

**IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE II,
MANANTHAVADY.**

Present:- Smt. Ambili.S,
(Judicial First Class Magistrate II)

Dated this the 31st day of March 2026
10th day of Chaithra 1948

CC.37/2025

Complainant : State represented by the Station House
Officer, Mananthavady in Cr. No. 739/2013.

(By Smt. Sukanya.P, APP Gr II)

Accused : 1. Haridas, S/o Kuttan, Age:45/13,
Kayamkudiyil House, Arangam Village,
Kannur District.
2. Aneesh, S/o Chacko, Age:29/13,
Komarappalli House, Cerukattoor,
Cherukattoor Village.
3. Biju, S/o Pathrose, Age:34/13,
Pariyathumyalil Houase, Amalanagar,
Cherukattoor Village.

(By Adv. Sri.Biju Mathew.K for A3)

Charge : U/s 379 r/w 34 of IPC.

Plea : Not guilty.

Finding : Not guilty

Sentence or order : The accused No.3 is found not guilty for
the offences punishable under sections 379
r/w 34 of IPC and they are acquitted under
sections 248(1) of the Code of Criminal
Procedure. Their bail bonds shall stand
cancelled and they are set at liberty. Case
against A1 and A2 is split up and refiled as
CC 2025.

Statement under rule 132 of Criminal Rules of Practice

Serial Number : CC. 37/2025.

Complainant : The S.H.O, Mananthavady in Cr. No. 739/2013.

DESCRIPTION OF ACCUSED

SL. No.	Name of Accused	Father's name	Occupation	Residence	Age
1	Haridas	Kuttan	Coolie	Kayamkudiyil House	45/13
2	Aneesh	Chacko	Coolie	Komarappalli House	29/13
3	Biju	Pathrose	Coolie	Pariyathumyalil House	34/13

Date of							
Offence	Report or complaint	Apprehension of accused	Released on bail	Commencement of trial	Close of trial	Sentence or order	Explanation of delay and remarks
01-08-2013	08-11-2013	A1 & A2 06-08-2013 A3 12-08-2013	A1 & A2 06-08-2013 A3 12-08-2013	31-12-2014	30-03-2026	31-03-2026	

JUDGMENT

In this case the final report is filed by the Circle Inspector of police, Mananthavady in Cr. No. 739/2013 of that police station for the offences punishable u/s 379 r/w 34 of IPC.

2. Prosecution case in brief is as follows:- At 22.00 hours on 01.08.2013, at Koyileri Puthiyidam in Payyambally amsom, the accused 1 to 7 to in furtherance of their common intention committed theft of rosewood trees wood trees worth Rs. 1,20,000/- which were kept in the Payyambally – Pulikkal public road margin. The rosewood trees were transported in the Pick up Jeep bearing registration No. KL-10AC-2418, which is owned by A7. The said rosewood trees had been purchased by CW1 from one Jyothiprasad. Accused No. 8 knowingly purchased the the said trees as stolen properties. Thus, it is alleged that the accused have committed an offence punishable u/s 379 r/w 34 of IPC.

3. The case was originally taken on file as CC 860/2013. Upon taking cognizance, summons were issued to the accused. In response to the summons, all the accused except the 5th accused appeared and they were defended by the counsel for their own choice. On appearance of the accused, copies of relevant prosecution records were furnished to the accused in compliance with section 207 of the Code of Criminal Procedure. Even though A8 appeared initially, he remained absent thereafter. Hence, the case against A5 and A8 was split up and refiled as CC-486/2018. Subsequently,. Thereafter A3 absconded and hence the case against him was also split up and refiled as CC 85/2020. A2 has thereafter absconded. After hearing the prosecution and the defence, the charge was framed by my learned predecessor for offence punishable u/s 379 r/w 34 of IPC. The same was read over and explained to the accused to which they pleaded not guilty. PW1 to PW8 were examined on the side of prosecution and Ext. P1 to P21 were marked. A1 and A4 absconded during the trial. Accused No.6 and 7 were acquitted after the trial in CC 860/13. The case against the accused No.1, 2 and 4 was split up and refiled as above. On the surrender of the accused No.3 (A4 in the original case), he was released on bail. He had filed affidavit stating that he has no objection on acting upon the evidence of the witnesses examined in his absence. The learned APP also submitted that she has no objection in proceeding with the matter against A3 with the evidence already available on record. Thereafter accused No. 3(A4 in the original case) examined u/s 313 (1) (b) Cr.P.C. Even though the accused had been given sufficient opportunity to adduce evidence, he failed to adduce any evidence.

4. Heard both sides and perused records.

5. The points that arise for determination in this case are the following:-

(1) Whether the accused No.3, in furtherance of common intention of all, committed theft of rosewood trees worth Rs. 1,25,000/- at 22.00 hours on

01.08.2013 at Koyileri Puthiyidam in Payyambally amsom and thereby committed an offence punishable u.s 379 r/w 34 of the IPC ?

(ii) What is the appropriate order or punishment, if any, to be awarded ?

6. **Point No. (i):** PW1 was the informant and he stated that 16 rosewood timber pieces belong to him had been stolen in the year 2013. He stated that he had purchased 6 rosewood trees from PW3 and the same had been kept in the property owned by PW3 after cutting the timbers into pieces. He stated that he had received an information from PW3 in the evening on 2-08-2013 that the woods had been stolen from there. He stated that he had gone to the place immediately thereafter and had ascertained the correctness of the information. He stated that he had given Ext.P1 FIS to the police with respect to the incident. He stated that he had identified the stolen timbers from a mill situated at Panamaram on 6-08-2013. He further stated that those timbers were obtained by him from this court for interim custody. He identified the photographs of the timbers which were seized and produced before this court and the photographs were marked as Ext.P2 series. He further stated that the second accused was present with the police when he had identified the timbers from the mill. PW2 was a witness to Ext.P4 scene mahazar and Ext.P5 seizure mahazar. He stated that he had seen the police inspecting the place of incident and preparing Ext.P4 scene mahazar. He identified his signature in Ext.P4 scene mahazar. He further stated that he was present at the mill at Panamaram on 6-8-2013, when the rosewood timbers were seized by the police from there. He stated that he had put his signature in Ext.P5 seizure mahazar, which was prepared by the police at the time of seizure. He also identified Ext.P2 photographs as the photos of the rosewood timbers seized by the police as per Ext.P4 mahazar. PW3 stated that he had sold rosewood timbers to PW1 and the same was kept on the side of the road. He stated that he had informed the broker of PW1 about the theft of rosewood timbers. PW4 was a driver and he stated that A1 and A2 had approached him for transporting rosewood timbers from Koyilery to Panamaram in the year 2013. He stated that he was asked to transport the timber in the night as no there was no pass. He

stated that he had not been ready to do that as he had felt some suspicions about the dealings of A1 and A2. PW5 was the witness to the seizure of pick up van bearing No.KL 10 AC 2418 by the police. He identified his signature in Ext.P6 seizure mahazar. He also identified the photographs of the said vehicle and the same was marked as Ext.P7 series. PW6 was the Civil Police Officer attached to Mananthavady Police Station, who had recorded Ext.P1 FIS and registered Ext.P8 FIR. PW7 was the Additional Sub Inspector of Mananthavady Police station and he stated that he had recorded the arrest of A7 and prepared Ext.P9 arrest memo. PW8 was the Sub Inspector who had conducted the investigation and filed final report before the court.

7. The learned Assistant Public Prosecutor would argue that the prosecution has successfully proved their case beyond reasonable doubt. On the other hand the learned counsel for the accused No.3 argued that the accused is innocent and that the prosecution allegation is false.

8. Only accused No.3 (Accused No.4 in the original case) is facing the trial in this case. The allegations against the accused in this case is that he in furtherance of common intention committed theft of rosewood timbers belong to PW1. The oral evidence given by PW1 and PW3 would tend to show the commission of theft which was alleged to have been taken place. The recovery of stolen timber pieces was established by the evidence of PW8, PW1 and PW2. PW8 was the investigating officer and he had deposed about the recovery of stolen articles in pursuance of disclosure statement of A1. The allegation against the accused No.3(A4 in the original case) as revealed from the prosecution records is that he had assisted the accused No.1 and 2 in the commission of alleged theft. PW8, the investigating officer could not explain how he had come to the conclusion that the 3rd accused(A4 in the original case) involved in this case. No witnesses witness including the investigating officer deposed about the involvement of the 3rd accused in the commission of the alleged theft. No further evidence was let in by the prosecution to show that the accused No.3 was in conscious possession or that he had a part to play along with the other accused in

the theft of rosewood timbers. There is no eyewitness to the theft alleged to have been committed. The case of the prosecution is that the accused herein along with the other accused in furtherance of their common intention committed the theft. No evidence was adduced from the side of the prosecution that the accused No.3 had shared the common intention with the other accused for committing the alleged theft. In a case of this nature when the allegation is that the accused No.3 had actively assisted the persons who had committed the theft, it is for the prosecution to prove prima facie that the accused No.3 having a culpable mental state. No such evidence is seen let in by the prosecution. Further more, an in depth perusal of the evidence also does not reveal that the prosecution has a case that the accused No.3 had constructive possession of the stolen articles. An analysis of the evidence reveals that there was total lack of evidence in so far as the accused No.3 is concerned and no investigation was conducted by PW8, the investigating officer to connect the accused No.3 with the alleged offence. Though it will be difficult to obtain evidence with regard to the complicity of the accused No.3, the investigating officer was bound to ascertain whether the accused No.3 had in fact a role to play in transporting the stolen items. In view of the above, I am of the considered view that the evidence let in by the prosecution cannot be said to be conclusive enough to convict the accused No.3.

9. Thus in view of the above discussion, I am of the view that the prosecution could not establish that the accused No.3 had committed the offence charged against them. Therefore, I am of the view that the prosecution has failed to prove the charge against the accused No.3. Hence the points are answered against the prosecution.

10. **Point No.2** – In view of my finding on points No. 1, it is clear that the prosecution has failed to prove the offences u/s 379 r/w 34 IPC levelled against the accused Nos. 3. So, no punishment would be imposed on him.

In the result, accused No.3 is found not guilty for the offences

punishable under sections 379 r/w 34 of IPC and he is acquitted under sections 248(1) of the Code of Criminal Procedure. Their bail bonds shall stand cancelled and they are set at liberty. Case against A1 and A2 is split up and refiled as CC-770/2025.

(Typed by me in my personal laptop, corrected and pronounced by me in open court this the 31st day of March 2026)

JUDICIAL FIRST CLASS MAGISTRATE II
MANANTHAVADY

APPENDIX

Witness examined on the Side of Prosecution:-

PW1	:	Johnson
PW2	:	Shijo
PW3	:	Jyothiprasad
PW4	:	Sulaiman
PW5	:	Philipose
PW6	:	M. Noushad, SCPO, Mananthavady Police Station
PW7	:	O.K. Pappachan, Additional S.I of Police, Mananthavady Police Station.
PW8	:	P.S Sreejesh, S.I of Police, Mananthavady Police Station.

Exhibits marked on the Side of Prosecution:-

P1	:	F.I Statement
P2(series)	:	Photographs
P3	:	C.D
P4	:	Scene mahazar
P5	:	Seizure mahazar
P5(a)	:	Relevant portion of Ext. P5
P6	:	Seizure mahazar
P7(series)	:	Photos
P8	:	F.I.R
P9	:	Arrest memos
P10	:	Report for adding address of accused
P11(series)	:	Arrest memos
P12	:	Property list
P13	:	Kychit
P14	:	Report for adding address of accused
P15	:	Arrest memo
P16	:	Report for adding address of accused
P17	:	Arrest memo
P18	:	Report for adding address of accused

P19 : Property list
P20 : Kychit
P21 : Report for adding address of accused.

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
MANANTHAVADY