

IN THE COURT OF THE JUDICIAL MAGISTRATE NO.I, POLLACHI

Present:- J.Saravanakumar, B.A., B.L., (Hons),

Judicial Magistrate No.I, Pollachi

Wednesday, the 25th Day of March 2026

CC No.141/2013

CNR No.TNCB120015222013

.....

State of Tamilnadu Rep.by its the Inspector of Police,

Video Piracy Cell, Coimbatore.

(Cr.No.255/2012)

.... Complainant

/ Vs. /

Mohammed Ali @ Alibai(age 27/2012),

S/o.Abdul Basheer,

111, Nehru Street,

Suleeswaranpatti,

Pollachi,

Coimbatore District.

.... Accused

CASE SUMMARY

Sl. No.	Particulars	Details
1.	Period of remand of accused	16.11.2012 to 28.11.2012
2.	Date of filing of final report	24.06.2013
3	Date of questioning of accused u/s.240 Crpc	15.12.2015
4.	Filing of miscellaneous petitions	-
5.	Date of examination in chief and cross examination of witnesses	PW1- 11.02.2020 PW2- 11.05.2022 PW3- 18.05.2023 PW4- 02.09.2025 PW5- 23.09.2025
6.	Date of examination of accused u/s.313 Crpc	29.01.2026
7.	Details of abscondence of accused	Nil
8.	Grant of stay by superior Court	Nil

The case coming before me for final hearing on 25.03.2026, in the presence of Miss.N.Selvi, Learned Assistant Public Prosecutor Gr.II, Pollachi for the dejure complainant and M/s.A.Anvar Batcha, the Learned Counsel for the accused and after perusing the materials on record and hearing arguments of both sides and having stood over under consideration of this court till this date and this day, this court delivers the following:-

//JUDGMENT//

Case of the Prosecution:-

1. The Inspector of Police, Anti Video Piracy Cell, Coimbatore, has filed the final report against the sole accused for the offences punishable under Sections 51(a) read with 63, 52-A and 68-A of the Copyright Act and S.292 IPC. The case of the prosecution, in brief, is that on 16.11.2012 at about 11.30 a.m., at the Pollachi bus stand, the accused was found to be in possession of pirated new Tamil movie DVDs, MP3 songs DVDs and obscene DVDs without any valid copyright and was allegedly selling the same to the public. Based on the information given by the defacto complainant, the police conducted surveillance, apprehended the accused, seized a total of 1325 DVDs from his possession at the bus stand and thereafter, based on his alleged confession, further seized 4650 DVDs and a machine used for preparing such DVDs from his house, thereby committing the above offences.

2. On perusal of the final report and the connected records, this Court took cognizance of the offences under Sections 51(a) read with 63, 52-A & 68-A of the Copyright Act and S.292. IPC and issued summons to the accused. On appearance of the accused, copies of the prosecution records were furnished to him under Section 207 Cr.P.C.

3. The accused was questioned about the accusations stated in the final report, to which the accused denied the same. The charges were framed under the above

mentioned offences and explained to the accused in Tamil. To which the accused pleaded not guilty and prayed to have trial of the offence.

4. In order to prove its case, the prosecution examined PW1 to PW5 and marked Ex.P1 to Ex.P14. The material objects, namely the DVDs and copier machine alleged to have been seized, were also produced before this Court and marked as Material Objects 1 to 5975.

Examination of Prosecution Witnesses:-

5. PW1, the defacto complainant, has deposed that on 16.11.2012 he had come to Pollachi bus stand in connection with proceeding to Coimbatore and at that time the accused approached him and offered to sell new Tamil movie DVDs and obscene DVDs by quoting their prices. According to him, on being informed about the same, he reported the matter to the police who were present near the bus stand and based on his complaint, the accused was apprehended. The complaint given by him is marked as Ex.P1.

6. PW2, who was working in the Anti Video Piracy Cell, has deposed that on receipt of information from PW1, they conducted surveillance at the Pollachi bus stand and found the accused in possession of two cardboard boxes containing DVDs. On enquiry, it was found that the accused had no copyright over the DVDs. He has further deposed about the confession statement of the accused and the seizure of 1325 DVDs at the bus stand under mahazar. He has also spoken about the subsequent search of the house of the accused and the seizure of further DVDs and a machine used for preparation of DVDs. The signatures found in the confession statement and seizure mahazars are marked as Ex.P2, Ex.P3 and Ex.P4. The Form 91 relating to the seized DVDs are marked as Ex.P5 and Ex.P6.

7. PW3, an alleged witness to the observation mahazar, has deposed that he is an auto driver and that he does not know anything about the occurrence. However, he

has admitted his signature found in the observation mahazar, which is marked as Ex.P7.

8. PW4, the Manager of the Film Distributors' Association, has deposed that the films contained in the seized CDs are copyright protected and that no authorization was given by the producers for sale of such CDs. He has further deposed that he issued a letter to the police in this regard. The said letter is marked as Ex.P8.

9. PW5, the Investigating Officer, has deposed that on receipt of the complaint, he registered the case in Crime No.255 of 2012 under the provisions of the Copyright Act and the First Information Report is marked as Ex.P9. He has further deposed about the seizure of CDs from the accused at the bus stand under mahazar, which is marked as Ex.P10, and the preparation of observation mahazar and rough sketch, which are marked as Ex.P11 and Ex.P12. He has also spoken about the confession of the accused and the subsequent seizure of CDs and machine from the house of the accused, which is marked as Ex.P13. He has further deposed about obtaining a letter from the Film Distributors' Association, which is marked as Ex.P14, and about filing of the final report. The case properties were marked as MO.1 to MO.5925.

10. After completion of the prosecution evidence, the accused was questioned under Section 313 Cr.P.C., with regard to the incriminating circumstances appearing against him in the evidence of the prosecution witnesses. The accused denied all such circumstances as false and did not choose to examine any witness on his side.

Arguments advanced by the rival parties:-

11. Heard the Learned Assistant Public Prosecutor appearing for the State and the Learned counsel appearing for the accused. The learned Assistant Public Prosecutor would submit that the evidence of the prosecution witnesses, coupled with the seizure of large number of pirated DVDs from the possession of the accused, clearly establishes the offences alleged against him. Per contra, the learned counsel for the

accused would submit that the prosecution has failed to prove the case beyond reasonable doubt, that there are material contradictions in the evidence of the witnesses, that no independent witnesses have been examined and that the alleged seizure itself is doubtful.

12. In the light of the above rival submissions and the materials available on record, the following points arise for determination:-

- i) Whether the prosecution has proved that the accused was in possession of pirated DVDs without valid copyright at the relevant point of time?
- ii) Whether the prosecution has proved that the accused was selling or had intended to sell such DVDs to the public?
- iii) Whether the prosecution has proved that the accused has committed the offences punishable under Sections 51(a) read with 63, 52-A & 68-A of the Copyright Act and S.292 IPC?

Discussion:-

13. The crux of the allegation against the accused is that on 16.11.2012 at about 11.30 a.m., at the Pollachi bus stand, he was found to be in possession of pirated new Tamil movie DVDs, MP3 songs DVDs and obscene DVDs without having any valid copyright and that he was selling the same to the public and on such basis, the prosecution alleges that he has committed the offences under the provisions of the Copyright Act.

14. In order to substantiate the above allegation, the prosecution mainly relies upon the evidence of PW1, the defacto complainant, PW2 and PW5, the police officials, and PW4, the representative of the Film Distributors' Association, apart from the seizure mahazars and other connected records.

15. PW1, in his chief examination, would state that the accused approached him at the bus stand and offered to sell new movie CDs and obscene CDs and that on his information, the police apprehended the accused. However, a careful reading of his cross-examination would show that his presence at the bus stand itself is not natural and his version is not consistent with his chief examination. He has admitted that he had come to Pollachi in search of work in nearby bakeries and was wandering in the bus stand area from about 1.30 p.m. to 5.00 p.m. and again came to the bus stand at about 7.30 p.m. to proceed to Coimbatore. He would further state that though the accused was allegedly selling DVDs to several persons, he himself did not purchase any DVDs. The evidence of PW1 also discloses that police personnel were already present near the bus stand and that they wrote down what he stated and obtained his signature.

16. At this juncture, it is pertinent to consider the contents of the complaint said to have been given by PW1. A reading of Ex.P1 would reveal that PW1 has stated that on 16.11.2012 at about 10.30 a.m., when he came to the Pollachi bus stand to proceed to Coimbatore, he found the accused in possession of two cardboard boxes containing pirated new Tamil movie DVDs and obscene DVDs and on enquiry, the accused had spoken about the price and even about preparing such DVDs using a machine in his house. It is further stated therein that PW1, after gathering such information, came to know about the existence of a special police wing dealing with such offences and thereafter approached the Inspector of Police who was camping at Pollachi and lodged the complaint. Thus, the complaint proceeds on the footing that PW1 was present at the bus stand at about 10.30 a.m. and thereafter approached the police.

17. However, this version stands in clear contradiction with the evidence of PW1 in cross-examination, wherein he has categorically stated that he reached Pollachi only at about 1.30 p.m. and was searching for work till about 5.00 p.m. and returned to the bus stand only at about 7.30 p.m. When such being the case, the presence of PW1 at the bus stand at 10.30 a.m. as stated in Ex.P1 and the alleged lodging of

complaint at about 11.30 a.m. become highly doubtful. Further, PW1 has stated in his evidence that after informing the police, he was sent away and he proceeded to Coimbatore in the evening, which also does not fully align with the detailed narration found in the complaint. These material contradictions between the complaint and the oral evidence of PW1 go to the root of the prosecution case and create a serious doubt as to the very genesis of the occurrence and the manner in which the complaint came to be registered.

18. These aspects create a doubt as to whether the complaint given by PW1 was spontaneous or whether it was brought into existence at the instance of the police. Further, the timing spoken to by PW1 does not satisfactorily tally with the version of the prosecution witnesses, thereby rendering his testimony doubtful.

19. PW2, who is a police witness, does not improve the case of the prosecution. In his cross-examination, he has stated that in connection with Anti Video Piracy duty, he came from Coimbatore to Pollachi at about 10.00 a.m. on the date of occurrence and that PW1 came and gave a complaint to them at about 11.30 a.m. This version is completely inconsistent with the evidence of PW1, who has stated that he reached Pollachi only at about 1.30 p.m. Such material contradiction with regard to the very receipt of the complaint creates a serious doubt as to the origin of the prosecution case. Further, as per the complaint and the prosecution version, the accused was already present at the bus stand with boxes containing pirated CDs, PW1 enquired him and thereafter went and lodged the complaint, and the accused was apprehended at the very same place. However, PW2, in his cross-examination, has deposed that after receipt of complaint they were waiting and that the accused came to the bus stand only at about 1.30 p.m. with the boxes, which again runs contrary to the prosecution version and the complaint.

20. He has further admitted that he does not know the details of PW1, that he did not read the complaint said to have been given by PW1 and that he does not know its

contents. More importantly, he has categorically admitted that PW1 did not identify the accused. He has also admitted that though the accused was found with CDs, they did not see him selling the CDs to any person. He would further admit that the CDs seized from the accused were not played and verified either at the spot or subsequently. Though he has spoken about the seizure, he has admitted that no independent witnesses were examined despite the presence of shops and public at the bus stand.

21. It is also pertinent to note that when he was questioned as to the exact place in the bus stand where they were standing, he has stated that he does not remember the same. If really he had gone to the bus stand and participated in the apprehension of the accused, he would have been in a position to speak about the place with some degree of certainty. Further, though he has stated that he accompanied the police for the search of the house of the accused and seizure of large number of CDs, in his cross-examination he has admitted that he does not remember the location of the house, the nature of the house, the number of rooms or the persons present therein. Such lack of basic particulars regarding the alleged search and seizure creates a serious doubt about the truthfulness of his testimony. Thus, the evidence of PW2 suffers from material contradictions, lack of knowledge of essential facts and absence of corroboration, thereby considerably weakening the prosecution case.

22. PW3, who is cited as a witness to the observation mahazar, has not supported the case of the prosecution and has stated that he does not know anything about the occurrence, except admitting his signature in the document. Even after being treated as hostile, nothing useful has been elicited from him to support the prosecution case. Therefore, the observation mahazar and the alleged proceedings at the place of occurrence do not get proper independent corroboration.

23. PW4, who has been examined to speak about the absence of copyright, is not the copyright holder of the films in question. He claims to be the Manager of the Film

Distributors' Association and states that no right was given to sell the CDs. However, in his cross-examination, it is seen that no proper written authorization has been produced to show that he is competent to depose on behalf of the association and even the police have not obtained such authorization from him. Thus, his evidence is only in the nature of a general statement and does not conclusively establish that the CDs in question were infringing copies without valid copyright.

24. PW5, the Investigating Officer, has spoken about the registration of the case, seizure of CDs at the bus stand and the subsequent seizure from the house of the accused. However, his cross-examination reveals several infirmities. He has admitted that he did not verify as to how PW1 came to know him as a police officer of the Anti Video Piracy Wing. He has also admitted that there was a police outpost at the bus stand but he did not verify whether any complaint was given there. He would further admit that though a large number of CDs were seized, they were not individually played and verified and that the names of the films were merely found written on the CDs without any enquiry as to who had written them. He has also admitted that no independent witnesses were secured either for the seizure at the bus stand or for the alleged confession of the accused, though the place is a busy public place. With regard to the house search also, he has not furnished clear particulars about the house, its occupants or the neighbours and no independent witness has been examined in that regard. These omissions assume significance, particularly when the entire case rests upon the alleged seizure. Hence, reliance could not be placed upon the testimony of PW 5 in determining the guilt against the accused.

25. In order to constitute the offences alleged under Sections 51(a) read with 63, 52-A and 68-A of the Copyright Act, the prosecution must establish that the CDs in question are works protected by valid copyright, that the accused was in conscious possession of such infringing copies, that he had no authority or licence from the copyright owner, that he was selling or intending to sell such copies to the public and that such acts were done with knowledge or reason to believe that they amount to

infringement. Further, for attracting Section 52-A, it must be shown that the CDs did not contain the mandatory particulars as required under law. Insofar as the allegation relating to obscene CDs is concerned, in order to attract Section 292 IPC, the prosecution must establish that the material seized is obscene in nature and that the accused was in possession of the same for the purpose of sale, distribution or public exhibition.

26. In the present case, as already discussed, the prosecution has not established that the CDs seized were in fact infringing copies, as they were not subjected to any form of verification. There is also no reliable evidence to show that the accused was actually selling or attempting to sell the CDs. The evidence regarding absence of copyright is not conclusive and is based only on a general statement of PW4. The element of knowledge on the part of the accused is also not established. Further, the alleged obscene CDs were also not played or verified to establish their contents and nature so as to attract the provisions of Section 292 IPC. Thus, the essential ingredients required to constitute the offences are not satisfactorily proved.

27. From the cumulative appreciation of the evidence of the prosecution witnesses, it is seen that PW1's evidence is inconsistent and doubtful, PW2 does not support the core aspects of the prosecution case, PW3 has not supported the prosecution, PW4's evidence is not sufficient to establish copyright violation and PW5's evidence is affected by serious procedural lapses including absence of independent witnesses, failure to verify the CDs and lack of clarity in the investigation. In short, the prosecution has failed to present a consistent, cogent and reliable version of the occurrence and the alleged seizure.

28. Further, it is seen that there is no reliable evidence to show that the accused was actually selling the CDs to the public. The mere possession of CDs, without proper proof that they are pirated copies, is not sufficient to attract the penal provisions. The prosecution has also failed to establish, through acceptable evidence,

that the CDs seized are indeed infringing copies and that the accused had no authority to deal with them. The failure to verify the contents of the CDs, the absence of independent witnesses for seizure and confession, the inconsistencies in the evidence of PW1 and the lack of cogent proof regarding copyright violation create serious doubts about the prosecution case.

29. In criminal jurisprudence, the prosecution is bound to prove its case beyond reasonable doubt. In the present case, the evidence adduced by the prosecution suffers from material contradictions, lack of corroboration and serious procedural lapses. These circumstances give rise to a reasonable doubt regarding the truthfulness of the prosecution version. Hence, this Court is of the considered view that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt and the accused is entitled to the benefit of doubt.

Result:-

In the result, the accused is found not guilty for the offences alleged under Sections 51(a) read with 63, 52-A and 68-A of the Copyright Act and S.292 IPC and he is acquitted u/s.248(1) Crpc, for the said offences. The bail bond executed by the accused will stand discharged after the expiry of appeal period.

The case property in the present case in **PR.No. 278/2012** are as follows:

Item No.1 - காப்பிலியார் மிஷன் -1

Item No.2 - மாற்றான் தமிழ் திரைப்பட DVD – 350

Item No.3 - முகமுடி தமிழ்திரைப்பட DVD – 375

Item No.4 – நான் ஈ தமிழ் திரைப்பட DVD – 450

Item No.5 – சுந்தரபாண்டியன் தமிழ் திரைப்பட DVD - 375

Item No.6 – சாட்டை தமிழ் திரைப்பட DVD – 450

Item No.7 – தாண்டவம் ஈ தமிழ் திரைப்பட DVD – 250

- Item No.8 – மன்னாரு தமிழ் திரைப்பட DVD – 375
 Item No.9 – பாகன் தமிழ் திரைப்பட DVD – 350
 Item No.10 – நான் தமிழ் திரைப்பட DVD – 275
 Item No.11 – திருத்தணி தமிழ் திரைப்பட DVD – 325
 Item No.12 - சகுனி தமிழ் திரைப்பட DVD – 650
 Item No.13 - அட்டக்கத்தி தமிழ் திரைப்பட DVD – 175
 Item No.14 - 18 வயது தமிழ் திரைப்பட DVD – 250
 Item No.15 – துப்பாக்கி தமிழ் திரைப்பட DVD – 50
 Item No.16 - மாற்றான் தமிழ் திரைப்பட DVD – 150
 Item No.17 - முகமுடி தமிழ் திரைப்பட DVD – 250
 Item No.18 - சாருலதா தமிழ் திரைப்பட DVD – 275
 Item No.19 - சாட்டை தமிழ் திரைப்பட DVD – 150
 Item No.20 - ஆபாச CD – 125
 Item No.21 – MP3 பாடல் - 325
 மொத்தம் 5975

Item No 1 to 21 - shall be destroyed after lapse of appeal time.

Dictated to the typist and directly typed in the computer. Verified and pronounced by me in the open court, this 25th day of March 2026.

**Judicial Magistrate No.I,
Pollachi.**

Prosecution side witnesses and exhibits:-

- PW1 - Ahamed Basha
 PW2 - Chindambaram, Head Constable
 PW3 - Dhandapani
 PW4 - Shanmugam
 PW5- Shanmugaiah, Deputy Superintendent of Police

Prosecution side documents:-

- Ex.P1 - Complaint
- Ex.P2 - Signature of PW2 in Confession Statement
- Ex.P3 - Signature of PW2 in Seizure Mahazar
- Ex.P4 - Signature of PW2 in Seizure Mahazar
- Ex.P5- Form 91
- Ex.P6- Form 91
- Ex.P7- Signature of PW3 in Observation Mahazar
- Ex.P8- Communication issued by the Manager of the Film Distributors' Association
- Ex.P9- First Information Report
- Ex.P10- Seizure Mahazar
- Ex.P11- Observation Mahazar
- Ex.P12- Rough Sketch
- Ex.P13- Seizure Mahazar
- Ex.P14- Letter from Film Distributors' Association

Material Objects:

M.O. 1 to 5975 - Item No 1 to 21 – 5975 DVDs along with copier machine

Defence side witness:Nil

Defence side documents:Nil

**Judicial Magistrate No.I,
Pollachi.**

Particulars under rule 106 Criminal Practice 2019

Sl.No.	Description of accused	Date of
1	Name of the police station and the Crime number	Video Piracy Cell, Coimbatore, (Cr.No.255/2012)
2.	Name of the accused	Mohammede Ali @ Alibai
3.	Fathers Name	S/o.Abdul Baheer
4.	Occupation	Cooly
5.	Address	111, Nehru Street, Suleswaranpatti, Pollachi, Coimbatore District.
6.	Age	27/2012
7.	Occurrence	16.11.2012
8.	Complaint	-
9.	Apprehension	16.11.2012
10.	Order on bail	26.11.2012
11.	Commitment	Not applicable
12.	Commencement of trial	15.12.2015
13.	Close of trial	23.09.2025
14.	Sentence or order	Accused is acquitted
15.	Service of copy of judgment an accused	25.03.2026
16.	Explanation of delay	No delay

**Judicial Magistrate No.I,
Pollachi.**