

| IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE -III KANNUR | |
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| Present:- Smt. Jomy Anu Isaac, Judicial First Class Magistrate-III, Kannur | |
| Dated this the Thursday, the 30 th day of April, 2026 (10 th day of Vaisakha, 1948 S.E) | |
| <u>CC. 16/2022</u> | |
| Complainant | : State, rep. by Sub Inspector of Police, Chakkarakkal Police Station Cr. No. 441/22 (By Sri. Sujith Kumar K, APP Gr-II) |
| Accused | : Shijin P, Aged. 34/22 : S/o Sudhakaran, Tharissiyil House, Ancharakkandy amsom, Muringeri, Kannur. (by Adv. C. Deepak) |
| Offence | : u/s 454 and 380 of IPC. |
| Pleading | : Not Guilty. |
| Finding | : Not Guilty. |
| Sentence or order | : The accused is found not guilty of the offence punishable u/s 454 and 380 of IPC and he is acquitted u/s 248 (1) of Cr.P.C. He is set at liberty and his bail bond stands cancelled. |

| <u>Description of Accused</u> | | | | | |
|-------------------------------|----------|---------------|------------|-----------|-------|
| Sl. No | Name | Father's Name | Occupation | Residence | Age |
| 1 | Shijin P | Sudhakaran | -- | Muringeri | 34/22 |

RELEVANT DATES

| Occurrence | Complaint | Apprehension | Release on bail | Commencement of trial | Close of trial | Sentence of order |
|------------|------------|--------------|-----------------|-----------------------|----------------|-------------------|
| 22.06.2022 | 23.06.2022 | 24.06.2022 | 29.06.2022 | 11.07.2023 | 29.04.26 | 30.04.26 |

JUDGMENT

The accused was put on trial for the offences punishable under Sec.454 and 380 of IPC, on the basis of Final Report filed in Cr. No. 441/22 by the Sub Inspector of Police, Chakkarakkal Police Station.

2. **The prosecution case is that:** - On 22.07.2022 at 16.00 hours at Vellachal at Irivery amsom, the accused had committed lurking house trespass into the house of Kaithakulangara Rajesh, which is under construction, and entered inside the bedroom of the house and committed theft Rs. 1000/-, Aadhar Card and 5 numbers of Kerala Lottery ticket kept in the pocket of CW1's shirt hanged there and Rs.800/- and 3 Kerala lottery ticket from the pocket of CW2's shirt. Thus, the accused had committed the above said offences.

3. On appearance of the accused, he was released on bail and served with copies of all relevant records relied upon by the prosecution. After hearing accused and upon perusing the records, the charge was framed u/s 454 and 380 of IPC and was read over and explained to him to which he pleaded not guilty and claimed to be tried.

4. From the side of the prosecution, PW1 to PW4 were examined and Ext.P1 to P3 and MO. I to MO.III series were marked. PW1 to PW4 being material witnesses were turned hostile to the prosecution. Hence, the examination of the remaining witnesses will be a futile exercise and misuse of public exchequer. Thus, the examination of other witnesses is dispensed. Public Prosecutor rightly given up the remaining witnesses. Since no incriminating materials have been brought out against the accused, the procedure u/s 313 (1) (b) of Cr.P.C has been dispensed with. No evidence was adduced on the side of the accused.

5. Heard both sides.

6. Now the points that arise for consideration are: -

- 1) Whether the accused had committed lurking house trespass into the house of Kaithakulangara Rajesh at Vellachal as alleged?
- 2) Whether the accused committed theft of Rs. 1,800/- from the pocket of CW1's and CW2's shirt, lottery tickets and Aadhar Card as alleged?
- 3) If the offences are proved, what is the order as to sentence?

7. **Point No. 1 and 2:-** The case of prosecution is that 22.07.2022 at 16.00 hours at Vellachal at Irivery amsom, the accused had committed lurking house trespass into the newly constructed house of Kaithakulangara Rajesh, and entered inside the bedroom of the house and committed theft Rs. 1000/-, Aadhar

Card and 5 numbers of Kerala Lottery ticket kept in the pocket of PW1 and Rs. 800/- and 3 Kerala lottery ticket from the pocket of PW2.

8. PW1 to PW4 are the occurrence witnesses. PW1, had given the Ext P1 FIS, PW2 is CW2. PW3 and PW4 are the witnesses to Ext P2 Scene mahazar and Ext. P3 Seizure Mahazer. No defence evidence adduced from the side of accused. MO. I to MO.III series were marked.

9. PW1 is the de facto complainant in this case. He deposed that on 22.06.2022, while he was in a work cite an unknown person committed theft of Rs. 800/- and lottery tickets from his pocket and Rs. 1800/- and lottery tickets from Rakesh pocket then he coming out of the house. He identified the FIS, which is marked as Ext.P1. However, he explicitly deposed that he didn't state before police that the accused had committed theft and turned hostile to the prosecution.

10. PW2 is also in tune with PW1 and deposed that accused didn't commit theft. PW3 is a witness to Ext. P2 Scene Mahazar and PW4 is a witness to Ext. P3 Seizure Mahazer. Though learned APP was permitted to put questions as contemplated u/s. 154 of Evidence Act to PW1 and PW2, nothing was brought to discredit evidence of PW1. On an analysis of entire evidence on record, I find that PW1 and accused had settled the matter out of Court and prosecution had not adduced any evidence to bring home the guilt of the accused. Therefore, these points are answered against the prosecution.

11. **Point No.3:** - In view of findings on points No.1 and 2, accused is found not guilty of the offences punishable u/s. 454 and 380 of IPC. Hence accused have to be acquitted.

In the result, the accused is acquitted u/s 248(1) of Cr.P.C for the offences punishable u/s 454 and 380 of IPC and he is set at liberty. His bail bond stands cancelled. MO.1 and MO.II property shall be returned to PW1 and PW2.

(Dictated to the confidential assistant, transcribed by her, corrected and pronounced by me in open court, this the 30th day of April, 2025)

Sd/-
Judicial First-Class Magistrate-III
Kannur

APPENDIX

List of Prosecution/Defence/Court Witnesses

A. Prosecution Witnesses

| Rank | Name | Whether Eye witness, Police witness, Expert witness, medical witness, Other witness |
|------|------------|---|
| PW1 | Shiju K. P | Eye witness |
| PW2 | Sudheesh | Eye witness |
| PW3 | Mohanan | Other witness |
| PW4 | Shinoj | Other witness |

B. Defence Witnesses

Nil

C. Court Witnesses

Nil

List of Prosecution/Defence/Court Exhibits**A. Prosecution Exhibits**

| Sl.No. | Exhibit number | Description |
|--------|----------------|------------------------------------|
| 1. | Ext.P1/PW1 | FIS, dated. 23.06.2022 |
| 2. | Ext.P2/PW4 | Scene Mahazer, dated. 23.06.2022 |
| 3. | Ext.P3/PW6 | Seizure Mahazer, dated. 23.06.2022 |

B. Defence Exhibits

Nil

C. Court Exhibits

Nil

D. Material Objects

MO.I: Purse

MO.II: Aadhar

MO.III: Shirt

MO.III(a): Dhothy

Sd/-

Judicial First Class Magistrate-III
Kannur

//True copy//

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