

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

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

Dated this the 17th day of March, 2026/26th Phalguna, 1947

C.C. No.1045 OF 2025

Complainant : State of Kerala - rep. by Sub Inspector of
Police, Koratty Police Station
in Crime No.91/23

*(By Sri.Sreekumar P, Assistant Public
Prosecutor, Senior Grade, Chalakudy)*

Accused : A1.Sourab Sheik, aged 33 years,
S/o.Rusthum Sheik, Chodoykuri,
Kushtiya Dist, Davalatpur P.S,
Bangladesh.
A2. Alamgin Sheikh, aged 31 years,
S/o.Taheruddinseikh, Bidupur Village,
Sarkarpara P.O, Murishidabad Dist.
Jalangi PS, West Bengal. (Absconding)

By Adv.Sri.Aswin Thankappan

Offence : u/S. 380 r/w 34 of Indian Penal
Code

Plea : Not guilty

Finding : Not guilty

Sentence or order : Accused No.1 is acquitted u/S.248(1) of
Criminal Procedure Code. Accused no.2 is
absconding. Hence, case against accused No.2 is

split up and refiled as CC 1287/2025.

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.Sourab Sheik	Rusthum Sheik	Kushtiya	33					
		A2.Alamgin Sheik	Taheruddinseikh	Sarkarpara	31					
DATE OF											Period of detention undergone during investigation, inquiry or trial for the purpose of section 428 of Cr.P.C.
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	
22.09.2018	12.11.2018	21.01.26	21.01.26	04.11.21	21.12.23	12.03.26	17.03.26	-	-	-	-

This case having been finally heard on 12.03.2026, and the court delivered the following:-

JUDGMENT

This case is instituted on a final report filed by the Sub Inspector of Police, Koratty Police Station u/S. 380 r/w 34 of Indian Penal Code.

2. The prosecution case, in brief, is that, at a time in between 17.30 hours on 28.01.2023 and 9.30 hours on 30.01.2023, the accused numbers 1 to 3 in furtherance of their common intention, committed theft of 1 ½ HP motor, 9 sealing fans and an exhaust fan worth Rs.25,000/- from Indian Coffee House building at Muringur. Thus ,the accused thereby committed the offence punishable under Section 380 r/w 34 of Indian Penal Code.

3. Originally the case was taken on file as CC 1020/23 against three accused persons. Beginning of the stage, the accused persons were in judicial custody. The copies of the final report and other relevant prosecution records were supplied to them. Heard and charge was framed for the offences punishable u/s.380 r/w 34 of Indian Penal Code. It was read over and explained to the accused in vernacular, to which they pleaded “not guilty” and claimed to be tried. 2nd accused appeared before the court and his case was disposed. Accused nos 1 and 3 were absconding. Hence, case against they are split up and refiled as CC 1045/2025. On 21.01.2026, first accused appeared before the court and he was released on bail. Accused No.2 (accused No.3 Alamgin Sheik, in

original case) is absconding.

5. On the side of the prosecution, PWs1 to 8 were examined and Exts.P1 and P14 were marked. MO1 was identified. After completing the prosecution evidence, all the incriminating circumstances were put to the accused u/S.313(1)(b) of Cr.P.C. He denied the entire allegations and he pleaded for his innocence. He was called upon to enter on defence. Ext.D1 was marked from the side of defence.

6. Heard Both sides.

7. 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 1st accused along with other accused in furtherance of their common intention committing theft of 1 ½ HP motor, 9 ceiling fans and a exhaust fan worth Rs.25,000/- from Indian Coffee House building at Muringur and thereby committed the offence punishable 380 of Indian Penal Code as alleged?
2. Sentence or Order?

8 . **Point No.1:-** The prosecution case is that on 13.01.2023, a theft took place at the Indian Coffee House, Muringur branch. PW1, who was the Manager of the said branch, stated that when he opened the shop, he noticed that a motor having 1½ HP, nine ceiling fans and an exhaust fan were missing. According to him, the thieves had entered through a gap situated behind the rear grill. He informed the head office and later

gave a statement to the police, which was marked as Ext.P1. During investigation, certain articles were recovered, and the police alleged that these were the stolen items. The accused were arrested, and the recovered properties were produced before the court as MO1. Among them, the ceiling fan was stated by PW1 to be of the brand Polar.

9. PW1 to PW8 were examined on the side of the prosecution. PW1 identified his signature in Ext.P1 and identified the ceiling fan (MO1) as the stolen one, stating it was of the brand Polar. However, during cross-examination, he admitted that he had not produced any document showing that he was authorized to lodge a complaint on behalf of the Indian Coffee House. He further admitted that he had not mentioned the brand name "Polar" in his original statement, even though he later stated it in court. PW2 and PW4 were cited as recovery witnesses, but PW2 stated that he did not personally see the recovery and only heard about it from the police. He could not identify the seized articles or the accused. PW4 also deposed that though he signed the mahazar, he was unable to identify either the seized fan or the accused. His version did not confirm the presence of PW2 at the time of recovery. PW3, a scene mahazar witness, only stated that he was present when the police came to the spot. PW5, PW6, PW7, and PW8 were police officers who recorded statements, registered the case, and conducted the investigation. PW7 recorded the alleged confession of the first accused and recovered the articles, but no translator was arranged even though the accused were migrant

labourers who did not understand Malayalam.

10. On examining the evidence, it is clear that there is no proper identification of the recovered articles by the complainant or independent witnesses. The recovery witnesses PW2 and PW4 have not supported the prosecution version. The recovery mahazar witnesses also failed to identify the accused or the recovered property. PW1, in his cross-examination, admitted that he had not given any statement regarding the breaking of the grill or the manner in which the theft occurred. PW5 also admitted that PW1 had not given such a statement earlier. Hence, it appears that this version was introduced for the first time in court.

11. The prosecution has also failed to produce any document to show that the alleged place of occurrence belonged to or was operated by the Indian Coffee House and no rent agreement or ownership certificate is produced by the prosecution. The inventory or property register, which would have shown that the missing items, including the Polar brand ceiling fan, were indeed in the shop, was not produced. The confession statement of the first accused marked as Ext.P2(a) does not contain any details connecting the other accused. Moreover, a confession made to a police officer is not admissible under law unless it leads to a specific recovery. In this case, even the alleged recovery has not been proved through any credible witness.

12. There is no CCTV footage, fingerprint report, or any other scientific

evidence to connect the accused with the crime. The investigation also failed to establish the ownership of the recovered articles or their identification beyond doubt. The absence of eye witnesses, lack of proper identification of the Polar fan, and non-production of scientific or documentary evidence create serious doubt about the prosecution story.

13. The Hon'ble Kerala High Court in *Anil v. State of Kerala, 2023 KHC 9412*, held that where the prosecution failed to establish the ownership of the alleged stolen articles, no witness had seen the occurrence, and the conviction was solely based on the alleged confession of the accused, the courts had misread the evidence and arrived at an erroneous conclusion and thereby entitling the accused to the benefit of doubt.

14. Considering the entire evidence, this court finds that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt. The evidence available is insufficient to link the accused with the commission of theft. Accordingly, all the accused no. 2 is found not guilty and is acquitted under Section 248(1) of the Code of Criminal Procedure.

15. **Point No.2:-** In the result, the accused No.1 is found not guilty of the offence punishable u/s.380 r/w 34 of Indian Penal Code and accordingly, he is acquitted of the said offence u/s.248(1) of the Code of Criminal Procedure. His bail bond shall stand discharged and he is set at liberty. Accused No.2 (accused No.3 Alamgin Sheik, in original case) is absconding. Hence, case against accused No.2 is split up and refiled as CC 1287/2025.

(Dictated to the Confidential Assistant., transcribed and typed by her, corrected and pronounced by me in open Court on this the 17th day of March, 2026)

Sd/-

Judicial First Class Magistrate,
Chalakydy.

APPENDIX

Prosecution witness:

PW1	Madhu Kumar	First informant
PW2	Antu	Mahazar witness
PW3	Jayakumar	Mahazar witness
PW4	Mahesh	Other witness
PW5	Tessy K.T	Senior Civil Police Officer 5308, Koratty Police Station
PW6	Shaju	Sub Inspector of Police, Koratty Police Station
PW7	Subindh	Sub Inspector of Police, Koratty Police Station
PW8	Muhammed Shihab Kuttammassery	Sub Inspector of Police, Koratty Police Station

Defence witness :

Nil	
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Court witness :

Nil	
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Prosecution Exhibits:

1	Ext.P1/PW1	F.I.Statement dated 01.02.2023
2	Ext.P2/PW2	Recovery mahazar dated 25.06.2023
3	Ext.P2(a)/PW7	Relevant portion of confession statement
4	Ext.P3/PW3	Scene mahazar dated 01.02.2023

5	Ext.P4/PW6	F.I.R dated 01.02.2023
6	Ext.P5/PW7	Property list dated 25.06.2023
7	Ext.P6/PW7	Arrest memo of first accused
8	Ext.P7/PW7	Arrest memo of 2 nd accused
9	Ext.P8/PW7	Arrest memo of 3 rd accused
10	Ext.P9/PW7	Inspection memo dated 25.06.2023
11	Ext.P10/PW7	Inspection memo dated 25.06.2023
12	Ext.P11/PW7	Inspection memo dated 25.06.2023
13	Ext.P12/PW7	Property list dated 25.06.2023
14	Ext.P13/PW7	Section adding report dated 25.06.2023
15	Ext.P14/PW7	Address report of accused

Exhibits for defence:-

1	Ext.D1/PW4	Certified copy of seizure mahazar in CC 1308/23
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Material object:-

1	MO1/PW1	Ceiling Fan
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Sd/-
Judicial First Class Magistrate,
Chalakydy.

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**Judicial First Class Magistrate,
Chalakydy.**