

**In the Court of Judicial Magistrate No.II,  
Usilampatty**

**Present: Thiru. G. Sathia Narayanan B.A.,B.L.  
Judicial Magistrate No - II  
Usilampatty**

**CALENDAR CASE No. 34/2017**

**CNR.No.TNMD18000399-2017**

**( Crime. No176/2011, Uthappanaickanur P.S )**

Dated this the 17<sup>th</sup> day of March' 2026

This case was taken on file by this court on 13/07/2017 and it is coming up for final hearing on 09/03/2026 before me in the presence of Assistant Public Prosecutor Grade-II for complainant and Mr.O.T.Arunkumar, Advocate for Accused and upon perusal of records and on hearing both the sides and having stood over till this day for consideration, this court delivered the following:-

**JUDGMENT**

Complainant	The Sub Inspector of Police Uthappanaicknur P.S.
Represented by	Asst. Public Prosecutor Grade II
Accused ( <b>Totally five accused as per the final report in this case. The case against A1 and A2 was split-up and new number was assigned on 19/09/2023.</b> )	<p><b>1. Balakrishnan,</b> Owner of the Devi Jewellers West Car Street, Dindigul district. ( <b>Now arrayed as A1 after split-up , was arrayed as A3 before split up )</b></p> <p><b>2. Kathiresan</b> S/o. Balakrishnan, West Car Street, Dindigul district. (<b>Now arrayed as A2 after split-up , was arrayed as A4 before split up )</b>)</p>



							purpose of section 428 Cr. P. C
1	<b>Balakrishnan</b>			457, 380, r/w 34, 109 and 411 IPC	Acquitted	---	---
2	<b>Kathiresan</b>						
3	<b>Sanjay Sait</b>						

### **1.Nature of Prosecution Case:-**

This is a case U/s. 457, 380, IPC r/w 34, 109 IPC and 411 of IPC. **The case against A1 and A2 was split-up and new number was assigned on 19/09/2023.** The brief case of the prosecution as set out in the final report U/s 173(2) Cr.PC is as follows: That On 17/12/2011 at about 21:00 Hrs, within the limits of Uthappanaickanur P.S, The complainant had kept his gold chain weighing 10 soverign, a gold dollar chain weighing 5 soverign, Necklace weighing 5 soverign, ½ soverign gold ring three numbers , one soverign ring one, ¾ soverign ring one, ¼ soverign ring one totally valuing Rs.2,07,000/- and cash Rs.10,000/- at the safety locker in his house. The accused A1 has stolen the above said valuables and has handed over the same to the accused A3 and A4 and the said accused A3 and A4 knowing very well that the same are stolen articles has sold the same to the accused A5. And out of the said sale amount , the accused A1 purchased the property comprised in Patta No.1574, measuring 31 sand for the value of Rs.17,33,000/- in his name vide document no. 1445 and also purchased land valuing Rs.16,33,000/- in the name of A2 vide document no.1446. And thereby the accused A3 and A4 (**Now arrayed as A1 and A2 after split-up**) committed an offense under section 457, 380 r/w 109 IPC and the accused A5 (**Now arrayed as A3 after split-up**) committed an offense under section 411 of IPC. Hence, the accused is charged.

## **2. Plea of the Accused:-**

On receipt of the final report, this court has taken cognizance of the offence for the offences U/s. 457, 380, IPC against the accused A1 and for the offences under section 457, 380 r/w 34 IPC against the accused A2 and for the offences under sections 457, 380 r/w 109 IPC against the accused A3 and A4 and for the offences under sections 411 of IPC against the Accused A5 . Thereafter summon was issued to the accused A3 to A5. Since the summons cannot be served to A1 and A2 for a long period of time, **the case against A1 and A2 was split-up and new number was assigned on 19/09/2023.** On appearance of the accused A3 to A5 (**Now arrayed as A1 to A3 after split-up**), copies of the final report, statements and documents were furnished to the accused. Thereafter charges framed for the offences under sections 411 and 414 of IPC against the accused A3 to A5 (**Now arrayed as A1 to A3 after split-up**) and was read and explained to the accused. **The accused A3 to A5 as per the final report will be hereinafter called as A1 to A3 for the sake of convenience.**

## **The Evidence**

### **The Prosecution Version**

3. The prosecution has examined **PW.1 to PW.11** and marked **Exp-P1 to Exp-P6** on their side. The prosecution has dispensed with the examination of LW6 (Died), LW8 (Died), LW10 (Died) and LW14.

4. The **PW.1** namely Ramar, who is the defacto complainant in this case has deposed that On 17.12.2011, at his house 10 soverign chain, 5 soverign dollar chain, 5 soverign cutting chain, 1 soverign ring, 1/2 soverign sing – 3 numbers , 3/4 soverign ring, 1/4 soverign ring totally 23-1/2 soverign gold Jewellery and cash Rs.10,000/- were missing from his house, That night, he went to water the land, He returned to his house around 11.00 p.m. and he fall asleep. When he woke up at 7.00 a.m , he found that the above said valuables are missing from his house. He gave complaint in this regard. The said complaint is marked as **Exp.P1**. The said value of

the valuables is around Rs,2,07,000/-. The police did examined him. The said valuables was not recovered yet. In the year 2014, the police brought one ramar to his house and stated that he is the one who stolen the said valuables from his house and the police further stated that the said accused purchased land out of the sale amount of the said valuables. Police examined him in this regard.

The PW1 was cross examined by the prosecution side.

5. The **PW.2** is namely Mayakkal, who is the wife of the PW1 has deposed in consonance with the testimony of PW1. The police did examined her.

The PW2 was cross examined by the prosecution side.

6. The **PW3** is namely Kasinathan, who is the son of PW1 and PW2 has deposed in consonance with the testimony of PW1 . Police did examined him in this regard.

The PW3 was cross examined by the prosecution side.

7. The **PW4** is namely Vijayarani, who is the daughter of PW1 and PW2 has deposed in consonance with the testimony of PW1 .The police did examined her in this regard.

The PW4 was cross examined by the prosecution side.

8. The **PW5** is namely Kasimayan, who is the who is the son of PW1 has deposed in consonance with the testimony of PW1 . The police examined him in this regard.

The PW5 was cross examined by the defense side.

9. The **PW6** is namely Naratajan, who is the hearsay witness in this case and he deposed what he heard about the occurrence. The police did not examined him in this regard.

The PW6 was declared hostile and cross examined by the Prosecution side.

**10.** The **PW7** is namely Mayan, who is the confession statement witness in this case and he has deposed that the second signature in the confession statement is that of him. And he adduced that 17/12/2011 the said Jewels were stolen and after two years he went to the Uthappanaickanur police station regarding some other work. At that time, the police was interrogating one person at the station. The said person was stating about the theft of Jewels at the house of one Ramar belonging to his village. In enquiry by the police, the said person gave confession that he committed theft at U.Vadipatti, Uthappanaickanur, Chinnakuravakudi, Pappapatti. The said person further confessed that he would pledge the Jewels at Sridevi Jewellery shop at Dindugul and will receive money for the same. The said admitted portion of confession statement is marked as **Ex.P2**. The police did examined him in this regard.

The PW7 was cross examined by the prosecution side.

**11.** The **PW8** is namely Jeyachitra, who is the then Sub-Inspector of police, and she deposed that On 17.12.2011, she received the complaint and registered a case U/s 454, 380 IPC. She handed over the case file to the Inspector of police for investigation. The Inspector examined her and recorded her statement.

The PW8 was cross examined by the prosecution side.

**12.** The **PW9** is namely Eswaran, who is the observation Mahazar witness and he has deposed that the first signature in the said Seizure Mahazar is that of him. And he was not aware that why he signed in the same. The said signature is marked as **Exp.P4**. Police did not examined him in this regard.

The PW9 declared hostile and was cross examined by the Prosecution side.

**13.** The **PW10** is namely Mr. Avudaippan, who is the then Inspector of police and Investigation officer in this case and he has deposed about the preparation of observation Mahazar and rough sketch and examination of the list witnesses. The said observation Mahazar and Rough Sketch is marked as **Exp-P5 and Exp.P6**. Since he

got transferred, he handed over the case file to his successor, Mr. Rajesh, Inspector of police.

The PW10 was cross examined by the defense side.

14. The PW11 is namely Subramanian, who is the then investigation officer in this case and he deposed that the then Investigation officer, namely Sivakumar, Inspector of police, on 22/03/2021 has taken the accused namely Ramar into police custody and interrogated him . The said Ramar voluntarily gave a confession without any provocation. Based on that confession, the accused namely Anitha, Balakrishnan, Kathiresan, Sanjay said were included as accused in this case. After that on 20.2.2014 he have taken up the investigation in this case from him and have seized the documents of the property purchased by the accused Ramar and Anitha and submitted o the court on 3.11.2014. Finally on 20.11.2014, he have completed the Investigation and filed a charge sheet U/s 457 and 380 of the IPC against the 1<sup>st</sup> accused and U/s 457 and 380 r/w 34 of the IPC against the 2<sup>nd</sup> accused and U/s 457 and 380 r/w 109 of the IPC against the 3<sup>rd</sup> and 4<sup>th</sup> accused and U/s 411 of IPC against the accused A5.

The PW11 was cross examined by the defense side.

#### **Questioning under section 313 of Crpc.**

15. When the accused was questioned U/s.313 Cr. P. C pertaining to the incriminating evidence adduced against him, the accused denied the same as false. On the side of accused, no oral or documentary evidence was adduced.

#### **The point for determination:**

16. The point for determination is Whether the prosecution has proved the guilt of the accused for the offence U/s. 411 and 414 of IPC.

### **Rebuttal by defence:**

17. It is one of the defence of the accused that the said occurrence as stated by the prosecution has not occurred at all. The defence has denied all the allegations levelled against the accused. While the defence has not adduced any evidence in this regard, it has relied on the cross-examination of the prosecution witnesses to demolish their credibility.

18. The Prosecution has not proved by oral and documentary evidences that the accused A1 who has stolen the above said valuables has handed over the same to the accused A3 and A4 and the said accused A3 and A4 knowing very well that the same are stolen articles sold the same to the accused A5.

19. The PW1 to PW5 has categorically admitted in their cross examination that they were not aware who had committed theft at their house and they have not whispered anything about the Accused A3 to A5. The PW6 has turned hostile to the prosecution.

20. The PW7 who is the confession statement witness has deposed only about the confession of A1 in the presence of him and he has not whispered anything about the recovery. Moreover confession under the police custody is not valid under section 25 and 26 of the evidence Act. Hence the admitted portion of the confession marked as Exp-P2 is not valid in law. The PW9 observation Mahazar witness has turned hostile to the prosecution case.

21. The PW8, PW10 and PW11 are the Investigation officers and their testimony is untrustworthy and cannot be relied upon.

### **Analysis of evidence**

22. The prosecution has examined PW.1 to PW.11 and marked **Exp-P1 to Exp-P6** marked on their side.

23. The charge against the present Accused is that On 17/12/2011 at about 21:00 Hrs, within the limits of Uthappanaickanur P.S, The complainant had kept his

gold chain weighing 10 soverign, a gold dollar chain weighing 5 soverign, Necklace weighing 5 soverign, the  $\frac{1}{2}$  soverign gold ring three, 1 soverign ring one,  $\frac{3}{4}$  soverign ring one,  $\frac{1}{4}$  soverign ring one totally value of Rs.2,07,000/- and cash Rs.10,000/- at the safety locker in his house. The accused Ramar has stolen the above said valuables has handed over the same to the accused namely Balakrishnan and Kathiresan ( arrayed as A1 and A2 after split-up) and the said both accused Balakrishnan and Kathiresan knowing very well that the same are stolen articles sold the same to the accused Sanjay Sait ( arrayed as A3 after split-up ).

**24.** This Court has carefully considered the oral and documentary evidence adduced by the prosecution and the submissions made on either side.

The accused in the present split-up case are charged for the offences under Sections 411 and 414 IPC. In order to establish the offence under Section 411 IPC, the prosecution must prove:

- That the property in question is stolen property.
- That the accused was in possession of the said property.
- That the accused knew or had reason to believe that the property was stolen.

**25.** Similarly, to attract Section 414 IPC, the prosecution must prove that the accused voluntarily assisted in concealing or disposing of stolen property knowing or having reason to believe that the same was stolen.

**26.** In the present case, PW1 to PW4, who are the defacto complainant and his family members, have only deposed that certain jewels and cash were missing from their house on the night of 17.12.2011. Their evidence only establishes the fact that a theft had occurred. However, all these witnesses have categorically admitted in their cross examination that they do not know who committed the theft and none of them have implicated the present accused in the alleged occurrence.

**27.** The prosecution has also failed to establish that the stolen jewels were recovered from the possession of the accused. Recovery of stolen property from the

accused is a vital circumstance to prove the offence under Section 411 IPC. In the absence of such recovery, the prosecution case becomes highly doubtful.

**28.** The prosecution relied upon the alleged confession statement said to have been given by the accused Ramar before the police in the presence of PW7. However, it is a settled principle of law that a confession made before a police officer **is inadmissible in evidence as per Sections 25 and 26 of the Indian Evidence Act.**

**29.** Such confession **can be relied upon only to the limited extent permissible under Section 27 of the Evidence Act**, that is, when it leads to the discovery of a material object. In the present case, no recovery has been effected pursuant to the alleged confession. Hence the admitted portion of the confession marked as Ex.P2 cannot be relied upon to connect the accused with the alleged offence.

**30.** In the present case, the prosecution has not recovered any of the alleged stolen jewels or cash from the possession of the accused. Recovery of stolen property from the accused is a crucial circumstance to establish the offence under Section 411 IPC. The prosecution has neither produced any material object before this Court nor established that the accused were found in possession of the stolen properties at any point of time during the investigation. In the absence of such recovery, the prosecution has failed to prove that the accused had received or retained stolen property knowing or having reason to believe the same to be stolen. Therefore, the essential ingredients of the offence under Section 411 IPC remain unproved.

**31.** Further, PW6 hearsay witness and PW9 observation Mahazar witness, who were examined to support the prosecution case, have turned hostile and did not support the prosecution during trial. Their evidence does not advance the case of the prosecution in any manner.

**32.** The evidence of PW8, PW10 and PW11, who are the police officials involved in the registration and investigation of the case, is only formal in nature. In the absence of independent corroboration or recovery of stolen property, their testimony alone is not sufficient to establish the guilt of the accused.

33. It is also relevant to note that the alleged occurrence took place in the year 2011 and the investigation proceeded for several years. However, the prosecution has not produced any reliable material to establish that the accused were in possession of the stolen jewels or that they had knowledge that the same were stolen properties.

34. The basic foundation of criminal law/ responsibility is that 'a person accused of an offence is presumed to be innocent till the guilt alleged as against him is proved beyond all reasonable doubts'.

35. As a necessary corollary, suspicion, however, strong or probable, may not take the place of legal proof and when graver the charge, greater should be the standard of proof. The distance between 'may be true' and 'must be true' is too long.

36. For the reasons afore recorded, this Court comes to the conclusion that the prosecution has failed to adduce clear, cogent and sufficient evidence to prove the guilt of the accused in this case, beyond all reasonable doubts. And in the absence of thereof, the Court cannot resort to conjectures, assumptions and probabilities to convict the accused and it also renders it unsafe to rely solely on the testimony of PW.8, PW10 and PW11 Investigation officers to convict the accused.

37. In the above said circumstances this court comes to conclusion that **the accused A1 to A3 namely Balakrishnan , Kathiresan and Sanjay Sait** ( Now arrayed as A1 to A3 after split-up, previously arrayed as A3 to A5 before split-up)) **found not guilty for the offences U/s. 411 and 414 of IPC.**

38. In the result **the accused A1 to A3 found not guilty for the offences U/s. 411 and 414 of IPC and Acquitted in exercising of powers under Section 248 (1) of the Cr.P.C** and all the accused are set at Liberty. The bail bond executed by the accused shall remain in force for the period of six months from today under section 437- A Cr.PC

39. There are no properties in this case for orders.

//Dictated to Steno-typist and typed by him in computer and corrected by me and pronounced in open Court on this the 17<sup>h</sup> day of March 2026 //

**Judicial Magistrate – II,  
Usilampatti**

**Appendix:-**

**Prosecution side witnesses:-**

- 1) PW.1 —Tr. Ramar (, Defacto complainant )
- 2) PW2 — Tmt.Mayakkal (Hearsay witness)
- 3) PW3 — Tr. Kasinathan ( Hearsay witness)
- 4) PW4 — Tmt.Vijayarani ( Hearsay witness)
- 5) PW5— Tr.Kasimayan( Hearsay witness)
- 6) PW6 – Tr.Natarajan ( Hearsay witness )
- 7) PW7 – Tr.Mayan ( Confession statement witness)
- 8) PW8 - Tmt.Jeyachitra (Police witness)
- 9) PW9 - Tr. Eswaran (Observazar Mahazar witness)
- 10) PW10 - Tr.Avudaiappan ( Police witness )
- 11) PW11 - Tr.Subramanian, (Police witness )

**Prosecution side Exhibits:**

- 1) Exp.P1 – Complaint marked through PW1 on 09.01.2024
- 2) Exp.P2 - Admitted portion of the confession statement marked through PW7 on 21.03.2024
- 3) Exp.P3 - FIR marked through PW8 on 22.03.2024
- 4) Exp.P4 - Signature of PW9 in the Observation mahazar marked through PW9 on 05/06/2025.
- 5) Exp-P5 - Observation mahazar marked through PW10 on 10.07.2025
- 6) Exp-P6 - Rough sketch marked through PW10 on 10.07.2025

**Materials objects on the Prosecution Side and defense side:-**

Nil

**Defense side witnesses and exhibits:-**

Nil

**Judicial Magistrate - II,  
Usilampatti**

**Note :**

1. All the accused were in bail during trial.
2. No witness was held for more than 3 days for examination.
3. The Judgment of the case has been informed to the police.