

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,
MATTANNUR

Present:- Smt.Shahina.N.V,
Judicial First Class Magistrate

Dated this the 30th day of April 2026 / 10th day of Vaishka 1948

CC.No.1662/2016

- Complainant : State, SHO Aralam Cr.No.312/2015
*(Represented by Assistant Public Prosecutor,
Mattannur)*
- Accused : A1. Yohannan @ Unni, S/o.Varkey, Marikkal
House, Aralam Amsom, Kakkuva, Keezhpally.
- A2. Binoy @ Kunju, S/o.Varkey, Marikkal House,
Aralam Amsom, Kakkuva, Keezhpally.
- A3. Anshad.P.S, S/o.Sarafudheen, Dharbavila
House, Aralam Amsom, Kakkuva, Keezhpally.
(Split up)
- A4. Noushad, S/o.Shamshudeen, Kavuvila House,
Aralam amsom, Vattapparamb, Keezhpally,
Kannur District.
- A5. Manoj, S/o.Rajan, Puthiyaveetil House,
Aralam Amsom, Keezhpally, Vattapparamba,
Pullumala. ***(Split up)***
: *(Represented by Adv.A.M.Ajayakumar)*
- Offence : Punishable under Section 379 r/w 34 of IPC.
- Pleading : Not guilty
- Finding : Accused Nos.1, 2, 4 are not guilty

Sentence or Order : Accused Nos.1, 2, 4 are acquitted under Section 248(1) Cr.PC for the offence punishable under Section 379 r/w 34 of IPC. Case against accused No.3 and 5 is split up and refiled as CC.No.6703/2016.

Sl. No.	Name of Police station and Crime No. of the offence	Description of accused.				
		Name	Father's name	Occupation	Residence	Age
1.	Aralam Cr.No.312/15	Yohannan @ Unni	Varkey	Driver	Kakkuva	30/15
2.		Binoy @ Kunju	Varkey	- -	Kakkuva	32/15
3.		Anshad.P.S	Sarafudheen	- -	Kakkuva	30/15
4.		Noushad	Shamshudeen	- -	Aralam	28/15
5.		Manoj	Rajan	- -	Keezhpally	32/15

Date of:				
Occurrence	Complaint	Apprehension	Release on bail	Commitment
15-07-2015	08-02-2016	05-08-2015	07-08-2015	- -
Commencement of trial	Commencement of evidence	Close of trial	Sentence or order	Service of copy of judgment or finding on accused
24-11-2018	01-02-2022	28-04-2026	30-04-2026	- -

Explanation of delay	Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr.PC.
No delay	- -

This case having been finally heard on this, the 28th day of April 2026, the court on the 30th day of April 2026 delivered the following.

J U D G M E N T

1. This is a case charge-sheeted by the Sub Inspector of Police, Aralam Police Station, in Crime No.312/2015 against Accused Nos. 1 to 5, alleging commission of offences punishable under Section 379 read with Section 34 of the Indian Penal Code (hereinafter referred to as “IPC”).

2. The prosecution case, in brief, is: On 15.07.2015 at 06.30 a.m., Accused Nos. 1 to 5, in furtherance of their common intention, committed theft by cutting and removing 8 anjili trees from the river bank of Kukkuvapuzha in Aralam Amsom, which was under Government possession, and also removed one piece of anjili timber from the property of TRDM at Aralam Farm. The total value of the stolen timber is alleged to be ₹11,824/-. The said timber was allegedly transported in a mini lorry bearing Registration No. KA-20-B-9483. Hence, accused Nos. 1 to 5 committed the above-said offences charged against them.

3. On appearance, all the accused were enlarged on bail. Copies of prosecution records were furnished to them. Thereafter, Accused No.3 absconded and a non-bailable warrant was issued against him. After hearing both sides and perusing the records, charge was framed against Accused Nos. 1, 2, 4 and 5 for the offence punishable under Section 379 read with Section 34 IPC, which was

read over and explained to them, to which they pleaded not guilty and claimed to be tried.

4. From the side of prosecution, PW1 to PW14 were examined and Exhibit P1 to Exhibit P18 were marked. After the closure of prosecution evidence, the accused Nos. 1, 2 and 4 were examined under Section 313 of the Cr.PC regarding incriminating circumstances made out against them. They denied those circumstances and maintained a plea of innocence. As Accused No.5 failed to appear before the court for examination under Section 313 Cr.P.C., a non-bailable warrant was issued against him. At present, NBW is pending against the accused Nos. 3 and 5.

5. Thereafter, the defence was called upon to enter upon its evidence; however, no evidence was adduced.

6. Heard both sides and perused the records.

7. The points that arise for consideration are: -

(1) Whether Accused Nos. 1, 2 and 4, in furtherance of their common intention, dishonestly removed anjili timber from the possession of the Government without its consent, and thereby committed theft punishable under Section 379 read with Section 34 IPC, as alleged by the prosecution?

(2) Sentence or order?

8. **Point No.1:-** To prove the case of prosecution, PW1 to PW14 were examined. According to prosecution this case was detected by PW12 while he was doing patrolling duty along with PW1 and CW3.

9. According to PW1, on 20.07.2015, while he was on law-and-order duty, he received information regarding abandoned Anjili timber lying at Thripanchal Colony, Valayankode, and on reaching the spot, he found 9 pieces of Anjili timber, which were seized under a mahazar. However, in cross-examination, PW1 admitted that the seized timber was not separately marked, sealed, or labelled, and there was no identifiable marking to connect the timber with the alleged place of occurrence.

10. PW2 and PW3, who were cited as seizure witnesses, admitted their signatures in Exhibit P1 mahazar. However, the evidence of both clearly reveals that they had signed the mahazar at the instance of the police and did not know to whom the timber belonged. Their evidence, therefore, does not inspire confidence regarding the genuineness of the alleged seizure.

11. PW4 deposed that he had signed Exhibit P2 scene mahazar, while PW5 supported the seizure of the vehicle involved in this case as per Exhibit P3 mahazar. The accused did not cross-examine PW4 and PW5, and their evidence is

confined only to the preparation of official records.

12. PW6, the owner of the Eicher vehicle bearing Registration No. KA-20-B-9483, deposed that the said vehicle was driven by Accused No.1 during the relevant period. However, in cross-examination, he stated that though the vehicle had a valid permit to operate in Kerala, he had not entered into any agreement with Accused No.1. Further, the evidence of PW6 does not establish that the said vehicle was used for transporting the alleged timber.

13. PW7 deposed that he witnessed the seizure of timber and signed the mahazar marked as Exhibit P4. He further stated that he had also witnessed Accused No.1 pointing out the timber to the police. However, in cross-examination, PW7 stated that he, Accused No.1, and about 150 persons had properties along the river side and that nearly 100 persons were residing in the area, thereby indicating that several persons had access to the place. His evidence also does not establish the involvement of the accused in the alleged offence.

14. PW8, who claimed to be a carpenter having 35 years of experience, attempted to identify the timber as belonging to the same tree. However, he admitted that he had neither conducted any scientific or reliable comparison nor taken any measurements. Moreover, during cross-examination, PW8 specifically stated that he could not identify the type of wood used to make the witness box in

the court. Therefore, his evidence is insufficient to establish his competency to identify the timber in question.

15. PW9 and PW10 spoke about the missing timber from the property in Block No.11, Plot No.113. PW9, the owner of Plot No.113, deposed that he had cut an anjili tree in his property and that when he returned from the hospital along with his wife, the timber was found missing, and he suspected that it had been stolen. However, PW9 admitted that he had not lodged any complaint before the police and that he did not know who had removed the timber. PW10 also admitted that he had no direct knowledge regarding the alleged theft and only suspected the removal of timber. The evidence of PW9 and PW10, therefore, does not establish the involvement of the accused in the alleged offence.

16. PW11, the Social Forestry Officer, assessed the value of the timber and opined that part of it might have been removed from the said plot. However, his opinion was based on comparison with photographs, which were not produced before the court. No contemporaneous inspection records were also produced. These circumstances further weaken the reliability of the prosecution case.

17. PW12, the detecting officer, admitted in cross-examination that he did not obtain any evidence to connect the accused with the alleged offence and that no person had made any complaint before him regarding the loss of timber.

This strikes at the root of the prosecution case.

18. PW13, the Investigating Officer, relied upon the alleged confession of Accused No.1 and certain witness statements. However, the said confession is not supported by any independent reliable evidence. Further, none of the witnesses supported the involvement of the accused in the alleged offence.

19. PW14, another Investigating Officer, also admitted that the timber was found in an abandoned condition and that it could not be conclusively stated whether the timber belonged to Government property or otherwise, which further weakens the prosecution case.

20. On an overall appreciation of the evidence, this Court finds that the prosecution has failed to prove beyond reasonable doubt the reliability of the alleged seizure, the identity, ownership and possession of the alleged stolen timber, as well as the involvement of the accused in the commission of the offence, particularly when the timber was found in an abandoned condition, and in view of the non-supporting mahazar witnesses, lack of corroborative evidence and serious lapses in the investigation, the benefit of doubt must necessarily go to the accused. Accordingly, Point No.1 is found against the prosecution.

21. **Point No.2:** In view of the finding on Point No.1, Accused Nos. 1, 2 and 4 are found not guilty of the offence punishable under Section 379 read with

Section 34 of IPC, and they are acquitted under Section 248(1) of the Code of Criminal Procedure. The bail bonds executed by them stand cancelled, and they are set at liberty.

22. The case against Accused Nos. 3 and 5 is split up and refiled as CC No.6703/2016. After disposal of the split-up case, the interim custody of the vehicle bearing Registration No. KA-20-B-9483 granted as per CMP No.3326/2015 dated 21.08.2015 shall be made absolute.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open court, this the 30th day of April 2026).

Sd/-
Judicial First Class Magistrate,
Mattannur

APPENDIX

PROSECUTION WITNESSES:

<i>Rank</i>	<i>Name</i>	<i>Whether Eyewitness, Police witness, Expert witness, Medical witness, Other witness</i>
PW1	Paily	Police witness – Eyewitness
PW2	Shijo	Police witness – seizure witness
PW3	Shaji	Police witness – seizure witness
PW4	Thankachan	Other witness – Scene mahazr witness
PW5	Musthafa	Other witness – Vehicle seizure witness

PW6	Asharaf.T.M	Other witness – owner of the vehicle
PW7	Rajan	Other witness – seizure of wood stump
PW8	Bhaskaran	Other witness – verified the wood stump
PW9	Mohanan	Other witness – owner of wooden log
PW10	Gireesh.P.P	Other witness – owner of wooden log
PW11	Valsan.P.P	Range Forest officer
PW12	Unnikrishnan	Detecting officer
PW13	Smithesh.K.V	Investigating officer
PW14	K.S.Sushanth	Investigating officer

DEFENCE WITNESSES: Nil

COURT WITNESSES: Nil

PROSECUTION EXHIBITS :

<i>Sl.No.</i>	<i>Exhibit Number</i>	<i>Description</i>
1.	Exhibit P1 / PW1	Seizure mahazar
2.	Exhibit P2 / PW3	Scene mahazar
3.	Exhibit P3 / PW5	Seizure mahazar (vehicle)
4.	Exhibit P4 / PW7	Seizure mahazar (wooden log)
5.	Exhibit P4(a) / PW13	Relevant portion of seizure mahazar
6.	Exhibit P5 / PW10	Complaint filed by Site Manager TRDM
7.	Exhibit P6 / PW11	Verification certificate
8.	Exhibit P7 / PW11	Valuation certificate

9.	Exhibit P8 / PW12	FIR
10.	Exhibit P8(a) / PW12	FI Statement
11.	Exhibit P9 / PW13	Arrest memo and inspection memo of A1
12.	Exhibit P10 / PW13	Arrest memo and inspection memo of A2
13.	Exhibit P11 / PW13	Arrest memo and inspection memo of A3
14.	Exhibit P12 / PW13	Section alteration report
15.	Exhibit P13 / PW13	Name and address adding report of A1 to A3
16.	Exhibit P14 / PW13	Name and address adding report of A4 and A5
17.	Exhibit P15 / PW13	Kacheet (vehicle)
18.	Exhibit P16 / PW14	Certificate issued by Village officer
19.	Exhibit P17 / PW14	Annexure Scene mahazar
20.	Exhibit P18 / PW14	Report regarding auction of trees

DEFENCE EXHIBITS : Nil

COURT EXHIBITS : Nil

MATERIAL OBJECTS : Nil

Sd/-
Judicial First Class Magistrate,
Mattannur

-/True copy/-

Judicial First Class Magistrate,
Mattannur

/vt