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

Present: Sri. Anish Babu M.B., Judicial Magistrate of First Class-I

Monday, the 12th day of January, 2026/ 22nd Pousha 1947

CC No. 1598/2011

Complainant : State-rep. by the Inspector of Police, Perumbavoor P.S in Crime No.2336/09

(**By Nazeer S. M., APP Gr.I, JFCM-I**)

Accused : Jasmine Ahammed, aged 41/11, W/o Shihabudheen, Nellikkal House, Pallikavala Bhagam, Mouloodpura Kara, Marambilly Village.

(By Adv. **V.G.Jawahar**)

When the matter is posted for judgment, the court has passed the following;

ORDER

Today, the case has been posted for a judgment, and this court is of the considered opinion that one more document, i.e. Treasury Bill Book of the Vengola Gramapanchayat for the period from 10.06.2008 to 25.06.2009, is also highly essential for the proper adjudication of the case involved.

2. The prosecution's case, in brief, is as follows: The accused while working as the U. D. Clerk attached to the Vengola Gramapanchayath and being entrusted with cash, during the period from 10.06.2008 to 03.10.2009, the entrusted actual money were not remitted to the treasury and misappropriated the same for personal use for a total amount of Rs.51,870/- after making necessary corrections in

the respective treasury challan forms and also making false entries in the cash book and other records, which includes an amount of Rs.12,713/- as per voucher No.5 entrusted by CW1 (PW1) towards pension contribution of employees, Rs.3,390/- as per voucher No. 10 of 8/08 being the D. A. arrear of CW3 (PW3) and CW4, Rs.14,147/- as per Voucher No. 8 for the month of 8/08 being the pension contribution of employees, Rs.14,620/- as per voucher No. 10 for the month of 5/09 being the pension contribution of employees and an amount of Rs.7000/- out of Rs.31,980/- which was returned due to the non-availability of claimants for different welfare schemes. Thus, the accused had committed the alleged offences.

3. PW10, Addl. Sub Inspector of Police, Perumbavoor Police Station, registered the case, as Crime No.2336/2009, based on Ext.P10 complaint lodged by PW1, then Gramapanchayat Secretary. Upon completing the investigation, PW12, the Circle Inspector of Police, Perumbavoor Police Station, laid a final report before the court. After complying with the procedures, a charge for the offences punishable under Sections 409, 420, 468, 471 and 477A of the Indian Penal Code, 1860 (hereinafter referred to as 'the IPC') was framed. From the side of the prosecution, PW1 to PW12 were examined, as well as Exts. P1 to P41 were marked. After closing the evidence of the prosecution, the accused was questioned under Section 313(1)(b) of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the CrPC'). She denied all the incriminating circumstances appearing in the evidence against her and also filed a written statement under Section 313 (5) of the CrPC.

4. It is an undisputed fact that the accused person, Jasmine Ahammed, had

been working in the Vengola Gramapanchayat for the period from 10.06.2008 to 03.10.2009. PW1 is the de facto complainant in the case, and she was working as the Secretary of Vengola Grama Panchayath during the period from 26.05.2008 to 20.12.2010. PW1 deposed that during her tenure, Jasmine Ahammed, U.D., the Clerk attached to the office of PW1, had forged documents, misappropriated money, and thereby caused a loss to the Government. PW1 testified that the accused was entrusted to deal with all matters related to accounts, office establishment matters, honorarium and T.A. of members, salary and pension of employees, to collect rerceipts from the concerned staff and remit it in the treasury, to maintain cash book and other registers, to keep the pass book, bill book, and cheque book of the treasury and bank, to keep money, and to produce documents for audit. According to PW1, on verification, they found the misappropriation of an amount of ₹51,870/-. The details of the said misappropriation were as follows:

1. ₹14,147/- as per Voucher No. 8 of 8/2008 for pension contribution;
2. ₹3,390/- as per Voucher No. 10 of 8/2008 for PF of employees;
3. ₹12,713/- as per Voucher No. 5 of 11/2008 for pension contribution;
4. ₹14,620/- as per Voucher No. 10 of 5/2009 for pension contribution; and
5. ₹7,000/-, which were the amounts of unclaimed welfare pensions returned as unclaimed.

PW1 testified that the total amount of misappropriation was ₹51,870/-. The accused misappropriated the amounts entrusted by PW1 for remitting to the treasury and thereby cheated the Panchayat. According to PW1, the accused made corrections in the challans for small amounts and kept photocopies of the same in the file. In some challans, the accused herself signed them, paid meagre amounts at the treasury, and kept them in the file after making corrections. PW1 also produced the counterfoils before the police. The counterfoil for Challan No.000250 for Rs. 14,620/- was marked as Ext.P20. The said challan was signed by PW1, but the amount had been corrected. In the challan, there were three counterfoils. There was a challan for ₹10 with respect to the Family Benefit Scheme. The accused paid the said amount, and thereafter, she corrected the challan and incorporated it with the pension contribution voucher for ₹14,620. The said amount was also entered in the cash book. In Challan No.000101, in which it was mentioned as ₹12,713 and on verification of the treasury records, the accused had paid only ₹10 into the treasury and thereafter made corrections in order to make it as ₹12,713. The said challan was signed by the accused and was also entered in the cash book. The said challan was marked as Ext.P21. According to PW1, the handwriting in Ext.P20 and Ext.P21 challans was that of the accused.

5. PW1 deposed that on 24.10.2009, the Panchayat received a letter issued by the accused whereby the accused admitted that she had taken an amount of ₹50,343 entrusted to her for payment into the treasury. The accused also produced two demand drafts of Punjab National Bank—one for ₹643 and the other for ₹49,700. Through PW1, the letter dated 24.10.2009 issued by the accused to the Vengola Grama Panchayath Secretary was marked as Ext.P13, and the drafts were marked as Ext.P14 series. In the written statement of the accused under Section 313

(5) of CrPC, the accused has admitted the execution of Ext. P14 and Ext. P14 documents but stated that the same was done under compulsion exerted by the then Panchayat Secretary and then Junior Superintendent. Moreover, Ext. P41, FSL Report, also indicates that the accused had written the impugned Ext. P13 letter. PW2, the then Junior Superintendent at Vengola Grama Panchayath, also testified that the accused was a U.D. Clerk at Vengola Grama Panchayath. According to PW2, the accused was handling establishment matters, salary and pension of staff, daily cash transactions, and account-related duties. These works were entrusted to the accused as per the office order. During the period in which the accused was working, though Rs. 51,870/- were taken from the Panchayath for remittance in the treasury under various heads, but the full amounts were not remitted in such heads. The Treasury Bill Book of Vengola Grama Panchayath from 26.06.2009 was marked as Ext.P22. So, though the accused was charged for manipulating the treasury challan forms during the period from 10.06.2008 to 03.10.2009, the Treasury Bill Book for the period from 10.06.2008 to 25.06.2009 has not been produced in the court. As the prosecution had already examined the material witnesses in that regard and also produced the relevant cash Books for the impugned period, the production of the material Treasury Bill Book, as mentioned, will not amount to filling up any lacunae. Hence, this court is of the considered opinion that the said Treasury Bill Book is highly essential for the proper adjudication of the case at hand.

6. It is well settled that the powers under Section 311 of the CrPC must be sparingly used, and also must be used very cautiously while exercising the power

under Section 311 at a belated stage. It is well settled that the very object of Section 311 of Cr.P.C. is that the court may exercise its discretionary authority at any stage of the enquiry, trial or other proceedings, to summon any person as a witness though not yet summoned as a witness, or to recall or re-examine any person, though not yet summoned as a witness, who is expected to be able to throw light upon the matter in dispute, because if the judgments happen to be rendered on an inchoate, inconclusive and speculative presentation of facts, the ends of justice would be defeated. The very use of words such as ‘any Court’, ‘at any stage’, or ‘or any enquiry, trial or other proceedings’, ‘any person’ and ‘any such person’ clearly spells out that the provisions of section 311 of Cr.P.C. have been expressed in the widest possible terms, and do not limit the discretion of the Court in any way. There is thus no escape if the fresh evidence to be obtained is essential to the just decision of the case. The determinative factor should therefore be whether the summoning/ recalling of the said witness is, in fact, essential to the just decision of the case. There is no dispute regarding the power of the court under section 311 of the Code of Criminal Procedure to recall any witness who has already been examined or summon further witnesses if the court is satisfied that recalling and examining the witnesses are necessary for the purpose of proper adjudication of the case. This power can even be exercised by the court suo motu if such power has to be exercised by the court to arrive at a just conclusion of the allegations made and to find out the truth of the allegations levelled in the case. It is also well settled that the power of the Court under section 311 CrPC can be exercised at any stage, but before the pronouncement of the judgment. Hence, for proper disposal of the case and also in the interest of justice, I hold the view that the evidence in the case has to be reopened, and I do so.

7. To a specific question during cross-examination, PW1, the then Secretary of the Vengola Gramapanchayat, has replied that she was transferred to Vengola Panchayat on 20.12.2010, and it was the duty of the Secretary who succeeded her to produce the Treasury book pertaining to the period from 10.06.2008. She further added that she had handed over all documents and registers to the Secretary. Hence, it will be proper to issue a summons to the present Secretary of the Vengola Gramapanchayat so as to enable him to produce the original Treasury Bill Book for the period from 10.06.2008 to 25.06.2009 of the Vengola Gramapanchayat. Since the case is of the year 2011, the SHO, Perumbavoor Police Station, is directed to serve summons to the said additional witness and also to ensure his presence in the court, without fail. For return of summons, post on 12.02.2026.

Pronounced by me in Open Court, this the 12th day of January, 2026.

sd/-

Judicial Magistrate of 1st Class-I
Perumbavoor