



IN THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE
NO.I KODAIKANAL

Present :Thiru. R.Arun Pandian, B.A., B.L.,(Hons), M.L.,
District Munsif Cum Judicial Magistrate No1, Kodaikanal.
Tuesday the 28th day of July 2026

CC.No. 244/2010

(CNR.No.TNDG11-000082-2010)

State Rep by Inspector of Police,
Thandikudi PS,
Crime No. 130/2008

... Complainant

/ Vs /

1. Ochu
2. Alagupandi
3. Pitchai Mani
4. Ilayaraja @ Pattu (deceased)

... Accused

1.	Serial Number	C.C.No. 244 of 2010
2.	Name of the police station and the crime number of the offence.	Thandikudi P.S., Cr. No. 130 of 2008
Description of the Accused		
3.	Name	A1. Ochu (Aged 37/2008)
4.	Age	S/o.Periyakaruppa Thevar Chokkathewanpatti, Valandhur
5.	Father's Name	A2. Alagupandi (Aged 25/2008)
6.	Residence.	S/o.Krishnan Chettiar,

		Chokkathevanpatti A3. Ptichai Mani (Age 31/2008) S/o.Sundaram Egali Alampatti, A4. Ilayaraja @ Pattu (Deceased) S/o.Periyasamy, Chokkathevanpatti, Valandhur
7.	Occupation.	A1 – A4 -Labourer
Date of		
8.	Occurrence.	02.10.2008
9.	Complaint.	03.10.2008
10.	Apprehension.	A1 – A4 09.02.2009 A3- 14.07.2026 to Till Custody (NBW Arrest)
11.	Release on bail.	A1 to A4 – 27.03.2009 (Own Bond)
12.	Commitment.	-
13.	Commencement of trial.	03.10.2016
14.	Closure of trial.	20.07.2026
15.	Sentence or order.	Acquitted.
16.	Service of copy of judgment or finding on accused.	-NA-
17.	Explanation for delay.	-
Case Summary		

18.	Period of remand.	A1 to A4 – 09.02.2009 – 27.03.2009 A3 - 14.07.2026 to Till Custody (NBW Arrest)		
19.	Date of filing of charge sheet.	20.04.2010		
20.	Date of Questioning under Section 240 Cr.P.C	06.10.2016		
21.	Miscellaneous Petition and their results :	-Nil-		
22.	Date of examination in chief and cross.	PW's	Chief	Cross
		PW 1	28.02.2017	28.02.2017
		PW 2	28.02.2017	28.02.2017
		PW 3	28.02.2017	28.02.2017
		PW 4	14.03.2017	14.03.2017
		PW 5	14.03.2017	14.03.2017
		PW 6	25.04.2017	25.04.2017
		PW 7	24.10.2017	24.10.2017
		PW 8	21.11.2017	21.11.2017
		PW 9	26.11.2019	26.11.2019
		PW 10	26.11.2019	26.11.2019
		PW 11	10.02.2020	10.02.2020
		PW 12	04.01.2021	04.01.2021
		PW 13	20.04.2021	20.04.2021
23.	Date of examination of the accused under	20.07.2026		

	section 313 Cr.P.C	
24.	Details of the abscondance of the accused and his appearance/ production.	-Nil-
25.	Grant of Stay by superior court and the result thereof.	-Nil-

This case is taken on file as CC.No.244/2010 and the state being represented by Assistant Public Prosecutor- Grade I and Mr.P.Prabakar.,counsel for A1 to A3 and after perusing the documents filed, evidence adduced and upon hearing submission of both sides, this court passes the following .

JUDGMENT

This case is charge sheeted by the Inspector of Police of Thandikudi PS, against the Accused 1. Ochu, 2. Alagupandi, 3. Pitchai Mani, 4. Ilaiyaraaja @ Pattu in the Crime No. 130 of 2008, alleging the commission of offence Under Section 457 and 380 of Indian Penal Code.

2. The prosecution case in brief as follows:

The prosecution case, in brief, is that the de facto complainant, namely Periyasami, was working as the Supervisor of TASMACH Shop No. 3326 situated at Mangalamkombu. According to the prosecution, after completing the sales for the day on 01.10.2008, the de facto complainant and the shop salesman, Muniyasami, stayed in the shop during the night. Since 02.10.2008 was Gandhi Jayanthi, the shop remained closed, and both the de facto complainant and the salesman left for their respective hometowns. It is further alleged that when they returned to the shop on 03.10.2008 at about 10.00 a.m., they found that the two shutter locks had been broken open. Upon inspecting the stock, they noticed that 1,296/- bottles of liquor The total value of the liquor bottle subject to theft is specified to be Rs 88,323/-.

3. The aggrieved de facto complainant Periyasamy preferred a complaint Ex P1 to the Sub of Police Thandikudi PS namely LW11 Poun based on which the Ex P17 FIR was

registered. PW13 Inspector Ramanathan took the case for investigation and proceeded to the place of occurrence and prepared the Ex P2 Observation Mahazar and Ex P18 Rough sketch witnessed by PW4 Periyasami and PW5 Chelliya. Subsequently on 14.12.2008 the police personnel's of Usilampatti Town Police Station and along with, then circle inspector namely PW 12 Danabal, while were conducting routine vehicle check duty at Madurai – Usilampatti road intercepted the a two wheeler TN 67 F 0804. In the course of enquiry, the driver of the two wheeler was identified as Ochu, the pillion rider was identified as Alagupandi. Further PW12 assimilated that the accused Ochu and Alagupandi were the concerned persons involved as to the incident of theft from TASMACH shops falling within the limits of various police stations namely Usilampatti Pandi Nagar, Usilampatti E-Pudhupatti. Further the accused Ochu accounted to have confessed the act of theft in TASMACH shop, falling within the limits of Thandikudi PS. The accused Ochu having confessed that the act of theft was committed along with the accomplices namely Alagupandi, Ilayaraja and Pitchaimani. On the very same day the accused Ilayaraj and Pitchaimani was also accounted to be arrested by PW12. Therein the confession statement of accused Ochu, Alagupandi, Ilayaraja and Pitchaimani, was accounted to be recorded witnessed by PW6 Anbuselvan and PW7 Chandran. Based on the confession statements the accused A1 to A4 involvement in the offence got disclosed. PW11, Sethupathi, who succeeded PW13, Ramanathan, as the Inspector of Police, Thandikudi Police Station, continued the investigation. During the course of investigation, he attempted to recover the sale proceeds allegedly derived from the stolen liquor bottles from one Sudha, the alleged paramour of accused Ochu. However, the attempt proved futile as no recovery could be effected. Upon completion of the investigation, PW11 filed the final report, arraigning accused Nos. 1 to 4, namely Ochu, Alagupandi, Ilayaraja, and Pitchaimani, for the offences punishable under Sections 457 and 380 of the Indian Penal Code.

4. On charge sheet being file, the case was taken on file against the accused A1 to A4 Ochu, Alagupandi, Ilayaraja, and Pitchaimani, and summons were issued with, and accused made their appearance. On appearance of the accused copies were furnished under section 207 Cr.P.C. The substance of accusation and charge so framed U/s 457 and 380 IPC of which they being charged and accused of was put to them and asked whether they plead guilty or

has any defence to make. Accused A1 to A4 denied the same and claimed to be tried. Hence this court proceeds with prosecution side evidence.

5. The evidence on the side of prosecution consists of testimonies of PW1 to PW13 and Exhibits P1 to P18 were marked. Pending the stage for questioning U/s 313 Cr.P.C, the accused A4 namely Ilayaraj was reported deceased on 29.06.2026. In consonance the charge against A4 was abated. Therein after closure of prosecution side evidence, this court questioned the accused A1 to A3 U/s 313 of the criminal procedure code, regarding incriminating material available against them in the prosecution evidence. The accused A1 to A3 denied the complicity of the offence. The defence side did not examine any witness nor did mark any document. Heard both sides.

6. The point for consideration in this case is

- a) Whether the accused A1 to A3 committed theft of movable property(1296 bottles of liquors) from the possession/custody of the de facto complainant and TASMACH Shop No. 3326 situated at Mangalamkombu ?
- b) Whether the accused A1 to A3 committed lurking house breaking so as to commit the offence of theft?

7. Point (a) and (b):- as the matters to be discussed are associated, this court considers the points together. The grundnorm of criminal jurisprudence being, the burden lies on the prosecution to prove the guilt of the accused and to bring home that the subject matter of theft, pertain the alleged theft of 1296 numbers of alcohol bottles of various brands. The prosecution case commenced with the oral complaint lodged by PW1, Periyasamy, the Supervisor of TASMACH Shop No. 3326. According to PW1, upon resuming duty on 03.10.2008 after the Gandhi Jayanthi holiday, he found that although the shop shutter remained in a closed position, the locks had been broken open. On verification of the stock available in the shop, it was allegedly found that 1,296 bottles of liquor of various brands, valued at ₹88,832/-, were missing. PW2, Muniyasamy, the salesman attached to the said shop, was examined in support of the prosecution case and substantially corroborated the version of PW1. However, during the course of cross-examination, both PW1 and PW2 were questioned regarding the factual basis on which they had arrived at the alleged shortage of

stock. Neither witness was able to furnish satisfactory particulars relating to the stock position as on 01.10.2008, the sales effected on that day, or the statistical data from which the alleged shortage of 1,296 bottles was computed. Consequently, the defence raised a substantial doubt regarding the very basis upon which the quantity of the alleged stolen stock had been determined. Such deficiency strikes at the foundation of the prosecution case and exposes a material infirmity in its initiation. The uncertainty surrounding the quantity of the articles allegedly stolen assumes greater significance in view of the fact that the investigating agency did not effect any recovery of the alleged stolen property. In such circumstances, the prosecution has failed to satisfactorily establish the precise quantum of the property allegedly stolen, a circumstance which has a direct bearing on the credibility of the prosecution case.

8. PW3 Balamurugan, another salesman attached to TASMACH Shop, was examined by the prosecution as a witness. The testimony of PW3 substantially fell in line with the version put forth by PW1 in the complaint, particularly regarding the allegation that the locks securing the shop shutter had been broken open and that the shop had been subjected to theft. During cross-examination, the defence questioned PW3 with respect to the nature and description of the locks allegedly used to secure the shutter. PW3, however, admitted that he was unable to state the nature of the locks that were purportedly broken open. Though the said cross-examination may appear to concern a seemingly minor aspect, in a prosecution founded upon the allegation that the accused had gained entry into the shop by breaking open the locks, the existence and recovery of the broken locks assume considerable evidentiary significance. The burden squarely rested upon the prosecution to establish such fact by producing the broken locks or by otherwise explaining their recovery and seizure. However, the prosecution has failed to place any material to demonstrate whether the broken locks were recovered from the scene of occurrence, seized during the course of investigation, or whether any explanation existed for their non-recovery. This omission lends credence to the doubt raised by the defence regarding the very manner of the alleged house-breaking. PW3 was further questioned regarding the maintenance of the sales and stock registers of the TASMACH shop, to which he admitted that such records were regularly maintained. Despite the availability of these contemporaneous records, the prosecution made no endeavour to produce the sales register or stock register to corroborate the allegation that 1,296 liquor bottles had been stolen. The absence of such primary documentary evidence to substantiate the quantity

of the alleged stolen stock creates a significant gap in the prosecution case. Consequently, the prosecution version stands materially affected by the reasonable doubts elicited during the cross-examination of PW3.

9. PW4 Periyasami and PW5 Chellaiya advanced by the prosecution to place the aspect of investigation proceeded by the complainant police in the scene of occurrence, substantiated the same. The account of PW4 and PW5 regard preparation, the Scene of offence in panchnama is not substantive evidence and order taking panchnama as corroboration to oral testimony or to draw inference of imputed act of the accused is improper, the same does not substantiate the prosecution version nor discharges the burden of the prosecution. Upon scrutinising the testimony of PW6 Anbuselvan, Village Assistant, and PW7 Chandran, who were cited as witnesses to the alleged extra-judicial confession of Accused Nos. 1 to 4, this Court finds that the prosecution has failed to derive any incriminating circumstance from the said confession. The prosecution case is that the accused made confession statements before PW12 Danabal, the Investigating Officer, and PW8 Senthilkumar in the presence of PW6 and PW7. However, such statements, by themselves, do not establish the complicity of the accused in the alleged occurrence. It is a settled principle that a confession made to a police officer is inadmissible in evidence, except to the limited extent permitted under Section 27 of the Indian Evidence Act, namely, that portion of the statement which distinctly relates to the discovery of a material fact. The admissibility under Section 27 is therefore contingent upon the prosecution establishing that the information supplied by the accused led to the discovery of a relevant fact or material object.

10. In the present case, the prosecution has failed to establish any such discovery. No stolen property or other incriminating material was recovered pursuant to the alleged confession. It is the assertion of PW9 Ayyanar that, the paramour of Ochu, namely Sudha to whom the sale proceeds of stolen articles were entrusted could not be secured. Thus, although the prosecution asserts that confession statements were recorded, no evidence has been adduced to prove that those statements culminated in the discovery of any material fact so as to attract the exception embodied in Section 27 of the Evidence Act. Furthermore, the testimony of PW6 in cross-examination casts considerable doubt upon the prosecution version. PW6 admitted that he signed all the confession statements at the police station on the same occasion. This admission is inconsistent with the prosecution's own case that Accused

Ochu and Alagupandi were first apprehended and that, based on the information allegedly furnished by them, the remaining two accused were subsequently secured. If the arrests and confessions had indeed occurred in the sequence projected by the prosecution, the confession statements could not have been witnessed and signed simultaneously. This material inconsistency strikes at the credibility of the prosecution narrative and renders the alleged confession proceedings highly doubtful.

11. Turning to the testimony of PW11 Sethupathi, PW12 Danabal, and PW13 Ramanathan, it emerges that the prosecution is ultimately left only with the factum of the arrest of the accused. The prosecution has failed to establish the nexus between the accused and the scene of occurrence. No attempt was made to lift or compare the fingerprints of any of the accused from the scene of crime. Further, the prosecution has also failed to substantiate its case with regard to the alleged recovery of the stolen properties. These deficiencies cast a serious cloud of doubt over the prosecution case. Sifting to judgement laid by the Honble Apex court in Jafarudheen and Others Vs Satae of Kerala (22.04.2022 CrI A No 431/2015, it is held that “ One cannot lose sight of the fact that the prosecution may at times take advantage of the custody of the accused, by other means. The court will have to be conscious of the witness credibility and the other evidence produced when dealing with a recovery under section 27 of Evidence Act”. Thus on the stand point view of prudent man, from the above discussion, it has come out that the prosecution has not proved the guilt of the accused beyond reasonable doubt. As such the offence allege against the Accused A1 to A3 U/s 457 and 380 IPC was not proved and found not guilty, in consonance the accused A1 to A3 are acquitted U/s 248(1) of Cr.P.C.

No properties were adduced either by the prosecution or defence, hence no property order passed. Bond if any executed by the accused A1 to A3, shall stand cancelled after the period specified for appeal.

Dictated to Steno Typist, Typed by him directly on computer, verified by me to be correct and pronounced in open court on 28th day of July, 2026.

**District Munsif Cum Judicial Magistrate No1,
Kodaikanal.**

Prosecution Side Witness:-

1. PW 1 – Thiru. Periyasamy,
2. PW 2 – Thiru. Muniyasamy
3. PW 3 – Thiru.Balamurugan
4. PW 4 – Thiru. Periyasamy
5. PW 5 – Thiru.Chellaiya
6. PW 6 – Thiru.Anbuselian
7. PW 7 – Thiru. Chandran
8. PW8 – Thiru.Senthilkumar
9. PW9 – Thiru.Ayyanar
10. PW10 – Thiru.Aavudaiammal
11. PW11 – Thiru.Sethupathi
12. PW12 – Thiru.Thanapaul
13. PW13 – Thiru.Ramanathan

Exhibits of the Prosecution

1. Ex. P1 – Complaint
2. Ex. P2 – Observation Mahazar
3. Ex. P3 – Witness signature of PW5 in Observation Mahazar
4. Ex. P4 – Witness signature of PW6 in Confession Statement of Pitchaimani
5. Ex. P5 – Witness signature of PW6 in Confession Statement of Otchu
6. Ex. P6 – Witness signature of PW6 in Confession Statement of Alagupandi
7. Ex. P7 – Witness signature of PW6 in Confession Statement of Ilayaraja
8. Ex. P8 – Witness signature of PW7 in Confession Statement of Otchu
9. Ex. P9 – Witness signature of PW7 in Confession Statement of Alagupandi
10. Ex. P10 – Witness signature of PW7 in Confession Statement of Pitchaimani
11. Ex. P11 – Witness signature of PW7 in Confession Statement of Ilayaraja

12. Ex. P12	–	Certificate of Village Administrative Officer
13. Ex. P13	–	Admissible portion in the confession of Otchu
14. Ex. P14	–	Admissible portion in the confession of Alagupandi
15. Ex. P15	–	Admissible portion in the confession of Pitchaimani
16. Ex. P16	–	Admissible portion in the confession of Ilayaraja
17. Ex. P17	–	First Information Report
18. Ex.P18	–	Rough Sketch

Defence Side Witness: - NIL

Exhibits of the Defence: - NIL

Material Objects for Both Prosecution and Defence: - NIL

**District Munsif Cum Judicial Magistrate No1,
Kodaikanal.**

Note:

1. During the period of trial the accused were enlarged on bail.
2. No witnesses were held more than three days without examination.
3. Decision of court intimated to the complainant police.
4. The copy of this order is directed to be sent to the Honble Chief Judicial Magistrate. Dindigul.
5. Copy of Judgement furnished to accused A3 free of cost.

IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE NO1
KODAIKANAL

Present : Thiru. R.Arun Pandian, B.A., B.L.,(Hons), M.L.,
District Munsif cum Judicial Magistrate No1,
Kodaikanal.

Tuesday the 28th day of July 2026

Complainant	:	The Inspector of Police, Thandikudi
Accused	:	1. Ochu 2. Alagupandi 3. Pitchai Mani 4. Ilaiyaraaja @ Pattu (deceased)
Offence	:	U/s. 457 and 380 of Indian Penal Code
Finding	:	Found Not guilty
Sentence	:	Acquitted
1.	Serial Number.	CC.No.240/2010
Description of the Accused		
2.	Name	A1. Ochu (Aged 37/2008)
3.	Age	S/o.Periyakaruppa Thevar Chokkathevanpatti,
4.	Father's Name	Valandhur
5.	Residence.	A2. Alagupandi (Aged 25/2008) S/o.Krishnan Chettiar,Chokkathevanpatti. A3. Ptichai Mani (Age 31/2008) S/o.Sundaram Egali Alampatti, A4.Ilayaraja @ Pattu (Deceased) S/o.Periyasamy,

		Chokkathevanpatti, Valandhur
6.	Occupation.	A1 – A4 -Labourer
Date of		
7.	Occurrence	02.10.2008
8.	Complaint	03.10.2008
9.	Apprehension	A1 to A4 - 09.02.2009 A3- 14.07.2026 (NBW Arrest)
10.	Release on bail	A1 to A4 – 27.03.2009 (Own Bond) A3 – Till Custody
11.	Commitment	--
12.	Commencement of trial	03.10.2016
13.	Closure of trial	20.07.2026
14.	Sentence or order	28.07.2026
15.	Explanation for delay	-

**District Munsif Cum Judicial Magistrate No1,
Kodaikanal.**