

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

Present:- Smt. Sherin R A., Judicial I Class Magistrate

Dated this the 25th day of March 2026/4th Chaithra 1948 SE

CC. No. 324 OF 2019

State represented by the Sub Inspector of Police Valapad P.S in Cr.No. 99/2019 (By Asst . Public Prosecutor Kodungallur)	:	Complainant
Aswin Ganga, aged 21, S/o Sasi, Vadakketil house, Kazhimbram desom, Valapad Village. (By Adv. Sri. K.K.Ansar)	:	Accused
Offence	:	U/s.457 and 427 IPC
Plea	:	Not guilty
Finding	:	Not guilty
Order	:	The accused is found not guilty for the offences under sections 457 and 427 IPC and he is acquitted of the said offences u/s.248(1) Cr.P.C. The bail bond stands cancelled and accused is set at liberty forthwith.

Description of the accused

Sl.N	Name	Father's Name	Occupation	Residence	Age
o					

1	Aswin Ganga	Sasi	Nil	Kazhimbram	21
---	----------------	------	-----	------------	----

Date of

Occurrence	Complaint	Appearance or apprehension	Release on bail	Commencement of trial	Closure of trial	Sentence or order	Explanation for delay	Period of detention undergone during investigation, inquiry or trial for the purpose of section 428 Cr.P.C
20.2.2019	20.9.2019	20.2.2019	21.2.2019	13.6.2023	23.3.2026	25.3.2026	No delay	-----

This case having been finally heard on today the court delivered the following:

JUDGMENT

This case was taken on file based on the final report submitted by the S.I of

Police, Valapad Police Station in crime No.99/2019 registered against the accused alleging commission of offences punishable U/ss. 457 and 427 IPC.

2. The prosecution case is that accused, on 22.02.2019, at a time between 2:30 a.m. and 5:30 a.m., trespassed into the sanctum sanctorum of the Kuruppath Sree Bhadrakali Temple situated at Palappetty Beach. He removed the idol of Vishnumaya Swamy, which was made of bronze and installed on the pedestal, and carried it to the property belonging to the brother of CW10, located approximately 150 meters to the northeast of the place of occurrence. By this act, the temple sustained a loss of about ₹1,00,000/- Thus the accused is alleged to have committed the aforementioned offences.

3. On receipt of FIS from PW1, CW12 registered this crime and after completing investigation, filed the final report before court.

4. On appearance of the accused on summons he was released on bail and was represented by a counsel of his choice. Copies of all relevant prosecution records were furnished to him under section 207 of Cr.P.C. After hearing both parties and perusing the records, charge was framed for the offences punishable under section 457 and 427 of IPC. It was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

5.. From the side of the prosecution, PW1 and 2 were examined and Exts. P1 and P2 were marked. After closing the prosecution evidence, accused was

questioned u/s.313(1)(b) Cr.P.C. He denied all the incriminating circumstances put to him and maintained to be innocent.

6. Accused was called to enter into his defence evidence. No evidence was marked from the defence side.

7. Heard both sides.

8. The following points arise for consideration:-

1. *Whether the accused entered into the sanctorum of Sree Bhadrakali temple Palappetty beach with an intention to commit theft?*
2. *Whether the accused committed theft of idol from the sanctorum and placed it in the paramba of brother of CW10 as alleged by the prosecution ?*
3. *Whether the accused committed any of the aforementioned offences?*
4. *If the accused is found guilty what should be the proper sentence or order?*

9. **Point Nos. 1to 3:-**

PW1 is the informant. PW2 is the person who arrived at the spot after getting information about the incident.

10. PW1 Sreeivasan deposed that he was the Secretary of his tharawad temple, Sri Kurupathu Badrakali Temple, and on 19.02.2019 at around 09.00 a.m., the poojari informed him regarding the missing of the Vishnu Maya idol from the temple. According to PW1, the idol was a gold-plated bronze one. According to PW1, the idol was placed inside the Sreekovil of the temple and was missing from there. Usually, around 07.30 to 08.00 p.m., the Sreekovil would be closed after all poojas.

11. The key of the Sreekovil would usually be kept with the pujari and the temple would normally be opened every day around 05.30 a.m. He conducted a search for the missing idol in the temple premises and found the idol in a canal situated about 2–3 compounds away. There were scratches on the gold plating of the idol. Regarding the incident, he had given a statement to the police and the F.I. statement was marked as Exhibit P1. According to PW1, a loss of ₹1,00,000 was sustained in the incident, since the idol was plated using 12 grams of gold and a significant amount had to be spent for the punarprathishta of the idol as per Tantrik Vidhi. He further stated that the idol was taken into interim custody from the police upon kacheet. The kacheet was marked as Exhibit P2. According to PW1, the idol might have been missing during the early morning between 03.00 a.m. and 04.00 a.m. During cross-examination, PW1 admitted that before retrieving the idol, Exhibit P1 was lodged stating that the idol was missing.

12. PW2 Srikutan stated that he was the Keezhsanthi of Kurupathu Sri Badrakali Temple and that he usually opened the temple at 06.00 a.m. and would close the Sreekovil at around 07.15 p.m. According to PW2, it was he who usually opened and closed the Sreekovil of the temple. He further stated that on the date of occurrence, when he arrived at the temple at around 06.00 a.m., he found that the main switch was off. The door of the Sreekovil of the Vishnu Maya temple was found open and only the *prabhavalayam* (halo) and lamps were seen inside the Sreekovil.

The idol was not seen inside the Sreekovil and therefore he informed the said incident to the responsible office bearers of the temple.

13. In order to bring home the guilt of the accused, the prosecution must establish the essential ingredients of the alleged offences beyond reasonable doubt. Suspicion, however strong, cannot take the place of proof. The evidence on record must inspire confidence and must form a complete chain pointing unerringly to the guilt of the accused.

14. In the present case, the prosecution has not adduced any direct evidence connecting the accused with the alleged removal of the idol from the Sreekovil. The evidence available is only to the effect that the idol was found missing from the Sreekovil and was later recovered from a canal situated a few compounds away from the temple. The mere fact that the idol was found missing, by itself, is insufficient to attribute criminal liability to the accused in the absence of any material linking the accused with the alleged act.

15. There is also no evidence regarding any forced entry into the Sreekovil or the temple premises. The materials on record do not disclose any circumstance indicating that the accused had access to the Sreekovil during the relevant time. The absence of such connecting evidence creates a serious gap in the prosecution case. Further, there is no independent or circumstantial evidence to establish the

involvement of the accused. In the absence of such evidence, the prosecution version remains a mere suspicion.

16 . When the evidence is insufficient to establish a clear and unbroken chain of circumstances pointing to the guilt of the accused, the court cannot record a conviction.

17. On an overall appreciation of the evidence and circumstances of the case, I am of the view that the prosecution has failed to establish the involvement of the accused in the alleged offence beyond reasonable doubt. The accused is therefore entitled to the benefit of doubt. The points are found accordingly against the prosecution.

18. **Point No.4:** In view of my findings on point Nos 1 to 3, this point does not arise for consideration.

1. In the result, accused is found not guilty for the offences under sections 457 and 427 of IPC and he is acquitted of the said offences u/s.248(1) Cr.P.C.

2. The bail bond stands cancelled and accused is set at liberty forthwith.

3. Property *is released on kychit. The kychit is hereby made absolute.*

Dictated to the Confidential Assistant transcribed and typed by her, corrected and pronounced by me in open court on this the 25th March 2026

Sd/-
JUDICIAL FIRST CLASS MAGISTRATE,
KODUNGALLUR.

APPENDIX

Prosecution witness

PW1 Sreenidasan
PW2 Sreekuttan

CW1 First Informant 17.10.2023
CW2 Occurrence witness 30.1.2024

Defence witness : Nil

Court witness : Nil

Prosecution Exhibits:

1 P1 First information statement PW1

2 P2 Kychit PW1

Defence Exhibits: Nil

Court Exhibits : Nil

Material Objects : Nil

Sd
JUDICIAL FIRST CLASS MAGISTRATE,
KODUNGALLUR.

//true copy// JUDICIAL FIRST CLASS MAGISTRATE,
KODUNGALLUR.