

IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE -I, SULTHAN
BATHERY.

Present:- Smt.Safeena C.C,
Judicial First Class Magistrate-I,
Sulthan Bathery.

Saturday 30th day of May 2026
9th day of Jyaishtha, 1948

CALENDAR CASE NO. 197/2015

Complainant : State represented by the Sub
Inspector of Police Ambalavayal PS
Crime No.611/14.
Sri.Abul Hassan T APP Gr.II)

Accused A1 Abdhul Karim S/o Moidheen, aged
38/14, Kolankod. Vattanoor,
Malappuram (Split)

A2 Abdhul Latheef S/o Muhammed, aged
23/14, Puliammadathil House,
Vattanoor, Malappuram.
(Adv K.G.Susheesh)

Charge : U/S 457, 380 r/w S. 34 IPC.

Plea : Not guilty

Finding : Not guilty

Sentence or Order : Accused No.2 acquitted u/s 248(1)
Cr.P.C. Case against A1 split up and
refiled as CC 507/26

STATEMENT UNDER RULE 132 OF CRIMINAL RULES OF PRACTICE

1.Serial Number : CC 197/2015

2.Name of PS & Crime : Ambalavayal PS Cr.611/2014

DESCRIPTION OF THE ACCUSED

3.Name	4.Father's Name	5.Occupation	6. Residence	7.Age

A1. Abdul Karim(Split)	Moidheen	Coolie	Perinthalmanna	33
A2. Abdhul Latheef	Muhammed	Coolie	Perinthalmanna	25

Date of							
Offence	Report or complaint	Apprehension of accused	Release on Bail	Commencement of trial	Close of trial	Sentence or order	Explanation of delay
12.8.14	9.4.15	20.4.15	20.4.15	23.2.17	29.5.26	30.5.26	No delay

This case having been heard finally on 29.5.2025 and the court passed the following: -

J U D G M E N T

This case arose out of the final report filed by the Sub-Inspector of Police, Ambalavayal Police Station, in Crime No. 611/14305/2013. The offences alleged are punishable under Sections 457 and 380 read with Section 34 of the Indian Penal Code.

2. The prosecution case, in brief, is as follows: On 12.08.2014 at 23:00 hours at Nenmeni Amsom, Koliyadi, the accused persons, in furtherance of their common intention, committed lurking house-trespass into the dwelling house of CW1 and committed theft of ₹50,000/- and one torch kept in the said house, thereby committing offences punishable under Sections 457 and 380 read with Section 34 of the Indian Penal Code.

3. On issuance of summons, both accused appeared before this Court. Copies of all the relevant prosecution records were furnished to

them under Section 207 of the Code of Criminal Procedure. The accused and the prosecution were heard on the question of charge. Accordingly, a charge was framed against the accused under Sections 457 and 380 read with Section 34 of the Indian Penal Code. The charge was read over and explained to the accused, to which they pleaded not guilty and claimed to be tried. Thereafter, Accused No. 1 absconded, and hence the case against Accused No. 1 was split up.

4. In order to prove its case, the prosecution cited 11 witnesses. Out of them, CW1, CW2, CW3, CW4, CW5, CW7, CW9, CW10, and CW11 were examined as PWs 1 to 9, respectively. Exts. P1 to P8 were marked in evidence, and MO1 was also marked. Upon closure of the prosecution evidence, both accused were examined under Section 313(1)(b) of the Code of Criminal Procedure with reference to the incriminating circumstances that had emerged against them in the evidence, which they denied. Although an opportunity was afforded to the accused to adduce evidence in their defence, no evidence was adduced.

5. Both sides were heard.

6. The points that arise for consideration are as follows: -

- (i) Whether the accused, in furtherance of their common intention, committed lurking house-trespass by entering the dwelling house of PW1 with the intent to commit theft, thereby committing an offence punishable under Section 457 of the Indian Penal Code?
- (ii) Whether the accused, in furtherance of their common

intention, committed theft of ₹50,000/- and a torch from the house of PW1, thereby committing an offence punishable under Section 380 read with Section 34 of the Indian Penal Code?

- (i) If the accused are found guilty, what shall be the punishment to be awarded?

Point No.(i) and (ii):

7. Upon an overall appreciation of the evidence on record, it emerges that the prosecution case rests primarily on the alleged interception of the accused while riding a motorcycle, the subsequent arrest, and the recovery of a torch (MO1) allegedly pursuant to a confession statement said to have been made by the accused while in custody. The prosecution further relies upon the testimony of the alleged victims to establish the occurrence of theft of ₹50,000/- and a torch from the house of PW2 and PW3 on the night of 12.08.2014.

8. The evidence of the police officer who effected the interception of the accused and registered the initial proceedings indicates that the accused was intercepted during a routine vehicle check, found without documents, and arrested on suspicion. It is the prosecution case that thereafter, while in custody, the accused made a confession statement leading to the registration of another crime and recovery of MO1. However, the evidentiary value of the alleged confession is limited to the extent permissible under Section 27 of the Indian Evidence Act, and only the recovery part, if proved in accordance with law, can be acted upon. In the present case, though recovery of a torch is spoken to, the circumstances surrounding the

alleged confession and recovery do not inspire complete confidence, particularly in view of the absence of independent, consistent corroboration regarding the manner of concealment and identification of the recovered property.

9. The prosecution version regarding the occurrence of theft is mainly supported by the testimony of the house owners, who stated that the house was found broken open in the morning and that ₹50,000/- and a torch were missing. While their evidence establishes the fact of loss of property, there are material gaps in their testimony regarding the specific description of the stolen torch, the exact denomination and source of the alleged cash, and the absence of any prior documentation or corroborative material to substantiate the claim of possession of such amount. The statements also reveal that material particulars were either not recorded earlier or were supplied after considerable delay, thereby affecting their evidentiary weight.

10. The evidence further shows that the scene mahazar and related seizure proceedings were prepared by the investigating officers with the assistance of attestors. However, the independent reliability of the seizure witnesses is weakened by inconsistencies in their version regarding the identity of the police team, the exact place of recovery, and the manner in which the alleged seizure was affected. Some witnesses admitted lack of clarity regarding the police personnel involved and the details of the premises, which creates doubt about the precision of the recovery process.

11. It is also significant that the investigation records do not

convincingly establish prior linkage between the accused and the alleged stolen property except through the contested confession statement and the recovery said to have followed it. The investigating officer himself admitted certain omissions regarding essential details such as the availability of prior complaints, specific identification of stolen articles, and verification of ownership particulars at the initial stage. These omissions assume importance as they go to the root of the prosecution case.

12. In cases resting substantially on circumstantial evidence and recovery under Section 27 of the Evidence Act, the chain of circumstances must be complete and must unerringly point to the guilt of the accused. In the present case, the prosecution has not been able to establish such a complete chain. The evidence, when examined in its totality, leaves room for reasonable doubt regarding the exclusive involvement of the accused in the alleged offences under Sections 457 and 380 read with Section 34 of the IPC.

13. It is a well-settled principle of criminal law that suspicion, however strong, cannot take the place of proof. The contradictions in the testimonies, the absence of precise identification of stolen articles, the doubtful nature of recovery evidence, and the lack of independent corroboration cumulatively weaken the prosecution case. Consequently, the prosecution has failed to establish beyond reasonable doubt that the accused committed the offences alleged against him.

14. In view of the foregoing analysis, the prosecution has failed to discharge its burden of proving the charges under Sections 457 and 380 read with Section 34 of the Indian Penal Code. The evidence

adduced, even if taken at its face value, does not inspire the confidence of the Court, and the inconsistencies and lacunae in the prosecution version render it doubtful. It is a settled position of law that suspicion, however strong, cannot take the place of proof beyond reasonable doubt. Therefore, in adherence to the principles of criminal justice, accused no 2 are entitled to the benefit of doubt. Accordingly, Point Nos. (i) and (ii) are answered against the prosecution.

Point No.(iii):-

15. In view of the answers to the foregoing points, Accused No. 2 is found not guilty of the offences punishable under Sections 457 and 380 read with Section 34 of the Indian Penal Code. He is acquitted under Section 248(1) of the Code of Criminal Procedure. His bail bond stands cancelled, and he is set at liberty.

Accused No. 1 is absconding. The case against him has been split up and refiled as C.C. No.507/2026.

The material objects shall be retained for the purpose of the trial of the split-up case against Accused No. 1.

(Pronounced by me in open court this the 30th day of May 2026)

sd/-

JUDICIAL FIRST CLASS MAGISTRATE-I

A P P E N D I X

Witness examined for Prosecution:-

PW1	:	Jyotheendrakumar S, Sub Inspector of Police.
PW2	:	Mathew N.T
PW3	:	Mercy
PW4	:	Peter K M
PW5	:	Hamza V

PW6 : Mathew, SCPO
 PW7 : Mukundan, Grade Sub Inspector
 PW8 : Binu J John
 PW9 : V. Ramanunni, Sub Inspector (Retd)

Exhibits marked for Prosecution:-

Ext.P1	15.12.2014	F.I.R
Ext.P2.	---	Arrest Memo
Ext.P3.	---	Inspection memo
Ext.P4.	15.12.2014	Arrest Intimation Notice
Ext.P5	15.12.2014	Property List
Ext.P6	24.12.2014	Scene Mahasar
Ext.P7	20.01.2015	Ownership certificate
Ext.P8	23.08.2014	F.I.R

Witness Examined for Defence : NIL

Exhibits Marked for Defence : NIL

Material Object marked

MO1 : Torch

sd/-

JUDICIAL FIRST CLASS MAGISTRATE-I

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JUDICIAL FIRST CLASS MAGISTRATE-I
 SULTHAN BATTERY

CALENDAR AND JUDGEMENT

District of Wayanad Calendar of cases tried by the Judicial First Class
Magistrate-I of Sulthan Bathery

Date of								
1	2	3	4	5	6	7	8	9
Offence	Report or complaint	Apprehension of accused	Release on Bail	Commencement of trial	Commencement of evidence	Close of trial	Sentence or order	Explanation of delay and remarks
12.8.14	9.4.15	20.4.15	20.4.15	23.2.17	16.5.19	29.5.26	30.5.26	No delay

Judgment in CC 197/15 in the file of the Magistrate
of Judicial First class Magistrate -I, Sulthan Bathery

Complainant: SHO Ambalavayal 611/14

Name of accused	Age	Father's Name	Calling	Residence	Taluk
A1. Abdhul Kareem (Split)	33	Moidheen	---	Perinthalmanna	Perinthalmanna
A2. Abdhul Latheef	24	Muhammed	Driver	Perinthalmanna	Perinthalmanna

Offence : U/Ss 457, 380 r/w sec. 34 IPC.

Sentence : A2 acquitted under Section 248 (1) of the Cr.P.C.Case against A1 split up and refiled as CC 507/26

Judicial First Class Magistrate- I

Sulthan Bathery

DOCKET

Date of Receipt:

From

Remarks of the District Magistrate....The Judicial First Class Magistrate-I

Date of Despatch..... Sulthan Bathery

Reply of theMagistrate To

The Chief Judicial Magistrate,
Kalpetta

The District Magistrate

Through The Sub divisional Magistrate

(of)

Calendar Case No of CC 197/15

Date of Judgment: 30.5.2026

Date of Despatch : 1.06.2026