IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-II SULTHAN BATHERY

Present: Smt. Gale Joy Chettupuzha,
Judicial First Class Magistrate-II,
Sulthan Bathery.

Friday, 24th day of April, 2026
4th day of Vaisakha, 1948

Case No. CC 310/2016

Complainant	:State represented by the Sub Inspector of police, Pulpally police station in crime No.238/2015 (By Sri. Aneesh Joseph-APP)
Accused	: Anjali Nambiar, W/o. Hari R Nair, Vidhya Nagar, Madiyoorkuni, Kalpetta Post (By Adv. P Chathukutty)
Charge	:U/s 409 and 420 of the Indian Penal Code, 1860.
Plea	:Not guilty
Finding	::Not guilty
Sentence or order	:Accused is found not guilty of the offences punishable under Sections 409 and 420 of the Indian Penal Code, 1860, and are hereby acquitted under Section 248(1) of the Code of Criminal Procedure, 1973.

Statement under Rule 132 of Criminal Rules of Practice

Serial Number : CC 310/2016
Complainant : S.I of Police, Pulpally

Description of the accused

SL No	Name of accused	Age	Father's Name	Calling	Residence	Taluk
1	Anjali Nambiar	33/16	W/o. Hari R Nair	-	Kalpetta	Vythiri

Date of							
Offence	Report or complaint	Apprehension of accused	Release on Bail	Commencement of trial	Close of trial	Sentence or order	Explanation of delay and remarks
20.11.2012 to 24.08.2014,	26.11.2016	27.04.2017	27.04.2017	27.04.2017	17.04.2026	24.04.2026	No delay

This case coming on for the day's proceedings, the court passed the following.

JUDGMENT

1. This case arises out of the final report submitted by the Sub Inspector of Police, Pulpally Police Station, in Crime No. 238/2015. The accused stands trial for offences punishable under Sections 409 and 420 of the Indian Penal Code, 1860.

2. The brief facts of the prosecution case are as follows: The accused, while working as the Manager of the South Indian Bank, Pulpally Branch, during the period from 20.11.2012 to 24.08.2014, allegedly misused her official position. In connection with an application submitted to the bank for capital investment by a company engaged in rubber trading, started by the first informant and others, the accused is alleged to have sanctioned an agricultural loan of ₹5,00,000/- in the name of the complainant without adequate documentation or security. It is further alleged that the accused transferred the said loan amount of ₹5,00,000/-, without the knowledge or consent of the first informant, to the account of a firm named “Safari Enterprises,” in which the first informant was shown as a co-obligant and partner, thereby wrongfully fastening liability upon him. Thus, the accused is alleged to have committed offences punishable under Sections 409 and 420 of the Indian Penal Code.

3. Upon issuance of process, the accused appeared before this Court. She was already on bail. Copies of all relevant prosecution records were furnished to her in compliance with Section 207 of the Code of Criminal Procedure, 1973. After hearing both sides, charge was framed against the accused under Sections 409 and 420 of the Indian Penal Code, 1860. The charge was read over and explained to her, to which she pleaded not guilty and claimed to be tried.

4. The prosecution examined fourteen witnesses as PW1 to PW14 and marked Exhibits P1 to P22. After the closure of prosecution evidence, the accused was examined under Section 313(1)(b) Cr.P.C. She denied all incriminating circumstances and maintained her innocence. No defence evidence was adduced.

5. The following points arise for consideration:

(I) Did the accused, while functioning as the Manager of the South Indian Bank, Pulpally Branch, during the period from 20.11.2012 to 24.08.2014, dishonestly and fraudulently induce the de facto complainant to avail a loan by misusing her official position, and sanction an agricultural loan of ₹5,00,000/- in his name without obtaining adequate documents or security, thereby committing an offence punishable under Section 420 of the Indian Penal Code, 1860?

(2) Did the accused dishonestly transfer the said loan amount of ₹5,00,000/-, without the knowledge or consent of PW1, to the account of Safari Enterprises, in which PW1 was shown as a co-obligant/partner, thereby causing wrongful loss to the complainant and wrongful gain to the said entity, and thereby

commit criminal breach of trust punishable under Section 409 of the Indian Penal Code, 1860?

(3) If so, what is the appropriate sentence or order?

6. Heard both sides and perused the records.

7. Points Nos (1) and (2):- These points are taken up together as they arise out of the same set of facts and involve overlapping appreciation of evidence. At the outset, it is necessary to bear in mind the essential ingredients of the offences alleged. To establish an offence under Section 420 IPC, the prosecution must prove that there was dishonest or fraudulent inducement at the very inception, leading the victim to deliver property or to do or omit to do something which he would not have otherwise done. Similarly, for an offence under Section 409 IPC, the prosecution must establish that the accused, being a public servant or banker, was entrusted with property or had dominion over it in such capacity, and that she committed criminal breach of trust by dishonestly misappropriating or converting the same to her own use, or by willfully allowing another to do so. Keeping the above principles in view, the evidence on record is to be appreciated.

8. PW1, the de facto complainant, is the most material witness in the prosecution case. Though he initially supported the prosecution to the extent of admitting the filing of the complaint and his signature in Ext. P1, he categorically resiled from the prosecution version during cross-examination and stated that the complaint was filed due to a misunderstanding. This is not a mere minor contradiction, but a complete departure from the substratum of the

prosecution case. His evidence does not disclose any element of deception, inducement, or lack of consent in respect of the loan transaction or the subsequent transfer of funds.

9. It is settled law that the testimony of a hostile witness is not to be rejected in toto; however, the Court must be cautious in relying upon such testimony unless it is corroborated by other reliable evidence. In the present case, there is no such corroboration on material particulars. On the contrary, PW1's retraction strikes at the very root of the prosecution story regarding alleged deception and unauthorized transfer.

10. PW2 and PW3 do not advance the prosecution case in any material manner. Their evidence is limited to stating that PW1 had availed a loan from the bank and that the same was subsequently settled. Their testimony, if anything, probabilises the defence version that the transaction was a regular banking transaction culminating in settlement, rather than a fraudulent or dishonest act.

11. PW4 and PW5, being Assistant Managers at the relevant time, have spoken only to the procedural aspects relating to the collection of records and have not deposed anything incriminating against the accused. Their evidence does not establish either improper sanction of loan or any unauthorized transfer. PW6, the Probationary Officer, stated that the transaction ID relating to the loan was his and that the transaction was carried out as per the instructions of the then Manager (the accused). While this statement may indicate that the accused was administratively in charge, it does not, by itself, establish dishonest intention or fraudulent inducement. In the absence of

evidence showing that such instructions were illegal, unauthorized, or issued with a culpable mental state, mere compliance with managerial directions in a banking setup cannot lead to criminal liability.

12. PW7, the Chief Manager, produced various documents including account statements, debit slips, and transfer scrolls. Ext. P5(a) indicates that a transfer was effected to “Safari Enterprises.” However, documentary evidence, though relevant, must be read in conjunction with oral evidence explaining the context and legality of the transaction. The prosecution has failed to adduce any convincing evidence to show that such transfer was unauthorized, fraudulent, or effected without the consent or knowledge of PW1. There is also no material to show that the accused derived any personal gain or that the transaction was in violation of any binding banking norms in a manner amounting to criminal misconduct.

13. The audit and inspection reports (Exts. P12 and P13) also do not conclusively establish any act of misappropriation or criminal breach of trust attributable to the accused. At best, they may indicate procedural irregularities, but it is trite that every irregularity or even negligence in discharge of official duties does not amount to a criminal offence unless accompanied by mens rea.

14. PW8 to PW14 are investigating and formal witnesses. Their evidence pertains to the steps taken during investigation, seizure of documents, and filing of the final report. Such evidence, being formal in nature, cannot substitute for proof of the core ingredients of the offences alleged.

15. On a cumulative assessment of the evidence, this Court finds that the prosecution has failed to establish the foundational facts necessary to bring home the charges. There is no reliable evidence to prove that the accused dishonestly induced PW1 to avail the loan. There is also no convincing material to show that the transfer of ₹5,00,000/- to "Safari Enterprises" was effected without authorization or with a dishonest intention amounting to criminal breach of trust.

16. It is equally significant that the prosecution has not examined any independent witness or any official from the bank who could speak to the violation of banking procedures in a manner suggestive of criminal intent. The absence of such evidence creates a serious lacuna in the prosecution case. Further, criminal law requires proof beyond reasonable doubt. Suspicion, however strong, cannot take the place of proof. The materials on record, at best, raise a suspicion regarding the manner in which the transaction was conducted, but fall far short of establishing the guilt of the accused with the degree of certainty required in a criminal trial. The prosecution has failed to present any credible and reliable evidence. Therefore, in the absence of proof of dishonest intention at the inception (for Section 420 IPC) and in the absence of proof of entrustment coupled with misappropriation or conversion (for Section 409 IPC), the essential ingredients of the offences are not made out. Accordingly, this Court holds that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. Points Nos. (1) and (2) are answered in the negative.

17. **Point No. 3:**- In view of the findings on Points (1) and 2, this Court is of the considered opinion that the prosecution has failed to prove beyond reasonable doubt that the accused committed the offences alleged against her.

Accordingly,she is found not guilty of the offences punishable under Sections 409 and 420 of the Indian Penal Code, 1860, and are hereby acquitted under Section 248(1) of the Code of Criminal Procedure, 1973.

(Pronounced by me in open court this the 24th day of April, 2026)

Judicial First Class Magistrate-II

APPENDIX

Specimen chart for witness examined

Prosecution witness No	Name of witness	Description
1	Romeo Xavir	First informant
2	Thomas	
3	Azeez	
4	Akash Elias	Seizure mahazar witness
5	Sonia Joseph	
6	Edwin Ignus	
7	Mathew	
8	Ajith	S.I of Police, Pulpally
9	Jayapalan	Senior Manager, Inspection Department, Thrissur
10	Praveenkumar	S.I of Police, Pulpally
11	Vaisakh	Legal Officer, Regional Office, SIB Kannur
12	S Aneesh	S.I of Police, Pulpally
13	James George	S.I of Police, Pulpally
14	Jinesh J	SHO, Pulpally Police station

Specimen chart for Exhibited documents

Exhibits No	Description of the Exhibit	Proved by/attested by
1	Complaint dated 28.03.2015	PW1
2	Seizure mahazar, dated 21.05.2016	PW4
3	Loan account statement	PW7

4	Account debit slip	PW7
5	Transfer scroll	PW7
6	Loan details account opening	PW7
7	Copy of Transfer order	PW7
8	Copy of Transfer order	PW7
9	Relieving order	PW7
10	Attendance register	PW7
11	Section allotment sheet	PW7
12	Audit report	PW7
13	Inspection report	PW7
14	Account statement	PW9
15	FIR	PW10
16	Seizure mahazar, dated 22.07.2015	PW11
17 series	Statement of accounts	
18	Form 15	PW13
19	Report for removing accused Nos 2 and 3	PW14
20	Report to delete section 34 IPC	PW14
21	Report for adding name and address of the accused	PW14
22	Report for removing Section 468 IPC	PW14

Material Objects marked on the side of Prosecution : Nil
Witness examined on the side of Defence: Nil
Exhibits marked on the Side of defence:- Nil

Judicial First Class Magistrate-II