

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST  
CLASS IRINJALAKUDA**

Present : **Smt. Deepa Mohanan, Judicial First Class Magistrate.**

Dated this, Monday, the 20<sup>th</sup> day of April, 2026/ 30<sup>th</sup> Chaithram,  
1948 S.E.

**C.C. 2091/2015**

Complainant : State Rep. By the Sub Inspector of police,  
Irinjalakuda police station in crime No.  
2123/2014 of that police station.

***(By A.P.P. Sr. Grade, Irinjalakuda)***

Accused : Famous, Aged 27/2015, S/o. Francis,  
Malakkaran House, Ponjanam Desam, Kattoor  
Village, Thrissur District.

***(Rep. By Adv. Joby A. Pulikan)***

Offence : U/ss. 420 of IPC.

Plea : Not Guilty.

Finding : Accused is found not guilty of offences  
punishable under section 420 of IPC.

Sentence or : Accused is acquitted under sections 248(1) of  
Order Cr.PC.

**Description of the Accused**

Sl. No.	Name and Rank of the accused	Father's Name	Occupation	Residence	Age
1.	Al-Famous	Francis	-	Kattoor	24/14

**Dates on which**

Occurrence	Complaint	Apprehension/ Appearance	Release on bail	Commencement of trial	Commencement of evidence	Close of trial	Sentence or Order	Period of Detention undergone during investigation, inquiry or trial for the purpose of section 428 of Cr.P.C.
03-02-14	04-04-15	11-05-15	11-05-15	27-11-17	23-03-22	16-04-26	20-04-26	-

*This case having been finally heard on 16/04/2026 and the Court on 20/04/2026 delivered the following:-*

**J U D G M E N T**

1. This case has arisen on the final report filed by the Sub Inspector of Police, Irinjalakuda Police Station in Crime No. 2123/2014, against the accused alleging commission of the offence punishable under Section 420 of IPC.

2. Prosecution allegations in brief are as follows:-

The accused with the intention of deceiving Karuvannoor Co-operative bank, Porathusseri Branch and for wrongful gain, pledged spurious gold ornaments and received a total amount of ₹ 3,28,000/- and thereby committed the offence of cheating which is punishable under Section 420 of IPC.

3. Summons was issued against the accused. The accused

entered appearance before the Court. They were represented by a counsel of their choice. They were released on bail. Copies of all the prosecution records were furnished to the accused u/S. 207 CrPC. After hearing and perusing relevant records, charge was framed against the accused for the offence u/S. 420 IPC. It was read over and explained to him, to which he pleaded not guilty and claimed innocence.

4. PW1 to PW7 were examined and Exhibits P1 to P19 were marked on behalf of the prosecution. MO1 to MO4 series were also marked on behalf of the prosecution. Thereafter, the accused was examined u/S. 313(1)(b) of CrPC. He denied all the incriminating evidence against him and claimed innocence.

5. The following points were raised for determination:

*1) Had the accused person committed the offence under section 420 IPC ?*

*2) Sentence or order ?*

6. Heard both sides.

**SUBMISSIONS**

**7. The LEArned APP submitted the following arguments to substantiate the case of the prosecution.**

- 1.The evidence of PW1 , PW2, 3 and 6 proved that the accused had pledged spurious gold ornaments, collected the amount and thereby cheated the bank.
- 2.The oral and documentary evidence on record sufficiently proved the prosecution case.

**8. The Learned defence counsel submitted argument note with the following contentions.**

- 1.PW1 is himself an accused in fifteen other cases and he is not a trustworthy witness.
- 2.There is no director board decision to file the criminal complaint against the accused and the members of the director board are not arrayed as witnesses.

3. There is serious discrepancies in the evidence of PW1 to PW3.

4. The recovery of MO-1 to MO-4 was not proper.

5. There is delay in filing the complaint.

6. The prosecution has failed to prove the guilt of the accused beyond reasonable doubt.

9. **Point No. 1:** The prosecution case is that, the accused with the intention to deceive Karuvannoor Co-operative bank had pledged spurious gold ornaments and received an amount of ₹ 3,28,000/-. Prosecution banked upon the oral evidence of PW1 to PW7 and documentary evidence of Exhibit P1 to P19 and MO1 to MO4 series to establish the case. Before going to the merits of the case, the relevant penal provision shall be looked into, to ascertain whether the ingredients constituting the offence, are available or not.

Section 420 IPC, reads as follows:

**Whoever cheats and thereby dishonestly induces the**

**person deceived any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.**

10. On bisecting the wordings in the provision, the following are the essential ingredients for constituting the penal provision.

1. the first accomplished act of cheating
2. by the said act of cheating, dishonestly inducing the person so deceived to
  - a. deliver any property to any person, or
  - b. to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security.

11. The overt act that has to be proved at the first instance is the act of cheating. The definition of cheating contains in section 415 IPC. The provision is hereby extracted as follows for a better understanding:

**Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".**

**Explanation.-- A dishonest concealment of facts is deception within the meaning of this section.**

12. In order to constitute the act of cheating, the offender must have, by deceiving the victim, caused the latter to part with any property or to do or omit to do any act which he would not have done if he is not so deceived. The guilty intention is an essential ingredient

of the offence of cheating.

13. Hon'ble Apex Court in **Ajay Mitra v. State of MP and Ors AIR 2003 SC 1069** observed that,

**A guilty intention is an essential ingredient of the offence of cheating. In other words 'mens rea' on the part of the accused must be established before he can be convicted of an offence of cheating. (See Jeswantrao Manilal Akhaney v. The State of Bombay, AIR 1956 SC 575). In Mahadeo Prasad v. State of West Bengal AIR 1951 SC 724, it was held as follows:**

**"Where the charge against the accused is under S.420 in that he induced the complainant to part with his goods, on the understanding that the accused would pay for the same on delivery but did not pay, if the accused had at the time he promised to pay cash against delivery an intention to do so, the fact that he did not pay would not convert the transaction into one of cheating. But if on the other hand he had no intention whatsoever to pay but merely said that he would do so in order to induce**

**the complainant to part with the goods then a case of cheating would be established".**

**In Hari Prasad Chamaria v. Bishun Kumar Surekha and others. AIR 1974 SC 301 it was held that unless the complaint showed that the accused had dishonest or fraudulent intention at the time the complainant parted with the money it would not amount to an offence under S.420 IPC and it may only amount to breach of contract. In G.V. Rao v. L.H.V. Prasad and Others 2000(3) SCC 693, it was reiterated that guilty intention is an essential ingredient of the offence of cheating and, therefore, to secure conviction 'mens rea' on the part of the accused must be established. It has been further held that in order to constitute the offence of cheating the intention to deceive should be in existence at the time when the inducement was offered.**

14. In order to bring home the offence under section 420 IPC, the prosecution must have proved *mens rea* on the part of the accused, the accomplished act of cheating and parting any property by the victim. Keeping these principles in mind the present set of

facts and the materials on record shall be analysed.

15. The FIR was registered based on Exhibit P1 FIS given by PW1 who was the then secretary of the bank wherein the accused is alleged to have pledged the spurious gold ornaments. He gave Exhibit P1 based on the report of PW2 who was the manager of the bank. The evidence of PW2 would show that, MO1 to MO4 series ornaments were pledged by the accused not during his tenure but while PW3 was the manager of the bank. As the ornaments were not taken back and the accused did not appear to collect them making the repayment of the amount he received, it was decided to conduct auction of the ornaments so as to realise the amount. At that time the ornaments were examined and found that those are spurious gold. The ornaments were examined by PW6. The evidence of PW6 would show that he had examined MO1 to MO4 series and found that those are spurious gold ornaments.

16. Immediately PW2 gave Exhibit P2 report to PW1, who subsequently filed Exhibit P1 FIS. When cross examined PW1 deposed that, before the ornaments were handed over to the police, those were kept in the locker of the main branch. He affirmed the suggestion that the ornaments were so kept in the locker of the main

branch as transit deposit, before those were handed over to the police. He further added that along with Exhibit P1 FIS, he had produced the ornaments at the police station.

17. Those were seized by PW7, the investigation officer and Exhibit P3 to P11 and P16 are corroborating the said fact. But the evidence of PW7 would show that he had seized the ornaments from the Porathusseri branch of the bank in the presence of PW2. But PW7 who recorded Exhibit P1 did not state that, PW1 had produced the ornaments at the police station. PW2 has another version that, till the ornaments were seized by the police those were kept in the locker of the Porathussery Branch of the bank. Thus the custody of the ornaments till those were seized by the police is doubtful and the seizure of the ornaments is too found doubtful. Being so the facts that MO1 to MO4 series are the ornaments pledged by the accused and also that those are the ornaments which were found as spurious ornaments by PW2 are found not proved beyond reasonable doubt. Hence the accused is entitled for the benefit of doubt.

18. It is not found that the accused had committed the offence under section 420 IPC beyond reasonable doubt. The point is found in favour of the defence and against the prosecution.

**RESULT**

**19. Point No. 2: Accused is not found guilty of the offence punishable under section 420 of IPC. He is acquitted under section 248(1) of CrPC of the said offence. The accused is set at liberty and discharged from his bail bond.**

The properties marked as MO1 to MO4 series shall be released to the bank after the period prescribed for appeal

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in the open court on this, the 20<sup>th</sup> day of April, 2026.)

sd/-

**Deepa Mohanan**  
**Judicial First Class Magistrate**  
**Irinjalakuda**

**APPENDIX**

**List of Witnesses examined**

**Prosecution Witness :**

PW1	Sunilkumar	Victim
PW2	M.M. Nishad	Siezure mahazar witness
PW3	Sreekala	Other witness
PW4	Bindu	Other witness
PW5	Ouseph	Other witness
PW6	Jayanandan	Expert witness
PW7	M.J. Jijo	Police witness/Investigation officer

Defence Witness: Nil

Court Witness : Nil

**List of Exhibits marked**

**Prosecution Exhibits:**

1	Exhibit P1/PW1	FI Statement, dated 22-12-2014.
2	Exhibit P2/PW2	Letter from secretary of Karuvannur Bank to the accused regarding the repayment of loan amount, dated 20-12-2014.
3	Exhibit P3/PW2	Seizure mahazar, dated 23-12-2014.
4	Exhibit P4/PW2	Slip on item No. 1 cover.
5	Exhibit P5/PW2	Slip inside item No. 1 cover.
6	Exhibit P6/PW2	Slip on item No. 2 cover.
7	Exhibit P7/PW2	Slip inside item No. 2 cover.
8	Exhibit P8/PW2	Slip on item No. 3 cover.
9	Exhibit P9/PW2	Slip inside item No. 3 cover.
10	Exhibit P10/PW2	Slip on item No. 4 cover.
11	Exhibit P11/PW2	Slip inside item No. 4 cover.
12	Exhibit P12/PW3	Gold loan application in MS6156, dated 03-02-2014 of Karuvannur Service Co-operative Bank.
13	Exhibit P13/PW3	Gold loan application in MI8067, dated 10-03-2014 of Karuvannur Service Co-operative Bank.
14	Exhibit P14/PW3	Gold loan application in MS6306, dated 09-05-2014 of Karuvannur Service Co-operative Bank.
15	Exhibit P15/PW5	Gold loan application in MS6356, dated 03-06-2014 of Karuvannur Service Co-operative Bank.
16	Exhibit P16/PW6	Seizure mahazar, dated 06-01-2015.
17	Exhibit P17/PW7	FIR, dated 22-12-2014.
18	Exhibit P18/PW7	Property list, dated 06-01-2015.
19	Exhibit P19/PW7	Document list, dated 23-12-2014.

Defence Exhibits : Nil

Court Exhibits : Nil

**Material Objects :**

1	MO1	Bangles (2 Nos.)
2	MO2	Bracelet (1 No.)

3	MO3 series	Bangles (2 Nos.)
4	MO4 series	Chain ( 3 pieces)

sd/-  
Judicial First Class Magistrate  
Irinjalakuda

//True copy//

sd/-  
**Deepa Mohanan**  
**Judicial First Class Magistrate**  
**Irinjalakuda**