

**IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE - I
NEYYATTINKARA**

Present: Smt.Sumitha.M.S

Judicial First Class Magistrate-I

Tuesday, 24th March 2026 / 03rd Chaithra 1947

CC. No.895/2025

Complainant/Prosecution	:	State represented by the Sub Inspector of Police, Neyyattinkara Police Station in Crime No.694/2025. (By Sri.Harikrishnan.V.S, Assistant Public Prosecutor, Sr.Gr.)
Accused	:	1.Abdul Salam, aged 55 years, S/o. Muhammed Ibrahim, MM House, Vettambally Mury, Panavoor Village, Nedumangadu Taluk. 2. Anas, aged 29 years, S/o.Nasar, Puthen Veedu, Adivaram Desom, Puthupadi Village, Kozhikode District. (By Adv. Smt.Rajeena R Maxipaul & Adv.Sri.Sourav.S.R. for A1 & Adv.Sri.Visakh M Rajendran for A2).
Offence	:	U/ss. 304(2) & 3(5) of the Bharatiya Nyaya Sanhita, 2023.
Plea	:	Not Guilty
Finding	:	Not Guilty
Order	:	Accused persons are found not guilty of the offence punishable u/ss.304(2) & 3(5) of the Bharatiya Nyaya Sanhita, 2023. They are acquitted u/s 271(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

DESCRIPTION OF ACCUSED

Name of accused	Father's Name	Age	Village	Taluk
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Abdul Salam	Muhammed Ibrahim	55	Panavoor	Nedumangad
Anas	Nazar	29	Puthuppadi	Thamarasserry

DATES OF

Occurrence	Complaint	Apprehension	Release on bail	Commencement of trial	Close of trial	Sentence or Order
6.4.2025	6.4.2025	22.9.2025	7.10.2025 (A1) A2 in judicial custody	27.1.2026	24.3.2026	24.3.2026

This case coming up for final hearing today, the court delivered the following:-

J U D G M E N T

This case arose on a police report u/s 173(2) of the Code of Criminal Procedure, 1973 submitted by the Sub Inspector of Police, Neyyattinkara Police Station against the accused alleging commission of offence punishable u/ss.304(2) & 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2.The prosecution case is as follows: The accused persons in furtherance of their common intention, on 6-4-2025 at 12.30 p.m at Kodangavila in Athiyannoor Village, the 1st accused snatched a gold chain weighing 1.5 sovereigns worn by PW1, in which one sovereign was stolen by the 1st accused and escaped in the bike of the 2nd accused who was waiting for him at the road side. Thus, the accused persons had committed the aforesaid offence.

3. The investigation was conducted by the Sub Inspector of Police, Neyyattinkara Police Station and final report was filed before the Court against the accused. Cognizance was taken for the offences punishable u/ss. 304(2) & 3(5) of the Bharatiya Nyaya Sanhita, 2023. The 1st accused who appeared before this Court was released on bail. The 2nd accused was in judicial custody. The 1st accused had a Counsel of his own choice and a Legal Aid Counsel was appointed for the 2nd accused as he submitted he has no Counsel of his own choice. Copies of all relevant records were

furnished to them and thereby mandate u/s.230 of the Bharatiya Nagarik Suraksha Sanhita, 2023 was complied with. After hearing both sides, charge framed for the offences punishable u/ss. 304(2) & 3(5) of the Bharatiya Nyaya Sanhita, 2023, read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. To prove the case, CW1 to CW9 were cited as the prosecution witnesses. Out of them, CW1 to CW3, & CW9 were examined as PW1 to PW4 respectively and Exts.P1 to P3 were marked. In the light of evidence of PW1 to PW4, the Learned Assistant Public Prosecutor has given up the examination of the remaining witnesses CW4 to CW8. Since there were incriminating circumstances against the accused persons, accused persons were questioned u/s 351(1)(b) of the Bharatiya Nagarik Suraksha Sanhita, 2023. They denied all the incriminating circumstances that came up against them and maintained the plea of innocence. On the side of defence, no evidence was adduced.

5. Both sides were heard.

6. The following points arose for consideration in this case:

1. Did the accused persons in furtherance of their common intention on 06/04/2025 at 12.30 p.m., snatch the gold chain worn by PW1 and committed the offence punishable u/s. 304(2) of the Bharatiya Nyaya Sanhita, 2023 ?
2. Did the prosecution prove their case?
3. If found guilty, what is the proper sentence to be awarded?

7. Point Nos.1 and 2 : For the sake of convenience and brevity these points are considered together. PW1 admitted that she had given Ext.P1 First Information Statement to the Police and added that the same was given for snatching away of her gold chain weighing 1.5 sovereigns at 01.00 p.m., near Kodangavila Ayyappan Temple. According to her, one person was sitting on a bike and the other person who was standing nearby, enquired her the house of

one Chandran. While she was explaining regarding the house of the said Chandran, the person who enquired her snatched away her gold chain. She added that as both the accused persons were wearing helmet, she could not identify both of them. Even though PW1 testified that she did not get her gold chain returned, she expressed her disinterest to proceed with the case that she was suffering from ailments. PW1 filed Ext.P2 compromise petition and added that none was there at the place of occurrence during the incident and she was alone at that time. PW1 further testified that it was only after she informed regarding the theft, people assembled at the spot and also expressed her inability to identify the accused persons herein. PW2, daughter in law of PW1, and PW3, grandson of PW1, testified that they had not witnessed the alleged incident and their knowledge regarding the same is based on hearsay. They identified their signature in Ext.P2 compromise petition and expressed their disinterest to proceed with the case.

8. PW4, the investigating officer, testified that he had undertaken the investigation charge of the case in which First Information Report was registered by CW8, his colleague. He identified the signature of CW8 in the First Information Report and the same was marked as Ext.P3. According to him, as per the confession statement of the accused persons herein in Crime No.957/2025 of the Neyyattinkara Police Station u/ss.304(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023, the involvement of the accused persons in the case at hand got revealed and in the light of their aforementioned statement, they were arrested by him. Even though the custodial interrogation of the accused persons herein were conducted, the stolen gold ornament in the incident and the vehicle used by the accused persons herein to reach the spot could not be recovered. Further, the accused persons were caused to be identified by the witnesses and filed Final Report against them before this Court. He added that the relevant portion of the confession statement in Neyyattinkara Police Station Crime No.957/2025 was produced before this Court and expressed his ability to identify both the accused

persons involved in the case.

9. Appreciating the above-mentioned evidence, the preliminary question arose was regarding the identity of the accused persons. It is evident from the oral testimonies of the witnesses that none other than PW1 witnessed the accused persons. But PW1 expressed her inability to identify the accused persons that they were wearing helmets during the time of alleged incident. She had also not stated any physical features of the accused persons and there exists no base for the evidence of the investigating officer that the accused persons were caused to be identified by the witnesses. From the testimony of the investigating officer, the incriminating evidence against the accused persons were only the statement of the witnesses and their own confession statement. In such a circumstance, this Court is not at all satisfied as to the identity of the accused persons.

10. The alleged stolen material, the gold chain, as well as the motor cycle alleged to have used by the accused persons to reach the place of occurrence remain unrecovered. No details as to both the properties were properly furnished before this Court.

11. From the above stated discussion, this Court is satisfied that the Police had registered the aforementioned case against the accused persons only on the basis of their confession statement while they were in police custody. At this juncture, this Court is forced to reiterate the well established principle incorporated within Section 23 of the Bharatiya Sakshya Adhinyam, 2023, that no confession made by any person whilst he is in the custody of a Police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person. It is true that the Investigating Officer has stated that the accused persons had many criminal antecedents but the same cannot be bluntly employed to implicate them in other offences. Hence, the charges levelled against the accused persons herein u/ss. 304(2) & 3(5) of the Bharatiya Nyaya Sanhita, 2023, will not sustain against them. Thus the point Nos. 1 and 2 are decided

against the prosecution.

12. Point No.3

In view of my findings above, the accused persons are found not guilty of the offence punishable U/s. 304(2) & 3(5) of the Bharatiya Nyaya Sanhita, 2023.

In the result, the accused persons are acquitted u/s 271(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023 for the said offences. The bail bond of the 1st accused stands cancelled and he is set at liberty. Accused No.2 is directed to be released if he is not required in any other cases.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me, in open court, on this the 24th day of March, 2026).

**Judicial First Class Magistrate– I,
Neyyattinkara.**

APPENDIX

Witnesses for Prosecution:

PW1	:	Radha (CW1)
PW2	:	Lekha (CW2)
PW3	:	Visakh (CW3)
PW4	:	Joy (CW9)

Exhibits for Prosecution:

P1	:	First Information Statement dated 06/04/2025.
P2	:	Compromise Petition dated 09/02/2026.
P3	:	First Information Report dated 06/04/2025.

Court Exhibits:- Nil

Witnesses for Defence: Nil

Exhibit for Defence: Nil

Material Objects : Nil

**Judicial First Class Magistrate– I,
Neyyattinkara.**
