

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

Present: Smt. Ruby Ismail,

Judl. I Class Magistrate-I, Nedumangad

Dated: Tuesday, 24th March, 2026/ 3rd Chaithra, 1947

CALENDAR CASE No. 130/2019

Complainant		State represented by the Sub Inspector of Police, Aryanad Police Station, in Crime No. 1397/2018 Rep. by Sri. Manmohan.A, APP Sr.Gr
Accused	1. Nitheesh, aged 21/18, S/o Venu Nair, RI Nivas, Appupara, Vinobha Nikethan, Aryanad Village 2. Mahesh, aged 21/18, S/o Venu Nair, Roadari kathu Veedu, Aanappetti, Parandodu, Tholicode Village Rep by Adv. Sri. N.Aravindakshan Nair	
Offences		Under sections 457, 461 & 380 read with section 34 of the Indian Penal Code
Plea		Not guilty
Finding		Not guilty
Sentence or Order		The accused persons 1 & 2 are acquitted under section 248(1) of Criminal Procedure Code.

DESCRIPTION OF THE ACCUSED

Rank & Name	Father's Name	Residence	Age	Taluk
1. Nitheesh	Venu Nair	Appupara	21	Nedumangad
2. Mahesh	Venu Nair	Parandodu	21	Nedumangad

DATE OF

Occurrence	Complaint	Apprehension or appearance	Period of detention	Release on bail	Commitment	Commencement of trial
27.11.18	06.02.19	09.12.18	09.12.18	09.12.18	-	14.07.22
Commencement of evidence	Close of trial	Sentence or Order	Service of copy of judgment or finding on accused	Explanation for delay		
08.02.23	19.03.26	24.03.26	24.03.26	No delay		

This case having been finally heard on 19.03.2026 and posted for judgment to 24.03.2026 and the court on the same day delivered the following: -

J U D G M E N T

This case against accused persons 1 & 2 are charge sheeted by the Sub Inspector of Police, Aryanad Police Station, in Crime No. 1397/2018, for the offences punishable under sections 457, 461 & 380 read with section 34 of the Indian Penal Code, 1860.

2. Prosecution case, in brief, is as follows:

On 27.11.2018 at about 12:00 hours, at Thachancode Junction in Tholicode Village, Accused Nos. 1 and 2 broke open the lock of RR Provisional Store owned by PW1 and committed house-breaking. They stole cigarettes, a mobile phone, ₹4,000, bakery items, and other articles. Thereafter, the accused persons, in furtherance of their common intention, shared the stolen articles and money among themselves. Thus, the accused persons are alleged to have committed the aforesaid offences.

3. This case was suo motu registered by CW12 as Crime No. 1397/2018 of Aryanad Police Station, on the basis of the alleged confession statement of the 1st accused in this case. After completion of the investigation, the Report under Section 173(2) of the Cr.P.C. was laid against accused alleging commission of offences punishable under the above listed provisions of law. This court took cognizance of the case as CC No. 130/2019 for offences punishable under sections 457, 461 & 380 read with section 34 of the Indian Penal Code.

4. After taking cognizance of the offense, the 1st and 2nd accused who were in judicial custody were produced before the court. Subsequently they were granted bail by this court. They were defended by a counsel of their choice. Copies of all relevant prosecution records were furnished to them in compliance of section 207 of the Criminal Procedure Code. After considering the police report and documents submitted along with that report and after hearing both sides, on being satisfied that there were grounds to proceed against the accused, charge was framed, read over and explained to them for offences punishable under sections 457, 461 & 380

read with section 34 of the Indian Penal Code to which they pleaded not guilty and claimed to be tried.

5. In order to prove the prosecution case, CW1 & CW3 were examined as PW1 & PW2. When examined, they turned hostile to the prosecution's case. In the above circumstances, the Ld APP fairly gave up the examination of the remaining witnesses. Hence, the prosecution evidence is closed.

6. In the absence of any incriminating circumstances appearing in evidence against accused, their examination under section 313(1)(b) of the Criminal Procedure Code was dispensed with.

7. Heard both sides and perused the records.

8. The points that arise for consideration are:

(i) Whether accused Nos. 1 and 2, in furtherance of their common intention, broke open the lock of RR Provisional Store owned by PW1 and committed house-breaking by night at the date, time, and place as alleged, and thereby committed an offence punishable under Section 457 read with Section 34 of the Indian Penal Code?

(ii) Whether accused Nos. 1 and 2, in furtherance of their common intention, dishonestly broke open the lock of RR Provisional Store owned by PW1 with the intention of committing theft, on the date and time as alleged by the prosecution, and thereby committed an offence punishable under Section 461 read with Section 34 of the Indian Penal Code?

(iii) Whether accused Nos. 1 and 2, in furtherance of their common intention, committed theft of cigarettes, a mobile phone, ₹4,000, bakery items, and other articles from the RR Provisional Store owned by PW1, at the date, time, and place as alleged, and thereby committed an offence punishable under Section 380 read with Section 34 of the Indian Penal Code?

(iv) If the accused are found guilty and convicted, what order as to sentence is to be passed?

9. **Point Nos. (i) to (iii)**:- For avoiding repetition and for brevity, these points are considered together. In this case, the criminal law was set in motion by the FIR suo motu registered by CW12, who was the Sub Inspector of Aryanad Police Station.

10. PW1 is the owner of the shop from which the theft is alleged to have been committed by the accused persons. On examination, PW1 stated that he does not remember the exact date of the incident. According to him, he had closed the shop at night and left, and when he returned the next day, he found it open and noticed that some items were missing. However, he stated that he could not specify the exact articles that were lost from the shop or the value of the loss sustained. He further stated that he does not know who committed the theft. Hence the learned Assistant Public Prosecutor sought permission u/S.154 of Evidence Act and proviso to section 162 Cr.P.C to put questions to PW1 that are permitted during cross examination and the same was granted. However, nothing could be brought out in evidence to incriminate the accused. He also denied the suggestion put forward by the APP to the effect that he is lying before the court so as to save the accused.

11. PW2 was examined by the prosecution as an occurrence witness. During examination, he turned hostile to the prosecution case and deposed that he had not given any statement to the police. He further stated that he was not aware of the alleged incident.

12. Since PW1 & PW2, being the material witnesses, failed to support the prosecution story, the learned Assistant Public Prosecutor gave up examination of all the remaining witnesses.

13. As I have stated above, the material witnesses examined by the prosecution had given destructive version before the court and they did not support the prosecution case. No other evidences have been adduced by the prosecution to prove that the accused had committed the offences charged against them. Considering the above discussion, I am satisfied that the prosecution has failed to prove the offences charged and alleged against the accused Nos. 1 and 2 beyond reasonable doubt. If so, accused Nos. 1 and 2 are entitled for an acquittal. Thus, these points are found against the prosecution.

14. **Point No. (iv):-** As I have already found that the prosecution has failed to prove the involvement of the accused Nos. 1 and 2 in the alleged offences, there is no question of passing any sentence against them.

In the result, the accused Nos. 1 and 2 are found not guilty of the offences punishable under sections 457, 461 & 380 read with section 34 of the Indian Penal Code and they are acquitted under section 248(1) of the Cr.P.C. Their bail bonds stand cancelled and they are set at liberty forthwith.

Dictated to the Confidential Assistant transcribed and typed by her, corrected and pronounced by me in open Court this the 24th March, 2026.

Sd/-
Judicial First Class Magistrate-I,
Nedumangad

A P P E N D I X

Witnesses for prosecution:-

PW1 – Ramachandran Nair (Informant witness – CW1)

PW2 – Unnikrishnan (Occurrence witness – CW3)

Exhibits for prosecution:-

Nil

Material Object

Nil

Witnesses for defence:-

Nil

Exhibits for defence:-

Nil

//True Copy//

Judicial First Class Magistrate-I,
Nedumangad