

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

**Present: Smt.Savitha V.S, Judicial First Class Magistrate**

Dated this the 26<sup>th</sup> day of March, 2026/05<sup>th</sup> Chaithra, 1948 SE

**C.C. No.1000 OF 2018**

Complainant : State of Kerala - rep. by the Inspector of  
Police, Chalakudy Police Station  
in Crime No.677/17 of Koratty Police Station  
  
*(By Sri.Sreekumar P, Assistant Public  
Prosecutor, Senior Grade, Chalakudy)*

Accused : A1.Paul Thomas, aged 46 years,  
S/o.Thomas, Manavalan House,  
Karukutty Desom, Karukutty Village.  
**(Absconding)**  
A2.Viji Paul, aged 42 years,  
W/o.Paul Thomas, Manavalan House,  
Karukutty Desom, Karukutty Village.  
A3. Peter Joseph, aged 52 years,  
S/o.Joseph, Maliyekkal House,  
Irinjalakuda Desom, Irinjalakuda Village.  
  
By Adv.Sri.M.S.Vinayan for A2  
By Adv.Sri.Pauly Ambookkan for A3

Offence : u/Ss. 420,167,120 B r/w 34 of Indian Penal  
Code

Plea : Not guilty

Finding : Accused Nos 2 and 3 not guilty

Sentence or order : Accused Nos.2 and 3 are acquitted u/S.248(1) of Criminal Procedure Code. Accused no.1 is absconding. Hence, case against accused No.1 is split up and refiled as **CC 1433/2018**

**DESCRIPTION OF ACCUSED**

Sl. No.	Name of Police station and the Crime No. of the offence.	Name and Rank of accused	Father's Name	Occupation	Residence	Age					
1	Koratty Police Station in Crime No.91/23	A1.Paul Thomas (Absconding)	Thomas	.....	Karukutty	46					
		A2.Viji Paul	Paul Thomas	.....	Karukutty	42					
		A3.Peter Joseph	Joseph	.....	Irinjalakuda	52					
DATE OF											Period of detention undergone during investigation, inquiry or trial for the purpose
Occurrence	Complaint	Apprehension/ Appearance	Release on bail	Commencement of trial	Commencement of evidence	Close of trial	Sentence or order	Commitment	Service of copy of judgment or finding on accused	Explanation of delay	

											of section 428 of Cr.P.C.
23.01. 14	23.05. 17	A2. 07.01 .20  A1. Absc ondin g  A3. 11.04 .24	A2 07.01. 20  A1. abscon ding	A2. 07.0 1.20  A1. Absc ondi ng  A3. 11.0 4.24	04.03 .2024	25.03 .26	27. 03. 26	-	-	-	-

*This case having been finally heard on 25.03.2026, and the court delivered the following:-*

### **JUDGMENT**

This case is instituted on a final report filed by the Inspector of Police, Chalakudy Police Station in Crime No.677/17 of Koratty Police Station under sections 420,167,120 B r/w 34 of Indian Penal Code and Section 94(8) of Kerala Co-operative Societies Act, 1969 .

2. This is a prosecution for offences punishable under Sections 420, 167 and 120 B of the Indian Penal Code. The case of the prosecution, in brief, is that the accused persons, in furtherance of their common intention and criminal conspiracy, committed irregularities in the sanction and utilisation of an overdraft loan, thereby causing wrongful loss to the bank and corresponding gain to themselves.

3. The Court took cognizance of the offences and issued process against the accused. Upon his appearance, they were released on bail. The copies of the final report and other connected documents were duly furnished to them in compliance with Section 207 of the Code of Criminal Procedure. After hearing both sides, charges were framed for the offences punishable under Sections 420,167,120 B r/w 34 of Indian Penal Code read over and explained to accused Nos 2 and 3 in vernacular, to which they pleaded “not guilty” and claimed to be tried. Accused No.1 is absconding

4. On the side of the prosecution, PWs1 to 9 were examined and Exts.P1 and P23 were marked. After completing the prosecution evidence, all the incriminating circumstances were put to the accused u/S.313(1)(b) of Cr.P.C. They denied the entire allegations and they pleaded for their innocence. They were called upon to enter on defence. No defence evidence adduced from the side of defence.

5. Heard Both sides.

6. On a careful perusal of the case records and upon consideration of the rival contentions advanced by both sides, the following points arise for consideration:-

1. Whether the accused in futherance of their common intention to cheat CW1 and thereby committed an offence punishable u/s.420 of Indian Penal Code?
2. Whether the accused in futherance of their common intention to commit criminal conspiracy as alleged?
3. Whether the accused in futherance of their common intention to

knowingly frames or translates any document or electronic record incorrectly as alleged?

4. Sentence or Order?

7 . **Point Nos.1 to 3 :-** PW1, the Accountant of Irinjalakuda Town Co-operative Bank, deposed that during the relevant period the third accused was the Manager of the bank and that the overdraft loan in question was sanctioned by receiving the property of one Aneesh, the de facto complainant, as security. He produced Exts. P1 to P4, which are the transaction details and documents relating to the loan. However, his evidence is purely formal in nature. He has not spoken anything regarding any fraudulent intention or illegal act on the part of accused Nos. 2 and 3. During cross-examination, he admitted that he is not the custodian of the documents and could not even recollect whether he was questioned by the police. There is absolutely no evidence from his side to show that the third accused sanctioned the loan without authority or in violation of any procedure.

8. PW2, the Branch Manager, also produced Exts. P5 to P7 relating to the overdraft account. His evidence only establishes certain financial transactions. There is nothing in his evidence to connect accused Nos. 2 and 3 with any illegal act or to show that the transactions were carried out with dishonest intention or as part of any conspiracy. His deposition only indicates that the third accused was the Manager at the relevant time.

9. PW3 deposed that he knew the first accused and that, on the promise of arranging funds for export business, he paid an amount of Rs.75,000/- towards a kuri at

KSFE, Ernakulam. He further stated that he later came to know about the case through newspapers. This evidence is wholly unconnected with the transaction forming the subject matter of this case and does not in any manner advance the prosecution case. At best, it attempts to indicate the conduct of the first accused, which is not sufficient to establish the offences alleged.

10. PW4 deposed that he was the Assistant Registrar General and had conducted an enquiry regarding the overdraft transaction and submitted Ext. P8 report. However, he has not stated anything to show that the overdraft was sanctioned with any criminal intention or in connivance with the third accused. During cross-examination, he admitted that he had not personally verified any documents in court while preparing the report and further admitted that loan approvals in a co-operative bank are done with the consent of the Board of Directors, based on legal opinion and inspection of the property. It is pertinent to note that none of those persons have been arrayed as accused. Even if there were any procedural irregularities or lapses on the part of the Manager, the same would at best give rise to departmental or civil liability and not criminal liability in the absence of mens rea.

11. PW5, the Manager of ICICI Bank, Angamaly Branch, produced Exts. P9 to P12, which are bank statements and certificates under the Bankers' Books Evidence Act. His evidence shows that certain amounts were transferred between the accounts of Paul Thomas Thomas, Aneesh, and Viji Paul. These documents only establish that there were financial transactions between the first accused and the de facto complainant. However, such documentary evidence can only corroborate the substantive evidence of the complainant. In the present case, the complainant has not been examined despite coercive steps. Therefore, the evidence of PW5 remains incomplete and does not establish any culpability on the part of accused Nos. 2 and 3.

12. PW6, the Village Officer, deposed that as per Exts. P13 and P14, the first

accused had no movable or immovable property and no annual income in the concerned village. This evidence is not relevant to prove the alleged offences.

13. PW7, the Branch Manager of HDFC Bank, Chalakudy, produced Exts. P15 and P16, which are account statements showing transactions between the first accused and the complainant. This again only establishes financial dealings between those two persons and does not in any way connect accused Nos. 2 and 3 with the alleged crime.

14. PW8, the Investigating Officer, deposed about the investigation conducted and the filing of the final report. PW9, who conducted a substantial part of the investigation, deposed that he arrested the first accused and seized documents from his residence under Ext. P20 mahazar, which were produced before the Court as per Ext. P21. Among them, Ext. P22 is an agreement of business between the first accused and the de facto complainant Aneesh. Ext. P23 is the licence issued by the Grama Panchayat in the name of the first accused. His evidence clearly indicates that the transaction in question was between the first accused and the complainant.

15. On a careful appreciation of the entire evidence on record, it is evident that the prosecution case is primarily based on documentary evidence relating to bank transactions. The said documents only show that there were financial dealings between the first accused and the de facto complainant. The agreement marked as Ext. P22 also substantiates that the transaction was between them.

16. The de facto complainant, who had direct and exclusive knowledge

regarding the transaction, has not been examined. No satisfactory explanation has been offered for such non-examination. In the absence of his evidence, the prosecution has failed to establish the nature of the transaction, the circumstances under which the loan was availed, and the alleged role of the accused persons.

17. It is also significant to note that the first accused is absconding. In the absence of his evidence and in the absence of any other legally admissible evidence, there is absolutely nothing on record to establish any agreement or meeting of minds between the accused persons so as to constitute an offence under Section 120B IPC.

18. To attract the offence under Section 420 IPC, it must be proved that the accused had dishonest intention at the very inception of the transaction. No such evidence is forthcoming in this case. Similarly, to attract Section 167 IPC, there must be clear evidence that a public servant framed or prepared an incorrect document with intent to cause injury. There is no evidence to establish such an act on the part of the third accused.

19. The prosecution has also failed to prove that accused Nos. 2 and 3 had any role in the alleged transaction or that they acted in furtherance of any common intention or conspiracy. Mere production of bank records, without any evidence explaining the circumstances and intention, is wholly insufficient to establish the guilt of the accused. At best, the evidence on record creates suspicion. However, it is a settled principle of criminal jurisprudence that suspicion, however strong, cannot take the place of proof. The prosecution has failed to establish the guilt of the accused beyond reasonable doubt. In such circumstances, the accused are entitled to the benefit of doubt.

20. **Point No.4:-** In the result, the accused Nos.2 and 3 are found not guilty of the offence punishable under Sections 420, 167 and 120 B of the Indian Penal Code and accordingly, they are acquitted of the said offence u/s.248(1) of the Code of Criminal Procedure. Their bail bonds shall stand discharged and they are set at liberty.

Accused No.1 is absconding. Hence, case against accused No.1 is split up and refiled as **CC 1433/2018.**

(Dictated to the Confidential Assistant., transcribed and typed by her, corrected and pronounced by me in open Court on this the 26<sup>th</sup> day of March, 2026)

Sd/-  
Judicial First Class Magistrate,  
Chalakydy.

**APPENDIX**

**Prosecution witness:**

PW1	Sidhique M.A	Accountant Irinjalakuda, Town Co-operative Bank, Koratty Branch
PW2	Sheela Margrate	Other witness
PW3	P.K. Shamsudheen	Other witness
PW4	M.K.Anil	Assistant Registrar (General), Mukundapuram, Irinjalakuda
PW5	Sony Xavier	Other witness
PW6	Saji Pappy	Village Officer, Karukutty Village
PW7	Joji Chalissery	JO 133, Branch Manager, HDFC Bank, Chalakydy
PW8	Haridasan.V	Inspector of Police, Chalakydy
PW9	V.S.Shaju	Inspector of Police, Chalakydy

**Defence witness :**

Nil	
-----	--

**Court witness :**

Nil	
-----	--

**Prosecution Exhibits:**

1	Ext.P1/PW1	Certificate issued from Irinjalakuda Town Co-operative Bank, Koratty Branch dated 29.09.2017
2	Ext.P2/PW1	Bank transaction details
3	Ext.P3/PW1	Loan ledger of Irinjalakuda Town Co-operative Bank, Koratty Branch
4	Ext.P4/PW1	Certificate issued from Irinjalakuda Town Co-operative Bank, Koratty Branch dated 29.09.2017
5	Ext.P5/PW6	Account details of Irinjalakuda Town Co-operative Bank
6	Ext.P6/PW2	Certificate issued from Irinjalakuda Town Co-operative Bank, Head Office, Irinjalakuda P.O, Thrissur dated 27.12.2017
7	Ext.P7/PW2	Account statement
8	Ext.P8/PW4	Report of Registrar
9	Ext.P9/PW5	Certificate issued from ICICI Bank
10	Ext.P10/PW5	Account statement
11	Ext.P11/PW5	Certificate issued from ICICI Bank
12	Ext.P12/PW5	Account statement
13	Ext.P13/PW6	Certificate
14	Ext.P14/PW6	Certificate
15	Ext.P15/PW7	Certificate issued from HDFC Bank, Chalakudy branch
16	Ext.P16/PW7	Statement of HDFC Bank, Chalakudy
17	Ext.P17/PW8	Section adding report
18	Ext.P18/PW8	Report
19	Ext.P19/PW9	Arrest memo of A1
20	Ext.P20/PW9	Seizure mahazar dated 03.06.2017
21	Ext.P21/PW9	Document list
22	Ext.P22/PW9	Agreement of business

23	Ext.P23/PW9	Licence issued from Meloor Gramapanchayath dated 18.11.2015
----	-------------	---

**Exhibits for defence:-**

Nil	
-----	--

**Material object:-**

Nil	
-----	--

Sd/-  
Judicial First Class Magistrate,  
Chalakydy.

//true copy//

**Judicial First Class Magistrate,  
Chalakydy.**