

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE
KOYILANDY**

Present: Sri. Ajikrishnan S, Judicial First Class Magistrate
Wednesday, the 22nd day of April 2026

C C No.1746/2013

Complainant : State- Rep. by Sub Inspector of Police,
Elathur Police Station,
in crime No. 239/2009.
[By Sri. Latheesh M,
Asst. Public Prosecutor Gr-I, Koyilandy]

Accused : Muhammad Jamsheer, S/o Hamsa,
aged 23/09, Cheerankulangara, Vairankott,
Kuthukallu, Alathiyoor amsom,
Malappuram district.
[By Adv. Bibinraj P]

Offence : U/SS. 379 and 201 r/w 34 IPC.
Plea : Not guilty.

Finding : Not guilty.
Sentence or order : The accused is acquitted u/s 271(1) BNSS.

DESCRIPTION OF THE ACCUSED

Sl. No	Name	Father's name	Occupation	Residence	Age
1.	Muhammad Jamsheer	Hamsa	Nil	Kuthukallu	23/09

DATE OF:

Offence	Complaint	Apprehension of accused	Release on bail
18.07.2009	20.07.2009	11.06.2025	29.07.2025
Commencement of trial	Close of trial	Sentence/Order	Explanation of delay
04.08.2025	22.04.2026	22.04.2026	No delay

This case having been finally heard on 22.04.2026 the court on the same day delivered the following:

J U D G M E N T

1. The accused is facing trial for the offences punishable under SS. 379 and 201 r/w 34 of the Indian Penal Code (hereinafter 'IPC'). The final report was filed by the Sub Inspector of Police, Elathur police station.
2. **The prosecution case** in brief is as follows: at 3.00 am on 18.07.2009, the accused persons, in furtherance of their common intention, committed theft of car bearing registration No. KL 11 E 8350 belonging to CW2 parked in the porch of the house bearing No. XX/206 of Elathur Grama Panchayat and used the same after removing its original registration number and exhibiting a false number. Hence, the accused are alleged to have committed the aforesaid offences.

Prefatory proceedings

3. Upon filing the final report, the case was taken on file as CC No. 703/2010 against accused Nos. 1 and 2. Case against A2 was disposed of on 11.11.2013. Since A1 was absconding, case against him was split up and refiled as CC No. 1135/2023. Subsequently, the case was transferred to the register of long pending cases as LP No.99/2014. When the accused was produced before this court, his case was refiled as CC No. 1746/2013. On appearance of the accused, copies of relevant prosecution records were furnished to him. After hearing, charge was framed for the offences punishable under SS. 379 and 201 r/w 34 IPC. read over and explained to the accused, and to which he pleaded not guilty.

Evidence in the case

4. From the side of the prosecution, PW1 to PW6 were examined and Exts. P1 to P17 were marked. The material witnesses did not support the prosecution

case. Hence, the learned APP gave up the examination of the remaining witnesses. As there were no incriminating circumstances, questioning of the accused u/S. 351(1) (b) BNSS was dispensed with. No defence evidence was adduced.

5. Heard both sides. Perused the records.

6. **The points arise for consideration** are:

- i. Whether at 3.00 am on 18.07.2009, the accused persons, in furtherance of their common intention, committed theft of car bearing registration No. KL 11 E 8350 and thereby committed the offence punishable under S. 379 r/w 34 of IPC?
- ii. Whether the accused caused disappearance of evidence by changing the number plate and thereby committed the offence punishable under S. 201 r/w 34 IPC?
- iii. If found guilty and convicted, order as to sentence?

7. **Point Nos. (i) and (ii):** Since these points are interconnected, they are considered together. PW1 and PW4 signed as witnesses in Ext.P1 scene mahazar. PW2 lodged Ext.P2 FIS. PW3 was the Sub Inspector of Police, Malappuram police station who arrested the accused. Exts.P4 to P13 were marked through him. Ext.P4 is the arrest memo of the accused. Ext.P5 is the seizure mahazar. Ext.P6 is the FIR in Crime No. 472/2009. Ext.P7 is the FIS prepared for the same. Ext.P8 is the FIR in Crime No. 452/2009. Ex.P9 is the FIS prepared for the same. Ext.P10 is the relevant portion of the confession of the accused. Ext.P11 is the arrest intimation of the accused. Ext.P12 is the seizure mahazar. Ext.P12 (a) is the relevant portion of the confession of the accused. Ext.P13 is the report filed to add the name of

PW2 in the records. PW5 registered Ext.P14 FIR based on Ext.P2 FIS. PW6 was the Inspector in Elathur PS who conducted the investigation of the case. Exts.P15 to P17 were marked through him. Ext.P15 is the report filed to add S.201 IPC. Ext.P16 is the address report of the accused. Ext.P17 is the arrest memo prepared at the time of recording the formal arrest of the accused.

8. PW2, who lodged Ext.P2 FIS, stated that he did not see the accused. He received back his car from a court in Malappuram. Ext.P3 is the bond executed by him at that time. There are no eyewitnesses to the incident. The only evidence is the alleged confession made by the accused and the recovery said to be made based on the same. PW3 deposed that the car involved in this case was recovered based on the confession of the accused. The offence alleged in this case happened on 18.07.2009. The recovery was allegedly made on 23.10.2009. Apart from the said piece of evidence, there is nothing to connect the accused with the offences alleged. The recovery was made after a long delay. The prosecution has not examined any witnesses to prove Ext.P12 seizure mahazar prepared at the time of the recovery. Thus, it can only be concluded that the recovery said to be effected in this case is shrouded in suspicion. It does not inspire confidence. Thus, in the facts and circumstances of the case, it would not be safe to draw the presumption under S. 114 read with illustration (a). It cannot be said that the recovery is free from all blemishes so as to make it a convincing piece of evidence. The accused cannot be said to have committed the offence based on the recovery alone. Hence, I am of the view that the prosecution has failed to prove the recovery u/S. 27 of the Indian Evidence Act in accordance with law. The prosecution has failed to prove the offences alleged beyond reasonable doubt. Thus, the accused is liable to be acquitted. Hence, **point Nos. (i) to (iii) are found against the prosecution.**

9. **Point No. (iii):** In view of the findings in point Nos.(i) and (iii), this point does not arise for consideration. The accused is found not guilty of the offences punishable under SS. 379 and 201 r/w 34 IPC. He is liable to be acquitted of the said offence. The point is found accordingly.

10. **In the result:**

The accused is acquitted under S. 271(1) BNSS of the offences punishable under SS. 379 and 201 r/w 34 IPC. His bail bond stands cancelled, and he is set at liberty.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open court on this, the 22nd day of April 2026).

Judicial First Class Magistrate
Koyilandy

A P P E N D I X

List of Prosecution/Defence/Court Witnesses

Prosecution Witnesses

<u>Rank</u>	<u>Name</u>	<u>Whether Eye witness, Expert witness, Medical witness, Other witness</u>
PW1 (CW1)	Muhammad Koya	Scene mahazar, dated
PW2 (CW1)	Giridharan	First informant
PW3 (CW3)	Manoharan, SI of Police, Malappuram PS	Other witness
PW4 (CW12)	Dileep	Other witness- Scene mahazar
PW5 (CW14)	Baburaj P K, HC, Elathur PS	Other witness- FIR
PW6 (CW16)	Manoj P M, SI of Police, Elathur PS	Other witness-investigation

Prosecution Exhibits

<u>Sl. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
1.	Ext.P1/PW1	Scene mahazar, dated 21.07.2009.
2.	Ext.P2/PW2	FIS, dated 20.07.2009.
3.	Ext.P3 /PW2	Bond for return of property, dated 05.12.2009.
4.	Ext.P4/PW3	Arrest memo, dated 23.10.2009
5.	Ext.P5/PW3	Certified copy of seizure mahazar, dated 23.10.09.
6.	Ext.P6/PW3	Certified copy of FIR in Crime No. 472/2009 of Malappuram PS
7.	Ext.P7/PW3	Certified copy of FIS, dated 23.10.2009
8.	Ext.P8/PW3	FIR in Crime No. 482/2009 of Malappuram Ps, dated 23.10.09.
9.	Ext.P9/PW3	FIS, dated 23.10.09.
10.	Ext.P10/PW3	Extract of confession statement of Muhammad Jamsheer, dated 23.10.2009.
11.	Ext.P11/PW3	Notice, dated 23.10.09.
12.	Ext.P12/PW13	Seizure mahazar, dated 23.10.2009.
13.	Ext.P12(a)/PW3	Relevant portion of Ext.P12.
14.	Ext.P13/PW13	Report, dated 26.10.2009.
15.	Ext.P14/PW5	FIR in Crime No. 239/2009 of Elathoor PS, dated 20.07.2009.
16.	Ext.P15/PW6	Report to add S. 201 r/w 34 IPC, dated 09.12.09.
17.	Ext.P16/PW6	Report to add name and address of accused, dated 09.12.09
18.	Ext.P17/PW6	Arrest memo of Muhammad Jabeer, dated 01.03.2010.

Defence Witnesses

-Nil

Exhibits marked for defence

-Nil

Court Witnesses and Exhibits

-Nil

Material objects marked

-Nil

Judicial First Class Magistrate
Koyilandy