

**IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE-II,
SASTHAMCOTTAH**
Present: Smt. Kavya S.S, Judicial First Class Magistrate, Sasthamcottah

Dated this the 28th day of April, 2026
(8th day of Vaisakham, 1948)

Calendar Case No. 298/2018

Complainant : State of Kerala represented by the Sub- Inspector of Police, Sasthamcottah in Crime No. 823/2018
(By Asst. Public Prosecutor Sasthamcottah)

Name and Description of accused

Sl.No.	Name	Father's Name	Age	Occupation	Residence
1	Sajeendran	Gangadharan	44	--	Puthu Veetil Vadakkathil, Idavanasseri Muri, Mynagappally Village, Kunnathur.

(By Adv. Sri. S. Reghukumar)

Offence : U/ss. 51 r/w 63 of Copyright Act
Plea : Not Guilty.
Finding : Not Guilty.
Sentence/Order : Accused is found not guilty of the offence u/s. 51 r/w 63 of Copyright Act and he is acquitted u/s 248(1) Cr.P.C.

<u>DATE OF</u>							
offence	Complaint	Apprehen- -sion	Release on bail	Commence- -ment of trial	Closure of trial	Sentence or order	Explanation for delay.
23.04.2018	08.05.2018	28.....12.....2018		01.12.2018	28.04.2026	28.04.2026	--

This case was finally heard on 28.04.2026 and stood over for consideration today and the court delivered the following:

J U D G M E N T

This is a case taken into file on the basis of the final report filed by S.I of police, Sasthamcottah police station in Crime No. 823/2018 against the accused alleging commission of offence punishable u/s 51 r/w 63 of Copyright Act.

2. The prosecution case in brief is as follows:- The accused with the intention of selling pirated CDs of new cinemas, copying new cinemas to CDs by using computer and thereby obtaining unlawful gain, on 23.04.2018 at 07:25 pm, CW4, the then Sub Inspector of police, Sasthamcottah Police Station found the accused selling pirated CDs of new cinemas without having any valid Copy Right in a shop at the road margin near Sasthamcottah Post Office at Sasthamcottah Junction. Thus, the accused is alleged to have committed the offence punishable u/s 51 r/w 63 of Copyright Act.

3. This case was suomotu registered by the CW4, S.I. of Police, Sasthamcottah police station against the accused. After completing investigation, he laid the final report against the accused before the court citing CW1 to CW4 as prosecution witnesses.

4. On filing final report, the case was taken on file and summons was issued to the accused. On issuing summons, accused entered appearance and was enlarged on bail. Copies of relevant prosecution records were furnished to him. Thereafter, the charge for the offence u/s 51 r/w 63 of Copyright Act was

framed, read over and explained to the accused, to which he pleaded not guilty and claimed to tried.

5. Thereafter the case was posted for prosecution evidence. On behalf of the prosecution, PW1 to PW3 were examined and Ext. P1 and MO1 series were marked. CW4, who is the investigating officer is no more, his death certificate is seen produced. After closing prosecution evidence, the accused was examined under section 313(1)(b) Cr.P.C. No defence evidence was adduced.

6. Heard the learned A.P.P and the learned counsel for the accused.

7. The following points arise for determination :-

1. Whether the accused was found in possession of pirated CDs of new films for sale in contravention of the Copyright Act at Post Office junction, Sasthamcottah on 23.04.2018 at 07:25 pm and thereby committed an offence punishable u/s 51 r/w 63 of Copyright Act as alleged?
2. Sentence or order?

8. Point No.1: PW1 deposed that while he has been working as an Assistant Sub Inspector at Sasthamcottah Police Station since 2016. On 23.04.2018, at about 07:25 p.m., while he was on L & O patrolling duty along with the Sub Inspector in the station jeep, they reached near the waiting shed situated to the east of the Head Post Office at Sasthamcottah Junction. At that place, in a temporary shop situated on the northern side of the Sasthamcottah-

Karunagappally road, CDs of newly released Malayalam movies ആമി, ആട്, ശിക്കാരിശംഭു, പൈപ്പിൻ ചുവട്ടിലെ പ്രണയം, ക്രോസ് റോഡ്, അനീഷ്യ were found kept for sale. On questioning the shop owner, namely Sasheendran of Puthuveetil house, it was revealed that the CDs were being sold without copyright permissions. Consequently, the accused was arrested at about 7.35 p.m. in accordance with law and a seizure mahazar was prepared. He identified his signature in the said mahazar, which is marked as Ext. P1. He further stated that he can identify the seized CDs as well as the accused present in court. During cross examination of PW1, he deposed that the accused was arrested from the Sasthamkotta Junction. He was not arrested based on the complaint filed by anyone, but based on the information received by SI. He has seen the CD in the shop and the station. But he has not seen the CD from the junction. PW1 deposed that the CD was not played at the place where the accused was arrested. The CD was played at the police station in the computer. The seized CDs were not pornographic movies, though CDs were not prohibited by the government or the censor board. CDs were seized from the accused on 23.04.2018 at 19.35 hours. PW1 does not know when it was produced before the court. PW1 deposed that none of the independent witnesses were arrayed in the witness schedule apart from the police officials.

9. PW2 deposed that during the relevant period, while he was working as

a Civil Police Officer at Sasthamcottah Police Station. On 23.04.2018, at about 07:00 p.m., while he was on patrolling duty along with S.I Gopan, they received information and proceeded to Sasthamcottah Junction. Based on information received from the Anti-Piracy Cell, they conducted a search at a temporary shop near the waiting shed at the bus stand and found three CDs of Malayalam movies, namely "ആമി, ആട്, ശിക്കാരിശംഭു, പൈപ്പിൻ ചുവട്ടിലെ പ്രണയം, ക്രോസ് റോഡ്", kept for sale without copyright. On questioning, the accused admitted that he had no copyright permission. Thereafter, he was arrested, a mahazar was prepared, and he was taken to the police station where the case was registered. PW2 stated that he witnessed the preparation of the mahazar and identified his signature therein. He also stated that he can identify the seized CDs and the accused present in court. During cross examination of PW2, he deposed that he went for duty on 23.04.2018 at 07.00 p.m. He has not seen the CDs seized from the accused played. The movies include ആമി, ആട്, ശിക്കാരിശംഭു, പൈപ്പിൻ ചുവട്ടിലെ പ്രണയം, ക്രോസ് റോഡ്, അനീഷ്യ. PW2 also does not know whether the movies are pornographic movies. He has seen the names of the CDs on the writings on the CD.

10. PW3 deposed that while he was working as CPO No. 5344 in the Anti-Piracy Cell, Thiruvananthapuram. On 23.04.2018, as per instructions from the Superintendent of Police, Anti-Piracy Cell, he reached Sasthamcottah

Junction in Kollam District and noticed that CDs of Malayalam movies were being copied and sold in violation of the Copyright Act at a temporary shop near the Post Office. He informed the Sub Inspector of Sasthamcottah Police Station over phone. Thereafter, the SI and his party reached the spot and conducted a search, during which CDs of Malayalam movies such as "ആമി, ആട്-2, ശിക്കാരിശംഭു, പൈപ്പിൻ ചുവട്ടിലെ പ്രണയം. ", were found. On enquiry, the person present in the shop admitted that he had no copyright authorization. PW3 further stated that he was present at the time of preparation of the mahazar and has affixed his signature therein. He also stated that he can identify the seized CDs and the accused. He added that he had given a statement before the police. During cross examination of PW3, he deposed that he has not received any written complaint. He has registered the case based on the directions of the SP Prashanthan Kani. PW3 deposed that, SP also has not received any complaint in this regard. Sub Inspector, Sasthamcottah has arrested the accused. He does not know whether the accused is having a textiles business near the post office. The S.I and the Police party came to the shop. PW3 does not know the name of the shop. PW3 does not know the director and producer of the movies. The producer and the director of the movies were also not made as a witness in this case. PW3 deposed that he has not received any complaint from the actors in the "പൈപ്പിൻ ചുവട്ടിലെ പ്രണയം, ശിക്കാരിശംഭു, ആമി, ആട്2,

ക്രോസ് റോഡ്", PW3 deposed that he has seen the Sub Inspector playing the CD in the laptop.

11. The learned counsel for the accused argued that prosecution has miserably failed to prove the ingredients of section 51 r/w 63 of the Copyright Act, 1957. According to him, prosecution has failed to prove whether the movies allegedly seized from accused are pirated ones or not. Hence, he prayed for an acquittal. Per contra, learned APP submitted that the search and seizure was done after following the legal mandates and that the provisions of section 51 of the Copyright Act have not been complied with by the accused. He further contended that the circumstances suggest that the accused was engaged in selling of pirated movies. Hence, he contended that prosecution has been successful in proving the guilt beyond reasonable doubt and he prayed that the accused be convicted.

12. One of the main contentions of the learned counsel for the accused is that prosecution has failed to prove that the offence under section 51(a) of the Copyright Act has been committed by the accused. By virtue of section 51(a), an act committed by the accused would amount to infringement of Copyright, if he does anything which only the Copyright owner has exclusive right to do, without the license granted by such Copyright owner or registrar of Copyright. The prosecution allegation is that accused was engaged in sale of CDs in

violation of the Copyright Act. So, the first and foremost thing to be proved by the prosecution is that accused was in possession and was engaged in sale of CDs containing material in violation of the Copyright Act. However, there is absolutely no evidence to show that MO1 series contained any material, infringing Copyright. Prosecution has also failed to play the contents of MO1 series at the time of trial to show that the same contained pirated movies, when PW1 to PW3 specifically stated that accused was engaged in sale of pirated movies. PW1 deposed that he played the movies, from the station. PW3 deposed that he does not know the copyright owner of those movies. None of the witnesses have deposed that they have seen anything being copied in the computer or CD. PW2 also deposed that he has not seen the videos being played. It is also to be noted that PW3, deposed that they have not received any complaint in this regard. It is also pertinent to note that MO1 series were not subjected to expert examination and no FSL report has been brought on record. Therefore, it cannot be said that accused has done anything which amounts to infringement of copyright.

13. It is also to be noted that all the prosecution witnesses are police officials and their testimonies suffer from inconsistencies and are not corroborated by material particulars.

14. It is also pertinent to note that search and seizure was not complied

following the legal mandates of law. Another reason to doubt the prosecution case is the absence of independent witnesses in conducting the search. This is fatal to the prosecution case.

15. There is no evidence on record to show that accused was running the shop from which MO1 series were seized or that the same was seized from the exclusive possession of the accused. PW1 deposed that he does not know the owner of the said shop. The testimony of PW1 to PW3 reveals that there is no evidence to prove that the shop was under the ownership of the accused. Moreover, it is to be noted that license of the shop room where accused was allegedly running his business is not produced.

16. Prosecution has failed to prove the connection of the accused with the alleged incident. There is no evidence to show that accused was running and managing the shop room from where the MO1 series were alleged to have been seized. No witnesses have been cited from the side of prosecution to show that accused has published any copyrighted work. There is also no material to show that any of the material seized from the accused was having copyright. It is to be noted that he has not recorded the statement of any copyright owner or any producer. Since the prosecution has failed to bring forth any evidence showing the connection of accused with the present case, any further discussion on whether the ingredients of offence alleged against the accused is attracted would

be a futile exercise. In view of what is stated above, it is clear that the prosecution has not succeeded in establishing the charge leveled against the accused. If so, he cannot be held liable of the offences charged against him. As a corollary, all these points are found against prosecution.

17. Point No.2:- In view of the finding of Points No. 1, Point No. 2 is also found against prosecution.

In the result, accused is found not guilty of offence under section 51 r/w 63 of Copy Right Act, and he is acquitted u/s.248(1) of Cr.P.C. The bail bond of the accused stands cancelled and he is set at liberty. MO1 series shall be destroyed after the expiry of period of appeal.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and revised by me and pronounced in the open court on 28th day of April, 2026)

**Judicial First Class Magistrate-II,
Sasthamcottah.**

APPENDIX
Witnesses Examined for the prosecution:

Prosecution Witness No.	Name of Witness	Description
1.	Gopakumar.	Complainant.
2.	Babu.	Occurrence witness.
3.	Ajayan.	

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Exhibited Documents for the prosecution:

Exhibit No.	Description of Exhibit	Proved by/attested by with date
1	Seizure Mahazar	PW1 on 11.01.2023.

Material Objects :

No.	Description of Material Object	Proved by/attested by with date
1	Series of CDs	PW1 on 11.01.2023.

Witness & Exhibits for Defence : Nil.

**Judicial First Class Magistrate-II,
Sasthamcottah. _**