

**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.342/2023

CNR.No.TNMD18-001079-2023

(Crime. No. 11/2015, Uthappanaickanur P.S)

Dated this the 08th day of July' 2026

This case was taken on file by this court on 28/07/2023 and it is coming up for final hearing on 29/06/2026 before me in the presence of Assistant Public Prosecutor Grade-II for complainant and Mr.M.Balachandran, 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 Uthappanaickanur P.S.
Represented by	Asst. Public Prosecutor Grade II
Accused	Perumal, S/o.Poosari alias gani, TP road, Usilampatti taluk, Madurai district.
Represented by	Advocate and Mr.M.Balachandran,

Date of offence	21.02.2015
Date of F. I. R	21.02.2015
Date of Arrest	Surrender by court
Date of Release	--

Period Remand of the Accused	--																								
Committal	--																								
Date of Charge Sheet	16/08/2025																								
Date of Framing of Charges	22/01/2024																								
Date of commencement of evidence	03/03/2026																								
Date of close of trial	19/06/2026																								
Date on which Judgment is reserved	26/06/2026																								
Miscellaneous Petition and their results	Nil																								
Date of Examination in Chief and Cross	<table><tr><td>Chief</td><td>Date</td><td>Cross Date</td></tr><tr><td>PW1</td><td>- 03.03.2026</td><td>03.03.2026</td></tr><tr><td>PW2</td><td>- 03.03.2026</td><td>03.03.2026</td></tr><tr><td>PW3</td><td>- 17.03.2026</td><td>17.03.2026</td></tr><tr><td>PW4</td><td>- 17.03.2026</td><td>17.03.2026</td></tr><tr><td>PW5</td><td>- 20.04.2026</td><td>20.04.2026</td></tr><tr><td>PW6</td><td>- 20.04.2026</td><td>20.04.2026</td></tr><tr><td>PW7</td><td>- 19.06.2026</td><td>19.06.2026</td></tr></table>	Chief	Date	Cross Date	PW1	- 03.03.2026	03.03.2026	PW2	- 03.03.2026	03.03.2026	PW3	- 17.03.2026	17.03.2026	PW4	- 17.03.2026	17.03.2026	PW5	- 20.04.2026	20.04.2026	PW6	- 20.04.2026	20.04.2026	PW7	- 19.06.2026	19.06.2026
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PW6	- 20.04.2026	20.04.2026																							
PW7	- 19.06.2026	19.06.2026																							
Date of Examination accused under section 313 Cr.P.C.	23/06/2026																								
Details of abscondence of accused and his appearance production	--																								
Grant of stay by Superior Court and the results thereof	--																								
Date of Judgment	08/07/2026																								
Date of sentence order if any	Nil																								

Ran k of Acc used	Name of Accused	Date of Arrest	Date of Release on bail	Offenc es charge d with	Whether acquitte d or convicte d	Sentenc e impose d	Period of detentio n undergo ne during Trial for purpose of section 428 Cr. P. C
	Perumal	--	--	406, 420, 294(b), 506(ii) IPC	Acquitted	---	—

1.Nature of Prosecution Case:-

This is a case U/s 406, 420, 294(b), 506(ii) IPC. The brief case of the prosecution as set out in the final report U/s 173(2) Cr.PC is as follows: That On 21.02.2015, within the limits of Uthappanaickanur P.S, the de facto complainant (LW-1), being in need of money for his family expenses, approached the accused for financial assistance. The accused represented to LW-1 that he would arrange a loan by pledging three sovereigns of gold jewels belonging to LW-1 in the Canara Bank, Usilampatti Branch, where the accused was maintaining an account. Believing the said representation to be true, LW-1 entrusted the three sovereigns of gold jewels to the accused. Thereafter, the accused paid a sum of Rs .40,000/- to LW-1, stating that the jewels had been pledged with the bank. After a period of six months, LW-1 repaid the entire loan amount of Rs.40,000/- together with the agreed interest and requested the accused to redeem and return the pledged jewels. However, despite receiving the

said amount, the accused failed and refused to return the jewels. It is further alleged that whenever LW-1 demanded the return of his jewels, the accused abused him in filthy language and criminally intimidated him with dire consequences, including threats to his life, if he continued to demand the return of the jewels or the money. Thus, the accused committed the offence punishable under Section U/s 406, 420, 294(b), 506(ii) IPC.

2. Plea of the Accused:-

On receipt of the final report, this court has taken cognizance of the offence U/s 406, 420, 294(b), 506(ii) of IPC. Thereafter summon was issued to the accused. On appearance of the accused, copies of the final report, statements and documents were furnished to the accused. Thereafter charges framed for the Offences under sections U/s 406, 420, 294(b), 506(ii) of IPC against the accused and was read and explained to the accused. The accused pleaded not guilty and claims to be tried.

The Evidence

The Prosecution Version

3. The prosecution has examined **PW.1 to PW.7** and marked **Exp-P1 to Exp-P5** on their side. The prosecution has dispensed with the examination of LW1 (Died) , LW7, LW9 and LW10 in this case.

4. In this case, the LW-1 has died and so he was not examined by the prosecution. The **PW.1** is namely Suruli , who is the projected eye witness in this case and he deposed that he has not witnessed the entrustment of the said Jewels by the LW-1 to the accused. He heard the said occurrence through his brother LW1. He and the LW-1 went and asked the accused about the Jewels. At that time the accused stated that the Jewels was auctioned. The LW-1 gave complaint in this regard. The police did not examined him in this regard.

The PW1 was cross examined by the defence side.

5. The **PW.2** is namely Annakodi, who is the wife of LW1 and projected eye witness and she has deposed that ten years ago her husband LW1 gave three sovereign gold Jewels to the accused for pledging the same. After one year, the accused stated that the Jewels was auctioned. Her husband LW-1 gave complaint in this regard. And the police did examined her in this regard.

The PW2 was cross examined by the defence side.

6. The **PW3** is namely Kasi, who is the son-in-law of the LW1 and Projected eye witness and he deposed in consonance with the testimony of the PW2. And the police did examined him in this regard.

The PW3 was cross examined by the prosecution side.

7. The **PW4** is namely Ramesh, who is the observation Mahazar witness and he has deposed that the said first signature in the said observation Mahazar is that of him and he has deposed that the police prepared rough sketch in front of him at his village and he signed in the same as a witness. The said Observation Mahazar is marked as **Exp-P1** And the police did not examined him in this regard.

The PW4 was cross examined by the prosecution side.

8. The **PW5** is namely Selvaraj, who is the projected eye witness in this case and he has deposed that he knows nothing about the occurrence. Police did not examined him.

The PW5 was declared hostile and cross examined by the prosecution side.

9. The **PW6** is namely Pandian, who is the projected eye witness in this case and he has deposed that he knows nothing about the occurrence. Police did not examined him.

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

10. The **PW7** is namely Subramanian, who is the then Sub-Inspector of police and investigation officer in this case and he has deposed about the registration of case, Investigation and filing of final report by him. The said complaint is marked as

Exp.P2. The said F.I.R is marked as **Exp-P3**. And the Observation Mahazar and Rough sketch is marked as **Exp-P4** and **Exp.P5**.

The PW7 was cross examined by the defence side.

Questioning under section 313 of Crpc.

11. 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:

12. The point for determination is Whether the prosecution has proved charges against the Accused beyond reasonable doubt?

Rebuttal by defence:

13. 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.

14. Admittedly , the defacto complainant LW1 was not examined in this case. The PW1 is the brother of LW1 and he categorically admitted in his chief examination that he has not witnessed the entrustment of the said Jewels by the LW-1 to the accused. The PW2 is the wife of the LW-1 and she admitted in her cross examination that she heard about the entrustment of the said Jewels by the LW-1 to the accused only through her husband LW1. The PW3 also admitted in his cross examination that he has no direct knowledge about the entrustment of the said Jewels by the LW-1 to the accused. He came to know only through the LW1.

15. The PW4 observation Mahazar witness has deposed contrarily in cross examination that he signed in the rough sketch.

16. The projected eye witnesses PW5 and PW6 has deposed that they knows nothing about the occurrence and turned hostile to the prosecution.

17. The PW7 investigation officer has categorically admitted in his cross examination that there was a delay of one and half years from the date of occurrence. And he further admitted that no documents was recovered from the bank with regard to the alleged pledging of Jewels. The above said contradictions has clearly established that the prosecution case is nothing but a foisted case against the accused.

Analysis of evidence

18. The prosecution has examined PW.1 to PW.7 and marked Exp-P1 to Exp-P5 is on their side.

19. The charge against the Accused is that On 21.02.2015, within the limits of Uthappanaickanur P.S. the de facto complainant (LW-1), being in need of money for his family expenses, approached the accused for financial assistance. The accused represented to LW-1 that he would arrange a loan by pledging three sovereigns of gold jewels belonging to LW-1 in the Canara Bank, Usilampatti Branch, where the accused was maintaining an account. Believing the said representation to be true, LW-1 entrusted the three sovereigns of gold jewels to the accused. Thereafter, the accused paid a sum of Rs .40,000/- to LW-1, stating that the jewels had been pledged with the bank. After a period of six months, LW-1 repaid the entire loan amount of Rs.40,000/- together with the agreed interest and requested the accused to redeem and return the pledged jewels. However, despite receiving the said amount, the accused failed and refused to return the jewels. It is further alleged that whenever LW-1 demanded the return of his jewels, the accused abused him in filthy language and criminally intimidated him with dire consequences, including threats to his life, if he continued to demand the return of the jewels or the money. Thus, the accused committed the offence punishable under Section U/s 406, 420, 294(b), 506(ii) IPC.

20. This court paid its anxious consideration to the rival submissions made on either side and also carefully perused the entire oral and documentary evidence available on record.

21. Admittedly, the de facto complainant (LW1), who is the author of the complaint and the only person alleged to have entrusted the jewels to the accused, died before the commencement of trial and, therefore, his evidence could not be recorded before this Court. The alleged entrustment of the jewels, the payment of Rs.40,000/-, the repayment of the said amount with interest, and the subsequent refusal of the accused to return the jewels are all facts exclusively within the knowledge of the deceased complainant. In the absence of his testimony, the prosecution was expected to establish these material facts through independent, direct and convincing evidence.

22. PW1, who is the brother of the deceased complainant, has categorically admitted in his chief examination that he did not witness the alleged entrustment of the jewels by LW1 to the accused. His evidence further reveals that he came to know about the transaction only through the deceased complainant. Though he has stated that he accompanied LW1 to question the accused regarding the jewels and that the accused informed them that the jewels had been auctioned, his testimony regarding the entrustment is purely hearsay in nature. Such hearsay evidence cannot be treated as substantive evidence for proving the essential ingredient of entrustment required for the offences under Sections 406 and 420 IPC.

23. Likewise, PW2, who is the wife of the deceased complainant, has also admitted during her cross-examination that she came to know about the alleged entrustment only through her husband. She was not present at the time of the alleged transaction between the complainant and the accused. Similarly, PW3, who is the son-in-law of the deceased complainant, has also admitted that he had no direct knowledge regarding the entrustment of the jewels and that he came to know about the occurrence only through the complainant. Thus, the evidence of PWs 2 and 3 is

also hearsay in respect of the material transaction and cannot independently establish the prosecution case.

24. PW4 is only an observation mahazar witness. His evidence is confined to the preparation of the observation mahazar and rough sketch. Even during his cross-examination, he has given inconsistent evidence regarding the documents prepared in his presence. In any event, his testimony does not in any manner prove the entrustment of the jewels, the alleged pledge before the bank, or the dishonest conduct attributed to the accused.

25. The prosecution has projected PW5 and PW6 as eyewitnesses. However, both these witnesses have completely disowned the prosecution case and have categorically stated that they know nothing about the alleged occurrence. They were treated as hostile and cross-examined by the prosecution, but nothing useful could be elicited from them to support the prosecution version. Therefore, their evidence does not advance the prosecution case in any manner.

26. PW7, the Investigating Officer, has spoken about the registration of the case, investigation conducted by him and the filing of the final report. However, during cross-examination, he has admitted that there was a delay of about one and a half years in lodging the complaint. More importantly, he has admitted that no records whatsoever were collected from Canara Bank regarding the alleged pledge of the jewels. No pledge receipt, account statement, auction proceedings or any other documentary evidence has been produced before this Court to establish that the accused had in fact pledged the jewels with the bank. When the entire prosecution case rests upon the allegation that the accused pledged the jewels in Canara Bank and obtained a loan thereon, the failure of the Investigating Officer to collect even the basic documentary evidence from the bank creates a serious dent in the prosecution case.

27. The prosecution has also failed to satisfactorily explain the delay of nearly one and a half years in lodging the complaint. Though mere delay is not always fatal,

when such delay remains unexplained and the prosecution evidence itself suffers from serious infirmities, the delay assumes significance and casts a doubt on the genuineness of the prosecution version.

28. In order to constitute an offence under Section 406 IPC, the prosecution must prove entrustment of property and subsequent dishonest misappropriation or conversion of the same by the accused. Likewise, to attract Section 420 IPC, the prosecution must establish that the accused had dishonest intention from the very inception of the transaction. In the present case, neither the entrustment of the jewels nor the dishonest intention of the accused has been proved by reliable and admissible evidence. The evidence of PWs 1 to 3 on the crucial aspect of entrustment is admittedly hearsay, while the documentary evidence that could have corroborated the prosecution case has not been produced.

29. Similarly, the prosecution has failed to establish the offences under Sections 294(b) and 506(ii) IPC. Except the general allegation contained in the complaint, there is no convincing and independent evidence regarding the obscene words allegedly uttered by the accused or the alleged criminal intimidation. No witness has spoken about the exact words used by the accused or the circumstances in which such threats were allegedly extended so as to satisfy the ingredients of the said offences.

30. Thus, on an overall appreciation of the entire evidence available on record, this Court finds that the prosecution has failed to establish the entrustment of the jewels, the alleged pledge before Canara Bank, the dishonest misappropriation of the jewels, or the alleged acts of abuse and criminal intimidation beyond reasonable doubt. The evidence of the material witnesses is either hearsay or does not support the prosecution case, while the independent witnesses have turned hostile. The prosecution has also failed to produce the best available documentary evidence from the bank. These material deficiencies create serious and reasonable doubt regarding

the prosecution version. It is a settled principle of criminal law that if two views are possible on the evidence, the view favourable to the accused must be adopted.

31. 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’.

32. 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.

33. 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 Investigation officer to convict the accused.

34. In the above circumstances this court comes to conclusion that the **accused found not guilty for the offences U/s 406, 420, 294(b), 506(ii) IPC.**

35. In the result **accused found not guilty for the offences U/s 406, 420, 294(b), 506(ii) IPC and Acquitted in exercising of powers under Section 248 (1) of the Cr.P.C** and 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. P. C

//Dictated to Steno-typist and typed by him in computer and corrected by me and pronounced in open Court on this the 08th day of July’ 2026 //

**Judicial Magistrate – II,
Usilampatti**

Appendix:-

Prosecution side witnesses:-

- 1) PW.1 — Tr.Suruli (Eye witness)
- 2) PW2 — Tr.Annakodi (Eye witness)
- 3) PW3 — Tr.Kasi (Eye witness)
- 4) PW4 — Tr.Ramesh (Observation mahazar witness)
- 5) PW5— Tr.Selvaraj (Eye witness)
- 6) PW6— Tr.Pandian (Eye witness)
- 7) PW7— Tr.Subramanian (Investigation officer)

Prosecution side Exhibits:

- 1) Exp.P1 – Observation mahazar marked through PW4 on 17/03/2026
- 2) Exp.P2 – Complaint marked through PW7 on 19/06/2026
- 3) Exp.P3 – FIR marked through PW.7 on 19/06/2026
- 4) Exp.P4 — Observation mahazar is marked through PW7 on 19/06/2026.
- 5) Exp.P5 — Rough sketch is marked through PW7 on 19/06/2026.

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 trail.
2. No witness was held for more than 3 days for examination.
3. The Judgment of the case has been informed to the police.