FORM NO. 48(CPC)

Crl.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	Commence-ment of trial	Close of trial	Sentence or order	Explanation of delay and remarks
16.5.14	17.9.14	9.5.14	9.5.14	24.10.18	26.3.26	27.3.26	No delay

Judgment in Calender Case no. 1775/2014 on the file of the Judicial Ist Class Magistrate-1 of Ottapalam.

Complainant :State represented by Sub Inspector of Police, Sreekrishnapuram Police Station in crime no. 318/2014.

Sl.No	Name of accused	Age	Father's Name	Residence	Taluk
1.	A. T. Philippose	69	A. V. Thomas	Karimpuzha	Ottapalam

Offences : U/ss 17, 3 of Kerala Money Lenders Act 1958 and sec. 3, 9 (a) of Kerala Prohibition of Charging Exorbitant Interest Act 2003.

Finding : Not guilty

Sentence or order : Accused is found not guilty of the offences punishable u/ss 17, 3 of Kerala Money Lenders Act 1958 and sec. 3, 9 (a) of Kerala Prohibition of Charging Exorbitant Interest Act 2003. He is acquitted u/s. 248(1) Cr.PC of the above offences. His bail bond stands cancelled and he is set at liberty.

Judicial First Class Magistrate – I,
Ottappalam.

DOCKET

Date of receipt :. . . . .
Remarks of the District Magistrate
Date of Despatch
" Receipt .... 20...

Date of despatch }
" Receipt } ....20...
Remarks of the Subdivisional Magistrate

From
The . . . . Magistrate of. . . . .
To
The Hon'ble District & Sessions Judge, Palakkad.
Reply of the .. . . Magistrate
{of .. ..}
Calendar case no. . . . . . of . . . . . 200......
Date of judgment {}
" of Despatch {}
" of Calendar {}
" of Receipt {}

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

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

Friday, 27th day of March, 2026
6th Chaithram, 1948 (S.E)

Calender Case no. 1775/2014

Complainant	:	State represented by Sub Inspector of Police, Sreekrishnapuram Police Station in crime no. 318/2014. (By Sri. Muhammed Sajith, A.P.P. Gr.II, Ottapalam)
Accused	:	A. T. Philippose aged 69/14 Years, S/o A. V. Thomas, Alappat Vettil, Thottara, Karimpuzha. (By Adv. Sri. K. R. Pradeep)
Offence	:	U/ss 17, 3 of Kerala Money Lenders Act 1958 and sec. 3, 9 (a) of Kerala Prohibition of Charging Exorbitant Interest Act 2003.
`Plea	:	Not guilty
Finding	:	Not guilty
Sentence or order	:	Accused is found not guilty of the offences punishable u/ss 17, 3 of Kerala Money Lenders Act 1958 and sec. 3, 9 (a) of Kerala Prohibition of Charging Exorbitant Interest Act 2003. He is acquitted u/s. 248(1) Cr.P.C of the above offences. His bail bond stands cancelled and he is set at liberty.

Description of accused

Sl. no	Name of accused	Age	Father's Name	Residence	Taluk
1.	A. T. Philippose	69	A. V. Thomas	Karimpuzha	Ottapalam

Date of

Offence	Report or complaint	Apprehension	Release on bail	Commence-ment of trial	Close of trial	Sentence or order
16.5.14	17.9.14	9.5.14	9.5.14	24.10.18	26.3.26	27.3.26

This case having been heard on 26.3.26 and the court on 27.3.26 passed the following.

JUDGMENT

The accused stands charge sheeted by the Sub Inspector of Police, Sreekrishnapuram Police Station in crime no. 318/2014 alleging commission of offences punishable under secs. 17, 3 of Kerala Money Lenders Act 1958 and sec. 3, 9 (a) of Kerala Prohibition of Charging Exorbitant Interest Act 2003 (hereinafter referred to as Act)

2. The prosecution case is that till 16.5.2014 accused without any licence conducted money lending business at his residence bearing number V/287 of Karimpuzha Panchayath at Thottara, Karimpuzha Panchayath and obtained blank signed stamp paper, blank signed cheque, title deed from CW9 to CW22 and lend money at exorbitant interest. Even after paying the money, accused

has not returned the security documents. Hence the accused is alleged to have committed the above said offences.

3. First Information Report was registered by CW50 the then Sub Inspector, Sreekrishnapuram Police Station, he has 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 17, 3 of Kerala Money Lenders Act 1958 and sec. 3, 9 (a) of Kerala Prohibition of Charging Exorbitant Interest Act. 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 for the offence U/s secs. 17, 3 of Kerala Money Lenders Act 1958 and sec. 3, 9 (a) of Kerala Prohibition of Charging Exorbitant Interest Act were framed, read over and explained to the accused. He pleaded not guilty. He was defended by a counsel of his choice.

5. CW1 to CW50 were cited as prosecution witnesses. Out of that CW1, CW2, CW5, CW7, CW10, CW4, CW12, CW14, CW17, CW19, CW20, CW21, CW22, CW24, CW26, CW27, CW28, CW34, CW38, CW41, CW46, CW30, CW37, CW31, CW35, CW33, CW16, CW9, CW18, CW32, CW29, CW36, CW45,

CW48, CW49, CW50 were examined as PW1 to PW36 and Ext.P1 to P19 documents were marked. CW8, CW11, CW13, CW15, CW23, CW42 passed away. Hence they were not examined. CW44 is completely bed ridden. Hence he was not examined. Other witnesses were 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 defene evidence adduced.

6. Heard both sides.

7. The points that arise for consideration are : -

1. Did the accused carry on the business of money lending without license?
2. Did the accused charge exorbitant interest on the money advanced to his customers?
3. Whether the accused is guilty of offence as alleged? If found guilty, what is the order as to sentence?

8. Point nos.1 and 2 :- These points are considered together since the facts and evidence to be discussed are interconnected. PW1 is the Civil Police Officer, Sreekrishnapuram Police Station. The alleged incident was on 16.5.2014 at 10.00 a.m. While he was doing patrolling duty with Sub

Inspector of Police, a secret information was received to the Sub Inspector of Police that accused lending money at exorbitant interest, and Sub Inspector of police prepared something and sent to the court with CPO, Ragesh. Thereafter PW1 and his team reached to the house of the accused, where the accused were lending money on exorbitant interest. Blank stamp and original title deed, RC book and Rs. 12,335/- were seized from the house of the accused and accused was arrested and search list was prepared. PW1 was put his signature in the search list, search list was marked as Ext. P1.

9. PW2 is the driver of the Sreekrishnapuram Police Station. The alleged incident was on 16.5.2014 at 9.45 a.m secret information was received by the Sub Inspector of Police. Search memorandum was sent with the hands of Ragesh and reached at the residence of accused and seized cheque leafs and title deed, blank stamp paper and RC book from the house of the accused and he was witnessed the Ext.P1. The blank cheques were marked as Ext.P2 series. Blank stamp paper were marked as Ext.P3 series. Title deed were marked as Ext. P4 series. He identified the accused.

10. PW3 is the witness to the Scene mahazar. Scene Mahazar is marked as Ext. P5.

11. PW4 is the customer of the accused where he has deposed that he has no financial transaction with the accused. He has not given any statement to the police. 451 petition filed by PW4 for release of his original title deed from the court is marked as Ext. P6. Blank stamp paper was marked as Ext. P3(a). The signed blank stamp pater of PW4 is marked as Ext.P3(a). The signed white paper is marked as Ext. P7 and he further deposed that he has not received any amount from the accused. He turned hostile to the prosecution.

12. PW5 is the another customer of the accused. He deposed that he has no financial transaction with the accused. His documents not from the accused. His document was not seized from the possession of the accused. He turned hostile to the prosecution.

13. PW6 is the CPO of Sreekrishnapuram Police Station. He has produced the search memorandum before the court.

14. PW7, PW8 are the customer of the accused. They deposed that they have no financial transaction with the accused and they have no complaint against the accused. They turned hostile to the prosecution.

15. PW9 and PW10 deposed that they had transaction with the accused which was completed. They don't remember about the giving of cheque leaf to the accused. They turned hostile to the prosecution.

16. PW11, PW12, PW13, PW14, PW15 deposed that they have no financial transaction with the accused. They turned hostile to the prosecution.

17. PW16 deposed that he has financial transaction with the accused which was completed and he has no complaint against the accused. He turned hostile to the prosecution.

18. PW17, PW18, PW19, PW20, PW21, PW22, PW23, PW24, PW25, PW26, PW27, PW28, PW29 deposed that they were not the customers of the accused. As per the prosecution case, they were customers of the accused. They deposed that they have no complaint against the accused. They have no financial transaction with the accused. All of them turned hostile to the prosecution case.

19. PW30 is the manager of the SBT, Karimpuzha branch. He has issued Ext.P8 certificate. As per Ext. P8 certificate 20 cheque leafs cheque book was given to Sreenivasan. Ext. P9 is the another certificate which shows that 15 leafs cheque book of Leela John was issued by the bank. Ext. P10 is the another certificate of 15 leafs of cheque book issued to Syamkumar. T. K.

20. PW31 is the Bank Manager of Sreekrishnapuram Canara Bank. He has produced certificate before the court which is marked as Ext.P11.

21. PW32 produced the account details of CW35 which is marked as Ext.P12.

22. PW32 produced the account details of CW35 which is marked as Ext. P12.

23. PW33 is the Secretary of Kadambazhipuram Service Co.operative Bank. He has produced Ext. P13 certificate.

24.PW34 is the Secretary of Karimpuzha Grama Panchayath. He has produced Ext. P14 ownership certificate.

25. PW35 is the Inspecting Assistant Commissioner at Commercial Tax Department, Palakkad, he deposed that no money lending licence was given to the accused.

26. PW36 is the Sub Inspector, Sreekrishnapuram Police Station. He has received a secret information that accused was lending money in exorbitant interest. Hence he prepared search memorandum and sent to the court. Thereafter he conducted the search at the house of the accused and 59 documents and Rs. 12,355/- were seized. Arrest memo is marked as Ext. P16. Inspection memo is marked as Ext. P17. Arrest intimation was marked as Ext. P18. FIR is marked as Ext. P19. He has sent the list of property to the court. He has conducted the investigation and filed final report before the court.

27. During cross examination he has deposed that he has not received any complaint from anyone.

28. The learned counsel for the accused submitted that there is no evidence to connect the accused with the alleged crime. Hence accused is entitled to be acquitted. On the other hand, the learned Assistant Public Prosecutor submitted that the evidence adduced by the prosecution is sufficient to prove the guilt of the accused beyond reasonable doubt. Hence the accused is liable to be convicted.

29. 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 this case. There is no complaint in this case. The search was conducted on the basis of the secret information received by PW36. As per prosecution case, several customers of the accused were made as a witness in this case. Whereas all of them deposed that they have no complaint against the accused and they have no financial transaction with the accused. There is no evidence to prove that the accused lend money to any one at exorbitant interest and accused is conducting money lending business without licence.

30. All the independent witnesses to the prosecution were turned hostile to the prosecution. There is no evidence to connect the accused with the alleged crime. *What is made punishable under the Kerala Money Lender's Act is involvement in money lending business. Thus the prosecution will have to*

prove some sort of business in money lending for a successful prosecution. The mere fact that the accused was found in possession of some cheque leaves or some other documents will not prove a business transaction. Lending money to a person under one or more documents will not by itself constitute the offence of unauthorised money lending meant under the Kerala Money Lender's Act.

31. *A glace at the definition and a reference to the preamble as well as the objects of the Act reveal that what is intended to be regulated, is not a solitary instance of money lending, but a series of activity, taking the form of a business of advancing and realizing loans:*

32. *The term business has a significant connotation in legal parlance. A continuous or series activity which partake the character of an occupation can be regarded as business under law. The word business is a term of wide important and has to mean an activity carried on continuously and systematically by use of his labour or skill with a view to earn an income. The term has to be perceived from the purport of the statute and the contextual implications. Dehors the contextual setting one salient feature of business is continuity. Reference can profitably be made to the various definitions of the term business as enunciated in P. Ramanatha Aiyar's " The Advanced Law*

Lexicon" 4th Edition. In all those definitions, continuous activity is regarded as essential to treat an activity as business.

33. *In this context, it is apposite to refer to the decision in Vimal v. State of Kerala, 2015 (1) KLT 524, wherein Hon'ble High Court had held that lending money to a person under one or more documents will not by itself constitute the offence of unauthorised money lending under the Kerala Money Lenders Act. Similarly, in the decision in OP (Crl) No. 64/2015 dated 6.4.2015, also Hon'ble High Court had observed that it is not known how lending Rs. 5,000/- once in a personal transaction will constitute the offence punishable under the Kerala Money Lenders Act.*

34. In the instant case, no material has been adduced by the prosecution to successfully prosecute the accused under the Money Lenders Act alleging conduct of a money lending business. None of the circumstances culled out during investigation, reveals that the accused has indulged in a continuous activity of money lending or that accused had lend money to any person.

35. Sec. 3 of the Money Lending Act says about the licence. Here, there is no evidence the accused is lending money. Sec. 17 of the Money Lending Act says about conducting a Money Lending Business without licence or in violation of the condition of the licence. Here, there is no case that the Money Lending *business is conducting without licence or violation of condition of the licence. None of the subscriber deposed that they have grievances against the accused in realizing the huge amount as interest. The other offence alleged against the accused is Sec. 9(a) of the Charging of Exorbitant Interest Act. Sec. 3 of the Act says that no person was charging exorbitant interest or any loan advanced by him. Here there is no evidence come before this court to prove that accused had levied exorbitant interest from his customers and the customers as alleged by the prosecution have no complaint against the accused. Hence the offence alleged by the prosecution are not attracted in this case.*

36. The evidence on record would reveal that there is nothing on record to show that the accused had carried on the business of money lending without any licence and charged exorbitant interest on the money advanced by him. There are no materials before this court to conclude that the accused levied heavy interest from the customers and obtained blank signed documents. The intention of the accused to cheat the customers by levying exorbitant interest in violation of the Money Lending Licence was not proved. Hence the accused is entitled to be acquitted. Hence point nos. 1 and 2 are found against the prosecution.

37. **<u>Point no. 3:</u>** In view of my finding on point nos. 1 and 2, the accused is found not guilty of the offences punishable u/ss 17, 3 of Kerala Money Lenders Act 1958 and sec. 3, 9 (a) of Kerala Prohibition of Charging Exorbitant Interest Act 2003. He is acquitted u/s. 248(1) Cr.P.C of the above offences. His bail bond stands cancelled and he is set at liberty.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open Court, this, 27th day of March, 2026)

Judicial First Class Magistrate-1,
Ottapalam.

<u>APPENDIX</u>

<u>WITNESSES EXAMINED FOR THE PROSECUTION</u>

PW1 : Ragesh, CPO 5730, Sreekrishnapuram Police Station.

PW2 : Vijayan, DVR CPO 5688, Sreekrishnapuram Police Station.

PW3 : Siddique (Scene mahazar witness)

PW4 : Ramadasan (eye witness)

PW5 : Radhakrishnan (eye witness)

PW6 : Rajesh CPO 6034, Sreekrishnapuram Police Station.

PW7 : Hamza (eye witness)

PW8 : Kader (eye witness)

PW9 : Siddique (eye witness)

PW10 : Sivadasan (eye witness)

PW11 : Sureshbabu (eye witness)

PW12 : Kunhayamutti (eye witness)

PW13 : Raghavan (eye witness)

PW14 : Jaison (eye witness)

PW15 : Bipin (eye witness)

PW16 : Sulochana (eye witness)

PW17 : Hamsa (eye witness)

PW18 : Prema (eye witness)

PW19 : Jayakumar(eye witness)

PW20 : Balakrishnan (eye witness)

PW21 : Krishnakumar (eye witness)

PW22 : John Abraham (eye witness)

PW23 : Abdul Nasar (eye witness)

PW24 : Syamkumar (eye witness)

PW25 : Manikandan (eye witness)

PW26 : Kunhalavi (eye witness)

PW27 : Shaji Thomas (eye witness)

PW28 : Basheer (eye witness)

PW29 : Sreenivasan (eye witness)

PW30 : Jose, Branch Manager, SBT, Karimpuzha branch.

PW31 : Anilkumar. P. T, Branch Manager, Canara Bank, Sreekrishnapuram.

PW32 : Balakrishnan, Branch Manager, SBT, Sreekrishnapuram branch.

PW33 : Subramanian, Secretary, Service Co.operative Bank,
Kadambazhipuram branch.

PW34 : Jayaraj, Secretary, Karimpuzha Grama Panchayath.

PW35 : Sathyanarayanan, Inspecting Assistant Commissioner, Commercial Taxes, Palakkad.

PW36 : C. Rajappan, Sub Inspector of Police Sreekrishnapuram Police Station.

EXHIBITS MARKED FOR THE PROSECUTION:

Ext. P1 : Search list DATED 16.5.2014 marked through PW1.

Ext. P2 series : Cheque (13 nos) marked through PW1.

Ext. P3 series : Blank stamp paper (23 nos) marked through PW1.

Ext. P4 series : Title deeds (2 nos)

Ext. P5 : Scene mahazar dated 16.5.2014 marked through PW3.

Ext. P6 : 451 petition marked through PW4.

Ext. P7 : White paper (signed) marked through PW4.

Ext. P8 : Certificate issued by SBT, Karimpuzha branch dated 29.5.14 marked through PW30.

Ext. P9 : Certificate issued by Branch manager SBT dated 29.5.14 marked through PW30.

Ext. P10 : Certificate issued by Branch manager SBT, Karimpuzha branch dated 29.5.14 marked through PW30.

Ext. P11 : Certificate for the details of cheque book holders details dated 3.7.14 marked through PW31.

Ext. P12 : Certificate issued by SBT, Sreekrishnapuram branch dated 24.5.2014 marked through PW32.

Ext. P13 : Certificate issued by Service Co.operative Bank, Kadambazhipuram branch dated 5.6.2014 marked through PW33.

Ext. P14 : Ownership certificate dated 30.5.2014 marked through PW34.

Ext. P15 : Certificate for no licence issued by Inspecting Assistant Commissioner, from Commercial Tax, Palakkad to Sub Inspector, Sreekrishnapuram dated 14.7.2014 marked through PW35.

Ext. P16 : Arrest memo dated 16.5.2014 marked through PW36.

Ext. P17 : Inspection memo dated 16.5.2014 marked through PW36.

Ext. P18 : Arrest Intimation dated 16.5.2014 marked through PW36.

Ext. P19 : FIR dated 16.5.2014 marked through PW36.

WITNESSES EXAMINED FOR THE DEFENCE: Nil

EXHIBITS MARKED FOR THE DEFENCE: Nil.

MATERIAL OBJECTS MARKED FOR THE PROSECUTION: Nil.

Judicial First Class Magistrate-1, Ottapalam