

FORM NO. 48(CPC)
 CrI.Justice 470,000 17/144 1 4 2004 GPE @ Govt. of Kerala
 CALENDAR AND JUDGMENT
 (For use in cases where there is only one accused person)
 District of Palakkad Calendar of Cases tried by
 the Judicial Ist Class Magistrate of Ottapalam.

Date of							
Offence	Report or complaint	Apprehension of accused	Release on bail	Commencement of trial	Close of trial	Sentence or order	Explanation of delay and remarks
11.1.15	5.1.2016	1.8.15	1.8.15	17.9.19	1.6.26	2.6.26	No delay

Judgment in Calender Case no. 70/2016 on the file of the
 Judicial Ist Class Magistrate-1 of Ottapalam.

Complainant :State represented by Sub Inspector of police, Cherpulassery police station in Crime No. 41/2015.

Sl.No	Name of accused	Age	Father's Name	Residence	Taluk
1.	Noushad	37	Saithali	Nellaya	Ottapalam

Offences : U/s 457, 392 of IPC

Finding : Guilty

Sentence or order : Accused is found guilty of the offences punishable u/ss 457 and 392 of IPC. He is convicted under section 248(2) Cr. P. C.The convict is released on probation of good conduct on executing bond for Rs. 10,000/- with two solvent sureties each for the like sum for a period of three year. In the meantime, he shall maintain peace and good behaviour during the probation period and abide by the following conditions.

- 1 He is placed under the super vision of Smt. Midhula.M District Probation Officer, Palakkad for a period of three year.
- 2 District Probation Officer shall file half yearly reports before this court as to compliance of conditions on bond executed by accused.
- 3 He is directed not to leave their fixed place of abode without informing the court.
- 4 He shall not commit any offence during the Probation period.
- 5 He shall not be found intoxicated and causing disturbance to public any time during the Probation period.

Failure to comply with any of the above conditions will result in the cancellation of his bond forthwith and he will be liable for the punishment.

Judicial First Class Magistrate – I,
 Ottappalam.

DOCKET

Date of receipt :	From	The Magistrate of.
Remarks of the District Magistrate	To	The Hon'ble District & Sessions Judge, Palakkad.
Date of Despatch		Reply of the Magistrate
“ Receipt 20...		{of}
Date of despatch }		Calendar case no. of 200.....
“ Receipt }20...		Date of judgment {}
Remarks of the Subdivisional Magistrate		“ of Despatch {}
		“ of Calendar {}
		“ of Receipt {}

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS-1,
OTTAPALAM**

Present. Smt. Sajitha. M. N
Judicial First Class Magistrate

Tuesday, 2nd day of June, 2026
12th Jeshtom, 1948 (S.E)

Calender Case no. 70/2016

Complainant	:	State represented by Sub Inspector of police, Cherpulassery police station in Crime No. 41/2015. (By Sri. Muhammed Sajith A.PP. Gr.II, Ottapalam)
Accused	:	Noushad aged 37 Years, S/o Saithali, Chakkingalthodi veedu, Rahmathangadi, Ezhuvanthala, Nellaya. (By Adv. Sri. K. R. Santhoshkumar)
Offence	:	U/s 457, 392 of IPC
Plea	:	Not guilty
Finding	:	Guilty

Order : Accused is found guilty of the offences punishable u/ss 457 and 392 of IPC. He is convicted under section 248(2) Cr. P. C. The convict is released on probation of good conduct on executing bond for Rs. 10,000/- with two solvent sureties each for the like sum for a period of three year. In the meantime, he shall maintain peace and good behaviour during the probation period and abide by the following conditions.

- 1 He is placed under the super vision of Smt. Midhula.M District Probation Officer, Palakkad for a period of three year.
- 2 District Probation Officer shall file half yearly reports before this court as to compliance of conditions on bond executed by accused.
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Failure to comply with any of the above conditions will result in the cancellation of his bond forthwith and he will be liable for the punishment.

Description of accused

Sl. no	Name of accused	Age	Father's Name	Residence	Taluk
1.	Noushad	37	Saithali	Nellaya	Ottapalam

Date of

Offence	Report or complaint	Apprehension	Release on bail	Commencement of trial	Close of trial	Sentence or order
11.1.15	5.1.2016	1.8.15	1.8.15	17.9.19	1.6.26	2.6.26

This case having been heard on 1.6.2026 and the court on 2.6.2026 passed the following.

J U D G M E N T

The accused stand charge sheeted by the Sub Inspector of Police, Cherpulassery Police Station in crime no. 41/2015 alleging commission of offences punishable u/ss 457, 392 of the Indian Penal Code (Herein after referred to as IPC)

2. The prosecution case is that on 11.1.2015 at 5.00 a.m accused committed lurking of house trespass by night by removing the tile roof of the house bearing no. 9/317 of Kulukkallur Panchayath, where CW1 and his family were residing and committed theft of 1.5 sovereigns of gold chain from the neck of CW1 by showing a knife. Thus, the accused is alleged to have committed the above offences.

3. First Information Report was registered by CW11 the then Sub Inspector of Cherpulassery Police Station, CW12 another Sub Inspector of

Cherpulassery Police Station conducted the investigation and filed final report before the court.

4. Cognizance was taken and summons was issued to the accused for having committed the offences punishable under sections 457, 392 IPC. The accused appeared before the court and he was released on bail. The copies of prosecution records were furnished to the accused and thus complied with section 207 Cr.P.C. Charge was framed u/ss. 457, 392 IPC. It was read over and explained to the accused. He pleaded not guilty. He was defended by a counsel of his choice.

5. CW1 to CW12 were cited as prosecution witnesses. Out of that CW1, CW2, CW5, CW3, CW7, CW10, CW11 and CW12 were examined as PW1 to PW8. Ext. P1 to P14 and MO1 to MO 3 were marked. The examination of other witnesses was given up by the learned Assistant Public Prosecutor. On closure of the prosecution evidence, the accused was examined u/s 313(1) (b)Cr.P.C. He denied all the incriminating circumstances brought out in evidence against him. Then, the case was posted for defence evidence. No defence evidence was adduced.

6. Heard both sides.

7. The points that arise for determination are: -

1. Did the accused on 11.1.2015 at 5.00 a.m committed house breaking by night at the house bearing no. 9/317 of Kulukkallur Panchayath?
2. Did the accused on 11.1.2015 at 5.00 a.m committed robbery of gold chain of 1.5 sovereigns from the neck of CW1 by showing a knife?
3. Whether the accused is guilty of the offences alleged? If found guilty, what is the order as to sentence?

8. **Point No. 1 and 2** :- These points are considered together since the facts and evidence to be discussed are interconnected. PW1 is the de-facto complainant in this case. She deposed that the alleged incident was on 11.1.2015 at 5.00 a.m, her father was admitted at Moulana Hospital. PW1 and her mother were awake for making food. When the mother of PW1 switch on the light, accused caught hold on the hand of the mother of PW1. On hearing the cry of mother, PW1 came to the place of incident. Accused snatched gold chain from the neck of the mother of PW1. Accused was holding a sword in his hand. PW1 has took the sword from the hand of the accused. Accused was tried to snatch the gold chain from the neck of PW1. Accused threatened PW1 by showing a knife. Accused obtained a part of gold chain wore by PW1, other part was with PW1 and he escaped through

near by the well. The snatched gold chain having 1 and 1/2 sovereigns. Mother's chain was found on the floor. The complaint given by PW1 was marked as Ext. P1. Statement given to the magistrate was marked as Ext. P2. She identified the accused. Thali was marked as MO1. Chain piece was marked as MO2. Hook of the chain was marked as MO3.

9. During cross examination she deposed that the person attacked PW1 was wearing a face mask. In the scuffle, the face mask was removed and during cross examination she further deposed that her gold chain having two sovereigns. PW1 further deposed that physical features of the accused was not stated to the police.

10. PW2 is the mother of PW1. She deposed that the alleged incident was on 11.1.2015 at 5.00 a.m. When she switch on the light, she saw some one was standing in the hall. She made noise and her daughter came to the place. The person tried to snatch the gold chain by showing a sword. The daughter of PW2 took that sword from the hand of the accused. At that time the chain was fell on the floor and accused was tried to snatch the gold chain from the neck of the daughter. One part was with the daughter and another part was with the accused. In the scuffle, the face of the accused

was clearly seen by PW2. They threatened PW1 and PW2 by showing a knife.

11. PW3 is the witness to the recovery mahazar. Recovery mahazar is marked as Ext. P3.

12. PW4 is the distant relative of the accused. Accused entrusted him three rings and one studd for pledging. That was pledged at Co.operative Bank, Vallappuzha branch and Rs. 14,000/- was obtained from the bank. That was given to the accused's family. Police seized the ornaments from the Vallappuzha Co.operative Bank and PW4 signed in that mahazar. Mahazar was marked as Ext.P4.

13. PW5 is the Senior Clerk of the Urban Co.operative Bank. He has also witnessed the Ext.P4 mahazar. Three rings and one studd were recovered as per Ext. P4 mahazar.

14. PW6 is the witness to the scene mahazar. Scene mahazar is marked as Ext.P5. He also witnessed the Ext. P6 seizure mahazar. As per Ext.P6 seizure mahazar, chain parts and thali were seized.

15. PW7 is the Sub Inspector of Cherpulassery Police Station. He has registered the FIR in this case. FIR is marked as Ext.P7. He has prepared the scene mahazar in this case. He has seized the sword involved in this

case and he has sent the same to the court. List of property is marked as Ext.P8. Further investigation is conducted by CW12.

16. PW8 is the Sub Inspector of Cherpulassery Police Station. He deposed that final report was filed stating that the case was undetected. Thereafter he has filed report to conduct further investigation in this case. That report was marked as Ext.P9. He has arrested the accused and arrest memo was marked as Ext.P10. Inspection memo was marked as Ext.P11. Accused was produced before this court and as per the recovery mahazar three receipts were seized which were marked as Ext.P12. List of property sent to the court was marked as Ext.P13. The report to prove the name and address of the accused was marked as Ext.P14.

17. The counsel for the accused submitted that there is no evidence to connect the accused with the alleged crime. Hence the accused is entitled to be acquitted.

18. On the other hand the learned Assistant Public Prosecutor submitted that the evidence adduced by PW1 and PW2 are sufficient to prove the guilt of the accused beyond reasonable doubt. Hence the accused is liable to be convicted.

19. This court would now address the arguments put forward by the learned defence counsel and the learned Assistant Public Prosecutor and perused the records in the above case. Ext.P1 is the FI Statement given by PW1. FIStatement is given on 11.1.2015 at 21.39 hours. PW1 stated to the police that on 11.1.2015 at 5.00 a.m, when they were trying to make food for their father who is hospitalized, someone was standing inside the house and tried to snatch the gold chain of mother of PW1. Thereafter he tried to snatch the gold chain of PW1. He threatened to kill PW1 by showing a knife. On the very same day of the alleged incident Ext.P1 statement was given by PW1. Ext.P4 is the seizure mahazar. As per Ext.P4 seizure mahazar, the accused herein have given confession statement. As per the confession statement one stud and three rings were recovered. Ext.P6 is the seizure mahazar of the broken chain of mother of PW1. Ext.P7 is the list of property sent to the court. Ext.P5 is the scene mahazar in this case. Ext.P9 is the report to conduct the further investigation in this case. In that report, it is stated that refer charge has been filed in this case. Thereafter accused was arrested in Cherpulassery police station. Crime no. 787/2015 and as per the confession statement given by accused, his role in this crime was revealed. Accued was shown to the complainant and daughter and they identified the

accused. As per the confession statement, he deposed that he has committed the theft in this case and he has changed the gold ornaments to other articles. Ext. P10 was the arrest memo. Ext. P11 was the inspection memo of the accused. Ext. P13 was the list of property sent to the court.

20. In this case PW1 and PW2 in their evidence deposed that they saw the face of the accused at the time of the alleged incident. Accused was wearing a face mask, during the scuffle between PW1 and PW2, this mask was removed and they saw the face of the accused clearly. Later the accused was shown to PW1 and PW2 and they identified the accused. In the 164 statement of PW1, she stated to the magistrate that she can identify the accused and her further statement to police on 1.8.2015, she stated that in the scuffle, she clearly saw the accused. She saw the accused in the light. In the 161 statement of PW2, she deposed that he has covered his face. Whereas during the evidence of PW2, she deposed that he was wearing the face mask whereas his face mask was removed during the scuffle and she saw the accused clearly. PW1 and PW2 identified the accused at the police station. The evidence of PW1 and PW2 clearly indicate the fact that accused committed house breaking by night at the residence of PW1 and snatched the gold chain on the neck of PW1. Eventhough recovered gold ornaments

is not the one snatched from the neck of PW1, the evidence of PW1 and PW2 are trustworthy which leads to the conclusion that accused committed house breaking by night and enter into the house of PW1 and PW2 and committed theft of gold chain of PW2. These points are answered in favour of the prosecution.

21. **Point no. 3** : - In the light of discussion of point no. 1 and 2, accused is found guilty of the offences punishable u/ss 457 and 392 of IPC. He is convicted under section 248(2) Cr. P. C.

22. Considering the facts of the case, probation report was called for. The District Probation Officer, Palakkad filed report stating that the accused lead a peaceful life now. He was involved in the incident due to his tender age and influence of the peer group. Now he realize his mistake and lead a peaceful life. So, it is fit to release the accused on probation of good conduct.

23. The convict is released on probation of good conduct on executing bond for Rs. 10,000/- with two solvent sureties each for the like sum for a period of three year. In the meantime, he shall maintain peace and good behaviour during the probation period and abide by the following conditions.

1 He is placed under the super vision of Smt. Midhula.M,

District Probation Officer, Palakkad for a period of three year.

- 2 District Probation Officer shall file half yearly reports before this court as to compliance of conditions on bond executed by accused.
- 3 He is directed not to leave their fixed place of abode without informing the court.
- 4 He shall not commit any offence during the Probation period.
- 5 He shall not be found intoxicated and causing disturbance to public any time during the Probation period.

Failure to comply with any of the above conditions will result in the cancellation of their bond forthwith and they will be liable for the punishment.

MOI to MO3 shall released to the owner as per the law.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open Court, this 2nd day of June, 2026)

**Judicial First Class Magistrate-1,
Ottapalam.**

APPENDIX

WITNESSES EXAMINED FOR THE PROSECUTION

PW 1: Divya Menon (First Informant)

PW 2: Chandrika (Eye witness)

PW 3: Abdul Rahiman (Recovery mahazar witness)

PW 4: Aboobacker siddiq (Independent witness)

PW 5: Sudheer (Seizure mahazar witness)

PW 6 : Monish (Scene mahazar witness)

PW 7 : P. Chandran, Sub Inspector, Cherpulassery Police Station.

(Investigating Officer)

PW 8 : V. S. Muraleedharan, Sub Inspector, Cherpulassery Police Station.

(Investigating Officer)

EXHIBITS MARKED FOR THE PROSECUTION:

Ext. P1: FIS dated 11.1.2014 marked through PW1.

Ext. P2: 164 statement subject to proof.

Ext. P3: Certified copy of recovery mahazar dated 7.8.2015 marked through PW3.

Ext. P4: Seizure mahazar dated 7.8.2015 marked through PW4.

Ext. P5: Scene mahazar dated 12.1.2015 marked through PW6.

Ext. P6: Seizure mahazar dated 12.1.2015 marked through PW6.

Ext. P7: FIR dated 12.1.2015 marked through PW7.

Ext. P8: Property list dated 12.1.2015 marked through PW7.

Ext. P9: 173 (3) report for further investigation marked through PW8.

Ext. P10 : Arrest memo marked through PW8.

Ext. P11: Copy of Inspection memo dated 31.7.2015 marked through PW6.

Ext. P12 : Certified copy of receipt of gold loan from Co.operative Bank marked through PW8.

Ext. P13 : Property list dated 8.8.2015 marked through PW8

Ext. P14 : Report to add the name and address of accused dated 1.18.2015
marked through PW8.

WITNESSES EXAMINED FOR THE DEFENCE: Nil

EXHIBITS MARKED FOR THE DEFENCE: Nil.

MATERIAL OBJECTS MARKED FOR THE PROSECUTION:

MO 1: Thali.

MO 2 : Piece of chain.

MO 3 : Hook of chain.

Judicial Ist Class Magistrate-1, Ottapalam