postal Life Insurance premium and, having so received the amount, remitted only ₹4,384/- towards the premium for January 2015 and failed to remit the premium for February 2015 and subsequent period, and further dishonestly withdrew a sum of ₹1,100/- on 02.01.2013 from Savings Bank Account No.63152 of CW3 without her knowledge or consent, and thereby caused wrongful loss to CW2 and CW3 and corresponding wrongful gain to herself, thereby committed the offence of cheating punishable under Section 420 of the Indian Penal Code?*

ii. *Has the prosecution proved that during the period from 02.01.2013 to 01.01.2015, at Kotta Branch Post Office under Mavelikkara Postal Division, the accused, being a public servant, wilfully and with intent to defraud falsified and manipulated the official records of the post office, including making entries in the Premium Receipt Book showing remittance of premium for January and February 2015 without actually bringing the amounts into account, omitting to record the withdrawal of ₹1,100/- in the passbook of CW3, subsequently making entries in red ink, and making false or incomplete entries in the savings bank journal and insurance registers relating to withdrawals and premium payments, thereby committed the offence of falsification of the accounts punishable under Section 477A of the Indian Penal Code?*

iii. *Has the prosecution proved that during the period from 02.01.2013 to 01.01.2015, at Kotta Branch Post Office, the accused, being a public servant entrusted with dominion over public money and deposits of customers, including the amount of ₹10,000/- entrusted by CW2 towards Postal Life Insurance premium and the amount of ₹1,100/- withdrawn from the savings bank account of CW3, dishonestly misappropriated and converted the same to her own use in the course of her official duties, thereby committed criminal breach of trust punishable under Section 409 of the Indian Penal Code?*

iv. *What is the order as to sentence?*

10. **Point Nos.1 to 3:** Since the appreciation of evidence and appraisal of facts involved in all these points are similar, they are considered together for the sake of brevity and to avoid the monotony of repetition.

11. The prosecution case, in brief, is that the accused, while working as Branch Postmaster at Mulakkuzha Kotta Post Office within the jurisdiction of Mavelikkara North Sub Division, committed acts of cheating, falsification of accounts and misappropriation in the course of her official duties. It is alleged that CW2, a Postal Life Insurance policy holder, had entrusted a sum of ₹10,000/- to the accused for remittance towards Policy No. RKEA 614091, but the accused remitted only ₹4,384/- towards the premium for January 2015 and failed to remit the subsequent premiums, while retaining the passbook. It is further alleged that in respect of CW3, who maintained Savings Bank Account No.63152 in the same post office, the accused dishonestly withdrew a sum of ₹1,100/- on 02.01.2013 without the knowledge of the account holder and retained the passbook. It is also alleged that the accused manipulated official records, including passbooks, journals and insurance registers, thereby causing financial irregularities and loss to the customers and the Postal Department.

12. The prosecution case originates from Ext.P1 complaint submitted by CW1 Reena Susan Mathew before the Station House Officer, Chengannur Police Station on 01.01.2016. PW4 registered Ext.P8 FIR based on the said complaint.

13. As the complaint is the first information in hand, the contents of the complaint may be read into first: The complaint is read as under:

……………………….Smt. E.P. Nirmala has been working as the Branch Postmaster, Kotta, for the period from 15.05.1986 to 24.02.2015, till she was placed under put-off duty…..Smt. Lakshmy Vadakke Modiyil has opened a Savings Bank Account No. 63152 at Kotta Post Office. On 02.01.2013, a sum of ₹1,100/- was withdrawn from this account, which is noted in the Savings Bank Journal, and the concerned voucher (SB-7) was sent to Karakkad Post Office. However, the amount withdrawn was not noted in the passbook of the depositor.

Subsequently, noticing a difference in the balance of the account, the passbook was obtained at Karakkad Post Office, and the missing withdrawal of ₹1,100/- was entered in the passbook in red ink by the Postal Assistant.

On enquiry, the depositor Smt. Lakshmy stated that she has not taken the amount, and disowned the thumb impression found on the SB-7 voucher dated 02.01.2013 shown to her. Smt. E.P. Nirmala, who was working as Branch Postmaster at Kotta on that day, stated that she had paid the amount to Smt. Lakshmy after obtaining her thumb impression, and that due to work pressure she omitted to record the same in the passbook. In the SB-7 voucher dated 02.01.2013, Smt. Sabitha Thankappan has signed as a witness. However, she stated that she had not actually seen the payment of the amount and that when she came to the Branch Office in the afternoon, the Branch Postmaster made her sign as a witness.

It is therefore seen that Smt. E.P. Nirmala effected withdrawal of ₹1,100/- from Savings Bank Account No. 63152 without making an entry in the passbook, and the receipt of the said amount is denied by the depositor.

Further, Sri Mohammed Hussain, of Mohammed Manzil, Kotta, had opened a Rural Postal Life Insurance (RPLI) policy bearing No. R-KL-EA-614092 on 30.03.2012 at Kotta Post Office. The premium for February 2015 is seen entered in the Premium Receipt Book (PRB), but was not brought into account. Sri Mohammed Hussain stated that he had lent ₹10,000/- to the Branch Postmaster and, for adjustment of the said amount during January 2015, he handed over the PRB, whereupon the Branch Postmaster entered the premium for January 2015 and February 2015 and returned the balance amount to him. He further stated that no receipts were issued to him.

Smt. E.P. Nirmala, the Branch Postmaster, stated that she had written the entries for January 2015 and February 2015 in the PRB during January 2015. She credited the premium for January 2015, amounting to ₹4,384/-, only on 19.02.2015 and issued PLI-2 receipt No.13. She admitted that the premium for February 2015 had not been brought into account though it was entered in the PRB. Thus, it is revealed that she failed to credit the premium for February 2015 in the Post Office accounts and credited the premium for January 2015 only on 19.02.2015.

Smt. E.P. Nirmala, being a public servant entrusted with Government money, has thereby committed acts amounting to criminal breach of trust and falsification of accounts…………………………..

14. The contents of Ext.P1 complaint as above disclose that Smt. E.P. Nirmala had been working as Branch Postmaster, Kotta, from 15.05.1986 to 24.02.2015. It is alleged therein that from Savings Bank Account No.63152 of Smt. Lakshmy Vadakke Modiyil, a sum of ₹1,100/- was withdrawn on 02.01.2013 as reflected in the Savings Bank Journal, but not entered in the passbook. On enquiry, the depositor denied withdrawal and disowned the thumb impression in the voucher. Though the accused stated that she had paid the amount and omitted entry due to work pressure, the witness Sabitha Thankappan stated that she had not witnessed the transaction. It is further alleged that in respect of Rural Postal Life Insurance policy of Mohammed Hussain, entries of premium were made without proper accounting and the February 2015 premium was not credited, thereby revealing financial irregularities.

15. Now to prove the prosecution case, CW1 Reena Susan was testified as PW1.

16. PW1, Reena Susan Mathew, has deposed that during the relevant period she was working as the Sub Divisional Head of Mavelikkara Postal Division, North Sub Division, from 09.07.2012 to 16.06.2016, and that Kotta Branch Post Office falls within her jurisdiction, its account office being Karakkad Sub Post Office. She has stated that Smt. E.P. Nirmala was working as Postmaster of Kotta Branch Post Office from 1986 till 24.02.2015. On 23.02.2015, during the annual inspection conducted by the Postal Superintendent at Kotta Post Office, certain irregularities were noticed, and she, being the Sub Divisional Head, was entrusted with the verification of the past work of the said Postmaster.

17. On verification, she found that in Savings Bank Account No. 63152 in the name of Lakshmi of Vadakke Modiyil, a sum of ₹1,100/- had been withdrawn on 02.01.2013 as reflected in the Savings Bank Journal, but the same had not been entered in the passbook. On enquiry, the depositor Lakshmi stated that she had not withdrawn the said amount and that the thumb impression in the withdrawal form was not hers. The said withdrawal was later recorded in red ink in the passbook by the Postal Assistant at Karakkad Post Office. The passbook was collected by her during investigation and is identified as Ext.P3, with the relevant entries marked as Ext.P3(a) and P3(b). The Savings Bank Journal is identified as

Ext.P4, wherein the withdrawal of ₹1,100/- and the balance of ₹650/- are recorded, though dated as 03.01.2013 by the Postmaster, while the actual transaction took place on 02.01.2013. The withdrawal form, identified as Ext.P5, contains a thumb impression shown as that of Lakshmi along with the signature of the Postmaster and a witness named Sabitha. PW1 has stated that the depositor had not affixed the thumb impression and that Sabitha, who was a substitute engaged by the Postmaster, later stated that she had not witnessed the transaction and had signed subsequently. From the records, she concluded that the amount was withdrawn without the knowledge of the depositor and misappropriated.

18. PW1 has further deposed that she verified a Rural Postal Life Insurance policy bearing No. RKL-EA-614092 in the name of Mohammed Hussain. On examining the premium receipt book (Ext.P6), particularly page 9 (Ext.P6(a)), she found entries showing payment of premium for January and February 2015, each amounting to ₹4,275/- including tax, without proper dates being recorded. However, upon verification of the transaction register (Ext.P7), particularly page marked as Ext.P7(a), she found that the January premium along with GST and fine amounting to ₹4,384/- was actually credited only on 19.02.2015 and that the February premium had not been paid. On enquiry, Mohammed Hussain stated that he had entrusted ₹10,000/- to the Postmaster as a loan, and that ₹8,550/- was later adjusted in two instalments as premium entries, including ₹4,275/- with tax, though the actual remittance was delayed and incomplete. PW1 has stated that the fine amount was not reflected in the receipt book though it was evident from the journal. Based on the verification of records, she concluded that the Postmaster had utilised the amount for her personal purposes.

19. PW1 has further deposed that on 01.01.2016 she submitted Ext.P1 complaint before the Station House Officer, Chengannur Police Station, alleging that the Postmaster had manipulated official records, falsified entries, misappropriated funds, and thereby caused loss to the department, customers, and the public. She has also stated that she produced the relevant records before the investigating officer and handed them over under Ext.P2 acknowledgment.

20. Thus, PW-1 has spoken in detail regarding the withdrawal of ₹1,100/- from the account of Lakshmi, the absence of corresponding entry in the passbook, and the subsequent recording in red ink. She has also deposed regarding irregularities in the insurance policy account of Mohammed Hussain, including delayed remittance and non-credit of premium. She has identified the relevant documents including passbook, journal, withdrawal form and insurance registers.

21. However, in cross-examination, PW1 has admitted that the alleged irregularities came to her notice as early as 02.01.2013, whereas the complaint was lodged only on 01.01.2016, after a delay of nearly three years. The explanation offered by her is that the irregularities were detected only upon collection and verification of passbooks pursuant to the direction of the Superintendent.

22. With respect to the alleged unauthorized withdrawal from the account of Lakshmi (CW3), PW1 has stated that Ext.P5 withdrawal form contains a thumb impression shown as that of Lakshmi, but she is unable to state whether the same actually belongs to Lakshmi. She has further admitted that no steps were taken by the investigating officer to scientifically establish that the thumb impression was not that of the account holder. Though she stated that Lakshmi had submitted a complaint to that effect and that she had produced the same before the investigating officer, no such document is seen marked or proved before this Court. Similarly, her statement that she had recorded statements of Lakshmi and Mohammed Hussain during enquiry and annexed photocopies thereof is not supported by any such documents being produced or proved in evidence.No such documents have been produced or proved before this Court. Her version regarding the collection of passbook is also inconsistent, at one stage stating that it was obtained from Lakshmi and at another that it was obtained from Karakkad Post Office, and she has expressed uncertainty as to who had actually collected it.

23. In so far as admissibility of the testimony of PW-1 is concerned, the oral assertions of PW1 during cross-examination regarding the existence of complaints or prior statements of witnesses cannot be treated as substantive evidence in the absence of the said documents being produced and proved in accordance with law. In view of the admitted position of the prosecution that the relevant records produced are only those marked as exhibits, any reference to unproduced or unproved documents cannot be relied upon. Further, her contradictory versions regarding the source of collection of the passbook, whether from Lakshmi or from Karakkad Post Office and her uncertainty as to who collected the same, affect the reliability of her testimony. Consequently, while her evidence as to official records and marked exhibits remains admissible, the portions of her cross-examination referring to unproved documents or unsupported assertions cannot be acted upon and are liable to be excluded from consideration.

24. PW2, T.C. Suresh, has deposed that he was present at the time of preparation of seizure mahazar when PW1 produced the records before the police station. However, his signature is not found in the seizure mahazar, and the prosecution has not offered any satisfactory explanation for the same. His explanation that it may be a technical omission does not inspire confidence, and his presence at the relevant time becomes doubtful.

25. PW3, Mohammed Hussain, has deposed that he had a Rural Postal Life Insurance policy at Kotta Post Office, that he had been remitting amounts towards the same, and that he had received the benefits under the policy.

26.PW3 was cross-examined by the learned Prosecutor under Section 157 of the Bharatiya Sakshya Adhiniyam. In such cross-examination, PW3 has deposed that he had taken a policy for ₹3,00,000/- bearing No. RKLEA 614092 and that he had been regularly remitting the premiums. He has further stated that the premium for the months of January and February 2015 was remitted on 19.02.2015 and that the same was duly entered in the passbook. He has also deposed that, when the postal authorities checked the records, it was found that the premium for February 2015 had not been remitted, and he was accordingly called and his passbook was verified. When confronted with the portion of his statement allegedly given to the police to the effect that he had so stated, he denied having given such a statement. When it was further pointed out that, on verification of the passbook, irregularities were noticed and that a report was given to the police, as seen from his police statement, the witness did not offer any explanation. He has, however, clearly deposed that he had received all the benefits under the policy in due course and that he had not suffered any monetary loss.

27. Thus, even when cross-examined by the prosecution under Section 157 of the Bharatiya Sakshya Adhiniyam, he denied having given statements implicating the accused and did not support the prosecution case regarding misappropriation. Significantly, he has stated that he has not suffered any monetary loss.

28.PW4, the investigating officer, has deposed regarding registration of the crime and conduct of investigation.

29. However, in cross-examination, PW4, admitted that the alleged occurrence, as reflected in the First Information Report, pertains to the period from 02.01.2013 to 01.01.2015, whereas the complaint was received only on 06.01.2016, and he has admitted that no explanation for such delay is recorded in Column No.8 of the FIR. He has further admitted that Ext.P1 complaint mentions that the passbook was obtained from the Karakkad Post Office, and that no witness had directly lodged any complaint before him, Ext.P1 being the sole complaint in the matter. He admitted that no independent complaint was received from any affected person, that neither PW1 nor Ext.P1 discloses any complaint regarding loss of money.

30. PW4 has further admitted that Savitha Thankappan, whose name finds mention in Ext.P1 complaint, has not been cited or examined as a witness in the case, and that no scientific examination was conducted to establish that the thumb impression in the withdrawal form did not belong to Lakshmi. When confronted with the omission of entries relating to ₹8,550/- said to have been credited in two instalments, as stated in Ext.P1 complaint, in the passbook of Mohammed Hussain, PW4 stated that the passbook had been seized under a mahazar and subsequently returned under acknowledgment.

31. In the light of the above admissions, the testimony of PW4 reveals material deficiencies in the investigation, including unexplained delay in lodging the complaint, absence of corroborative complaints from affected account holders, non-examination of a material witness, and failure to subject the disputed thumb impression to scientific verification.

32. Thus, while his evidence is admissible to prove the steps taken during investigation and the registration of the case, these lapses and omissions materially affect the reliability and evidentiary weight of the prosecution case and weaken the probative value of the investigation conducted.

33. On an appreciation of the entire evidence, it is evident that the prosecution has failed to establish the essential ingredients of the offences alleged.

34. In order to prove an **offence under Section 420 IPC**, there must be clear evidence of dishonest inducement and resulting wrongful loss.

35. In the present case, there is no reliable evidence to show that CW2 or CW3 were dishonestly induced or that they suffered wrongful loss. PW3, the policy holder, has categorically stated that he suffered no loss and received all benefits.

36. Similarly, to **attract Section 477A IPC,** there must be clear proof of wilful falsification of accounts with intent to defraud. The alleged falsification is not established beyond reasonable doubt in the absence of reliable evidence and supporting documents.

37. Further, for an offence **under Section 409 IPC**, the prosecution must prove entrustment and dishonest misappropriation.

38. In the present case, though entrustment in the course of official duty is not in dispute, dishonest misappropriation is not proved beyond reasonable doubt, particularly in view of the lack of scientific evidence, non-examination of material witnesses, and absence of proof of loss.

39. The delay of nearly three years in lodging the complaint remains unexplained and casts serious doubt on the prosecution case. The failure to examine the primary account holder CW3, the absence of scientific verification of the thumb impression, and the non-production of material documents further weaken the prosecution case. The contradictions and omissions brought out in the evidence create reasonable doubt.

40. When it is trite that the burden is on the prosecution to prove the guilt of the accused beyond reasonable doubt, due to the above stated infirmities in the prosecution case, this Court finds that the prosecution has failed to prove the charges under Sections 420, 477A and 409 of the Indian Penal Code beyond reasonable doubt. The benefit of doubt must go to the accused. The points are found in the negative.

41. **Point No.4:** For the findings in the first point, the accused is not found guilty of the offences punishable under Sections 420, 477A and 409 of the Indian Penal Code .The point is answered accordingly .

In the result,

The accused is found not guilty of the offences punishable under Sections 420, 477A and 409 of the Indian Penal Code and he is acquitted under Section 248(1) CrPC. The bail bond, if any, stands cancelled. The accused is set at liberty

(Typed by me, corrected and pronounced by me in open Court on this, the 30th day of April,2026)

Sd/-

Judicial First Class Magistrate-I

Chengannur

Appendix

List of Prosecution/Defence/Court Witness

(Rule 134 Criminal Rules of Practice, Kerala)

A. Prosecution Witnesses :

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness Eye witness
PW1	Reena Susan	Eye witness
PW2	T C Suresh	Eye witness
PW3	Muhammed Hussain	Eye witness
PW4	K G Shaji	Eye witness

B. Defence Witness: Nil

C. Court Witness: Nil

List of Prosecution/Defence/Court Exhibits

A. Prosecution Exhibits :

Sl. No	Exhibits	Description
1	Ext. P1/PW1	Complaint
2	Ext. P2/PW1	Kycheet

3	Ext.P3/PW1	Pass Book of Lekshmi in SB A/c No. 63152
4	Ext P3(a)/PW1	Relevant page of pass book A/c No. 63152 (Page 2)
5	Ext.P3(b)/PW1	Relevant page of passbook no. 63252 (Page 3)
6	Ext.P4/PW1	Savings bank Journal
7	Ext.P4(a)/PW1	Relevant page of Savings bankd journal
8	Ext.P5/PW1	Depositors Withdrawal form
9	Ext.P6/PW1	Rural PLI premium receipt book
10	Ext.P6(a)/PW1	Relevant page of receipt book
11	Ext.P7/PW1	Rural PLI transaction register
12	Ext.P7(a)/PW1	Relevant page in register
13.	Ext.P8/PW1	First Information Report
14	Ext.P9/PW4	Seizure Mahazar
15	Ext. P10/PW4	Address report

B. Defence Exhibits : Nil

C. Court Exhibits : Nil

D. Material Objects : Nil

Sd/-

Judicial First Class Magistrate-I

Chengannur