

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST
CLASS - I, KOTTARAKKARA.**

Present :- Sri. Arjun Raj. E. R., Judicial Magistrate of the 1st Class.

Tuesday, 7th day of April 2026/ 17th Chaithra 1948

CALENDAR CASE No.274/2025

Complainant : State-represented by the Sub Inspector of Police (Grade),
Kottarakkara Police Station in Crime No.2540/2024.
(By Smt. Shyla Mathai, A.P.P. Gr. - I, Kottarakkara)

Accused : Vishnu, S/o Vinod (Custody)
(By Adv. Sabari. B. Nair - Legal aid counsel)

Offence : Under section 309(4) of the Bharatiya Nyaya
Sanhita, 2023.

Plea : Not guilty

Finding : Not guilty

Sentence or order : Accused is found not guilty of the offence punishable under section 309(4) of the Bharatiya Nyaya Sanhita, 2023 and is acquitted under section 271(1) of Bharatiya Nagarik Suraksha Sanhita, 2023. Release the accused forthwith if his further detention is not required in any other case.

Date of

Occurrence	Complaint	Apprehension	Release on bail	Commencement of trial	Commencement of evidence	Close of trial	Sentence or order	Period of detention undergone during investigation of trial for the purpose of Section 468 BNSS
10.11.24	13.03.25	03.01.25	Custody	08.07.25	04.11.25	04.04.26	07.04.26	From 03.01.25 till date

Description of accused

Sl. No.	Name	Age	Father's name	Residence	Taluk
1	Vishnu	35	Vinod	Kalloor Veedu, Malayalappuzha, Pathanamthitta.	Kozhen- chery

This case having been finally heard on 04.04.2026 and the Court on 07.04.2026 delivered the following: -

JUDGMENT

This case arose on a final report filed by the Sub Inspector of Police (Grade), Kottarakkara Police Station in Crime No.2540/2024 against the accused alleging offences punishable under section 309(4) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter “BNS”).

2. **The prosecution case, in brief, is as follows:-** On 10.11.2024 at 11.30 hours, with intent to commit robbery, the accused befriended CW1 and forcefully obtained CW1’s ITEL mobile phone worth ₹5,000/- by stating various reasons. Later he absconded with the phone and thereby causing a loss of ₹5,000/- to CW1. Thus, the prosecution alleges that the accused committed offences punishable under section 309(4) of BNS.

3. First Information Report was registered by the sixth witness as Crime No.798/2024 of Enathu Police Station and this First Information Report was forwarded to the Superintendent of Police, Pathanamthitta who in turn

transferred it to Superintendent of Police, Kollam Rural and the same was forwarded to Kottarakkara Police Station and based on that First Information Report was registered as Crime No.2540/2024 by the seventh witness on 06.12.2024. Final report was filed by the seventh witness before this court and cognizance was taken by this court on 13.03.2025 for the offence punishable under section 309(4) of IPC and the case was taken on the files of this court as CC 274/2025.

4. Accused was arrested and produced before the court and was remanded to custody since 03.01.2025. The counsel for the accused filed bail application and bail was granted on 15.03.2025. Since sureties was not present, he was not released. When the accused was produced before the court, copies of relevant prosecution records were furnished to the accused under Section 230 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNS"). Advocate Sabari. B. Nair was appointed as legal aid counsel as he sought for legal aid. Upon perusal of the prosecution records and after hearing both parties, charge was framed against accused under section 309(4) of BNS. When the charge was read over and explained to the accused, he pleaded not guilty and claimed to be tried.
5. On the side of prosecution, PW1 to PW5 were examined and Exts.P1 and P2 were marked. As the material witnesses failed to support the prosecution

case, the learned Assistant Public Prosecutor gave up CW5 and CW6. Since there is no incriminating evidence against the accused, examination under section 351(1)(b) of BNSS was dispensed with.

6. Heard both sides and perused the records.

7. Points that arose for consideration are:-

1. Whether the accused, on 10.11.2024 at 11.30 hours, committed robbery of ITEL mobile phone worth ₹5,000/- and thereby committed the offence punishable under section 309(4) of BNS?
2. If the accused is found guilty, what is the order as to sentence?

8. **Point No.1:-** PW1 was the de facto complainant who had submitted that he had lost his mobile phone from Samudra bar. He also added that he did not have any complaint against anyone. PW2 was the prosecution witnesses who had handed over the mobile phone to the police. He also stated that he is unaware of the accused. PW3 was the person who had handed over the mobile phone to the owner of his house which he had received from his car porch. During his cross-examination, he said that he has no knowledge about the case. PW4 was an eye witness who had stated that he did not see any of the incidents taking place. He has declared hostile.

9. PW5 was the Investigating Officer, who had prepared Exhibit P1 scene mahazar. The name and address report of the accused was marked as Exhibit P2. After completing the investigation, he had filed final report before the court. During his cross-examination, he stated that he did not find any evidence as to the mobile phone belonged to PW1. He also stated that scientific evidence were not produced before the court in this case.

10. The present case pertains to the allegation of robbery against the accused. However, the prosecution has failed to establish any of the essential ingredients required to prove the offence. None of the prosecution witnesses have deposed against the accused. In fact, they have categorically stated that they were unaware of the accused person. It is further significant to note that PW1, the complainant who lost his mobile phone, admitted that he had not lodged a complaint against any individual.

11. The material witnesses examined by the prosecution did not support its case. There is no evidence on record to substantiate the allegation that the accused committed the offence as alleged. PW1 had deposed against the prosecution case and thereby weakening the prosecution case. In view of these serious lapses in the prosecution's case, it is evident that the charges against the accused are unsustainable. Accordingly, the accused is entitled to a clear and

unequivocal acquittal. Accordingly, this point is answered against the prosecution.

12. **Point No.2** :- In view of the findings on point number 1, there is no question of passing any sentence against the accused.

13. In the result, the accused is found not guilty of the offence punishable under section 309(4) of the Bharatiya Nyaya Sanhita, 2023 and is acquitted under section 271(1) of Bharatiya Nagarik Suraksha Sanhita, 2023. Release the accused forthwith if his further detention is not required in any other case.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this, the 7th day of April, 2026.

Sd/-

Judicial Magistrate of 1st Class-I, Kottarakkara.

APPENDIX

List of Prosecution/Defence/Court Witnesses

A. Prosecution Witnesses

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, other witness
PW1	Ravi	De facto complainant
PW2	Raju	Other witness
PW3	Jobi James	Other witness

PW4	Manoj	Other witness
PW5	Jayakumar. S.	Police witness

B. Defence Witness

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, other witness
	Nil	

C. Court Witnesses

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, other witness
	Nil	

List of Prosecution / Defence / Court Exhibits

A. Prosecution Exhibits

Sl.No.	Exhibit Number	Description
1.	P1	Scene mahazar dated 06.12.2024 marked through PW5 on 13.03.2026.
2.	P2	Name and address report of the accused marked through PW5 on 13.03.2026.

B. Defence Exhibits

Sl.No.	Exhibit Number	Description
	Nil	

C. Court Exhibits

Sl.No.	Exhibit Number	Description
	Nil	

D. Material Objects

Sl.No.	Exhibit Number	Description
	Nil	

Sd/-

Judicial Magistrate of 1st Class-I, Kottarakkara.

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Judicial Magistrate of 1st Class-I, Kottarakkara.