

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE -II,
KANJIRAPPALLY**

**PRESENT :- Niyatha Prasad,
Judicial First Class Magistrate – II, Kanjirappally**

Thursday, the 19th day of March, 2026
(28th day of Phalgunam, 1947)

CC No.920/18

Complainant : State of Kerala represented by the Sub-Inspector of Police, Karukachal PS in Crime 539/2018
(By Sri. Shajahan K.S, APP-II, Kanjirappally)

Description of accused

SL. No.	Name	Father's Name	Age	Occupation	Residence
A1	Siril Joseph	U.J. Joseph	26/18	-	Uthapparaveettil, Uthappara Bhagom, Manthuruthy Kara, Nedumkandam village

(By Adv. Smt. Sareena Karim)

Offence : Under sections 17 & 18 of Kerala Money Lenders Act & Secs. 3 and 9 of The Kerala Prohibition of Charging Exorbitant Interest Act, 2012.

Plea : Not Guilty.

Finding : Not Guilty.

Sentence/Order : Accused is acquitted u/s.248(1) of Criminal Procedure Code 1973.

Dates of :-

Offence	Complaint	Apprehension	Release on bail	Commitment	Commencement of trial	Commencement of evidence
27.04.18	27.04.18	11.05.18	11.05.18	...	25.02.22	09.07.24

close of trial	Sentence or order	Service of copy of judgment or finding on accused	Explanation of delay	Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr.P.C
12.03.26	19.03.26	...	No delay

J U D G M E N T

This is a case charge sheeted by the Sub Inspector of Police, Karukachal Police Station in crime No.539/2018, against the accused person alleging commission of offences punishable under sections 17 and 18 of Kerala Money Lenders Act (herein after referred to as KML Act) and sections 3 and 9 of The Kerala Prohibition of Charging Exorbitant Interest Act, 2012 (herein after referred to as Exorbitant Interest Act).

2. **The prosecution case in brief is as follows:** On getting information that the accused was involved in the business of money lending without possessing a valid license, CW16 conducted search in the house of the accused bearing No. 101 in ward No. IV of Karukachal grama panchayath, in Nedukunnam Kara, Nedukkunam Village on 27.04.2018 at 11.00 a.m and found blank signed cheque leaves, stamp papers and RC books of various vehicles. CW16 having satisfied that the same was taken as security by the accused when lending money, took into custody as per the search list prepared. Thereby the

accused is alleged to have committed the offences punishable u/ss. 17 & 18 of Kerala Money Lenders Act & Secs. 3 and 9 of The Kerala Prohibition of Charging Exorbitant Interest Act, 2012.

3. Final report was filed before the court and the case was initially taken on file as CC 728/2018 on the file of JFCM-I, Changanasserry. On issuance of summons, the accused entered appearance. He was released on bail. Copies of all relevant prosecution records were furnished to the accused and thereby the mandate under section 207 of the Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") was complied with. On appearance of the accused person, he was heard on the question of charge and charge was framed under section 240 Cr.P.C and it was read over and explained to the accused person under section 240(2) Cr.P.C. for the offences punishable under sections 17 & 18 of Kerala Money Lenders Act & Secs. 3 and 9 of The Kerala Prohibition of Charging Exorbitant Interest Act, 2012 to which the accused person pleaded not guilty and claimed to be tried. As per the O.M No. 1306/25 dated 19.03.2025 of the Hon'ble Chief Judicial Magistrate Court, Kottayam, the file was transferred to this court and it was taken on file as CC 920/2018 on 28.04.2025.

4. From the side of prosecution, PW1 to PW9 were examined and Exts.P1 to P5 were marked. Material objects were marked as MO1 to MO17. CW3 and CW5 were given up by the prosecution. CW8 and CW10 were reported to be no more. CW11 was reported to be laid up. CW13 was reported to be abroad and CW16 did not turn up inspite of repeated coercive steps. Since there were incriminating circumstances against the accused, the accused person was examined under section 313 (1)(b) Cr.P.C and he denied all the incriminating circumstances against him and maintained the plea of innocence. During 313 Cr.P.C examination the accused stated that he is innocent in this

case. Neither oral nor documentary evidence was adduced from the side of defence.

5. Heard both sides. Perused the records.
6. Points that arise for consideration are: -
 - i. Whether the accused was found conducting the business of money lending without possessing a valid license thereby committing the offence punishable under section 17 of the Kerala Money Lenders Act, 1958?
 - ii. Whether the accused person carried out the business of money lending and obtained blank documents as against the provisions of law and thereby committed the offence punishable under section 18A (6) of the Kerala Money Lenders Act, 1958?
 - iii. Whether the accused person carried out the business of money lending by charging exorbitant interest as against the provisions of law and thereby committed the offence punishable under section 3 r/w 9(1) (a) of Exorbitant Interest Act?
 - iv. If found guilty, what is the order as to sentence?

7. **Point No. (i):** The prosecution case started when CW16 conducted search in the house of the accused and on the basis of the search list registered the FIR in this case. Thereafter CW16 conducted the investigation and laid down the final charge. The learned APP argued that the prosecution has adduced enough evidence to prove the guilt of the accused and hence the accused is liable

to be convicted for the alleged offence. *Per contra*, the learned counsel for the accused argued that the prosecution has failed to prove the case and hence the accused is entitled to get a clean acquittal.

8. I had gone through the entire evidence on record adduced by the prosecution to prove their case. As per the prosecution, search conducted by CW16 has a pivotal role in this case. PW4 and PW5 are the independent witnesses examined by the prosecution to prove their case. Both of them identified their signatures in Ext. P5 search list. But they deposed that they did not see the recovery of any articles by the police officials and that they were called to Karukachal Police Station and there they were made to sign Ext. P5 and hence turned hostile to the prosecution case. Even though learned APP was permitted to cross examine PW10 as per the proviso to Sec 162(1) Cr.PC and u/s. 154 of the Indian Evidence Act nothing has come out in support of the prosecution case. There are no other witnesses cited with respect to Ext. P5.

9. The learned counsel for the accused argued that Ext.P5 has no evidentiary value since the independent witnesses turned hostile to the prosecution case. The learned APP on the other hand argued that search list is only a corroborative piece of evidence and it has been duly corroborated by the evidence of prosecution witness. The learned APP argued that the deposition of PW1 to PW3 shows that the search was lawful and proper. PW1 to PW3 are police officials who were present along with CW16 at the time of conducting search in the house of the accused. The upshot of the evidence of PW1 to PW3 is that, on getting reliable information that the accused is conducting the business of money lending without possessing a valid license and by charging exorbitant interest, CW16 decided to conduct search in the house of the accused. PW9 approached JFCM-I, Changanaserry court with the permission to conduct search and accordingly PW1 to PW3, CW3 and CW5 accompanied CW16 and

they reached the house of the accused bearing number 101 in Ward No. IV of Karukachal Grama Panchayath. Upon conducting search, various documents including the signed blank cheque leaves, stamp papers, RC book of 17 vehicles, key and an amount of ₹ 2,20,000 was recovered from the house of the accused. All the items were taken into custody as per Exit P5 search list and Crime No. 539/2018 of Karukachal Police Station was registered against the accused.

10. The offences alleged against the accused are under sections 17 and 18 of the Kerala Money Lenders Act, 1958. Before going to the details, for proper determination of this point it is necessary to extract the relevant sections of the Kerala Money Lenders Act, 1958. Section 17 says that *whoever carries on the business of money lending without a license or in violation of the conditions of the license or otherwise than in conformity with the terms and conditions of the license shall be punished with imprisonment for a term which, in the absence of special reasons to be recorded in the judgment of the court shall not be less than three months but which may extend to three years and with fine which may extend to five lakh rupees.* Section 18 A (6) states that - *A Pawnbroker who- makes any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof, for the purchase, sale, or disposition thereof within the time of redemption.* The learned APP argued that the deposition of PW1 to PW3 and PW8 would clearly go to show that the accused person is a money lender and that he had committed the alleged offences. But PW6 and PW7 who were cited by the prosecution to show that they had borrowed money from the accused turned hostile to the prosecution case by deposing that they did not obtain any amount from the accused.

11. Money lending business is not defined under the Act. S.2(7) of the Act defines who is a money lender. Only a person who conducts the business of advancing and realising loans or accepting deposits in the course of such business would come under the definition of money - lender. The word business

means an activity carried on continuously and systematically by a person to earn income. The learned counsel for the petitioner submits that a single instance of lending a loan does not amount to doing of money lending business within the meaning of the Act. The proposition is correct. One or two instances of advancing a loan would not amount to doing of money lending business. The Hon'ble High Court of Kerala in **Kurian V.V vs. Leelamma Sebastian and anr** reported in **2015 KHC 5272** it was held in paragraph 2 that *“It is well settled that casual instances of money lending will not attract a prosecution under the Kerala Money Lenders Act. Under S.13 or 17 of the Kerala Money Lenders Act, only a money lender as defined under the law can be punished. S.2(7) of the Kerala Money Lenders Act defines "money lender" as a person, whose main or subsidiary occupation is the business of advancing and realising loans, or acceptance of deposits in the course of such business, but does not include a bank or a co - operative society, or the Life Insurance Corporation of India, or the Industrial Credit and Investment Corporation of India, or the Industrial Finance Corporation, or the State Financial Corporation established under the State Financial Corporation Act, or any institution established by or under an Act of Parliament or the Legislature of a State. Thus, the definition is very clear as to who can be called a money lender. An individual lending money otherwise than as a money lender as defined under the law, cannot be prosecuted under the provisions of the Kerala Money Lenders Act.”*

12. The honorable Supreme Court of India in **Ka Icidla Wallang v. Lokendra Sujam** reported in **AIR 1986 SC 2047** held in paragraph 1 of the judgment that: *“a few disconnected and isolated transactions would not make the plaintiff a person engaged regularly in money lending business”*. The honorable Supreme Court of India in **Gajanan and Others v. Seth Brindaban** reported in **AIR 1970 SC 2007** held in paragraph 5 that: *“a money lender is a person who in regular course of business advances loans and excludes isolated transaction or transactions of money lending”*. In the light of the above said decisions of hon'ble Apex Court, for a person to be a money lender he should be a person who is regularly lending money to others and excludes the persons who does lend some money for

disconnected and isolated transactions. The prosecution has to prove that the accused person is regularly engaged in lending money to others. If the prosecution proves that the accused is regularly engaged in the money lending business, then only they have the liability to apply for the license as directed by the statute. Then only there will be violation of section 3 and the penalty prescribed by the statute under section 17 will follow.

13. As already mentioned, PW1 to PW3 has deposed that accused is involved in the business of money lending. But none of them have deposed the name of any other person to whom the accused have given money as loan. PW7 and PW8 who were cited that witnesses to prove that accused had lend money turned hostile to the prosecution case. CW16 the detecting as well as investigation officer did not turn up to adduce in spite of repeated coercive steps.

14. Considering the evidence on yardstick of probabilities, its intrinsic worth and animus of witnesses, I am of the view that the prosecution has failed to bring any evidence to link the accused with the offences in any manner so as to establish the guilt of the accused for the offences punishable under sections 17 & 18 of Kerala Money Lenders Act & Secs. 3 and 9 of The Kerala Prohibition of Charging Exorbitant Interest Act, 2012 Hence, the above points are found against the prosecution.

15. **Point Nos. (iv)** : In the view of point Nos.1 and 2, this point does not arise for consideration. Hence, the accused person is found not guilty for the offence punishable under sections 17 & 18 of Kerala Money Lenders Act & Secs. 3 and 9 of The Kerala Prohibition of Charging Exorbitant Interest Act, 2012.

In the result:-

The accused person is acquitted U/s. 248(1) Cr.P.C for the offences

punishable u/ss.17 & 18 of Kerala Money Lenders Act & Secs. 3 and 9 of The Kerala Prohibition of Charging Exorbitant Interest Act, 2012. Bail bond executed by both the accused person stands cancelled and he is set at liberty.

The material object produced before the court and entered as T. 236/18 Flash light hand board box and MO1 to MO17 (keys) in this case shall be destroyed or disposed of in accordance with law after the period of appeal and if any appeal is preferred, after the disposal of the same.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open court on this the 19th day of March 2026)

Sd/-
**JUDICIAL FIRST CLASS MAGISTRATE-II
KANJIRAPPALLY**

APPENDIX

List of Prosecution /Defence/Court Witnesses

A. Prosecution witnesses

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, other witness
PW1	Joseph Job	Occurrence witness
PW2	Sanjo K.V.	Occurrence witness
PW3	Sheena Mathew	Occurrence witness
PW4	Balakrishnan	Search list witness
PW5	Joykutty Thomas	Search list witness
PW6	Aneesh	Other witness
PW7	T.V. Antony	Other witness
PW8	Mini Mary Thomas	Other witness
PW9	P.V. Manoj kumar	Police witness

B. Defence Witness

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

C. Court Witness

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.	Ext P1/PW1	RC Book (7 Nos.) dated 03.05.18
2	Ext P2/PW1	Blank cheque leaf bearing No. 232926 dated 03.05.18
3	Ext P3/PW1	Vehicle agreement deed dated 03.05.18
4	Ext P4/PW1	Certified copy of deed dated 03.05.18
5	Ext P5/PW4	Search list dated 27.04.18

B. Defence Exhibits

Sl.No	Exhibit Number	Description
	Nil	

C. Court Exhibits

Sl.No	Exhibit Number	Description
	Nil	

D Material objects

Sl.No	Material object	Description
1	MO1 to MO17	Keys

Sd/-

**JUDICIAL FIRST CLASS MAGISTRATE-II
KANJIRAPPALLY**