

**IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE
UTHUKULI**

Present : Thiru.B.Dharaneether B.A.,L.L.M.,
District Munsif Cum Judicial Magistrate
Uthukuli.

Dated : Monday, the 30th day of March, 2026.

C.C.No: 20 of 2024

(CNR No. TNTI23-000510-2024)

Inspector of Police

Uthukuli P.S,

Cr.No. 64 of 2024

U/sec. 457, 380 r/w 34 IPC

... Complainant

-VS -

1. Tr.Karthi (24/2026)

S/o.Senthilkumar

2. Tr.Bhuvaneshwaran (25/2026)

S/o. Raja

... Accused

This case having coming up on 30.03.2026 for final hearing before me in the presence of Tmt.Hema, B.A.,B.L., Assistant Public Prosecutor Grade I appearing for State and Advocate S.Dhanapal appearing for accused. Upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following.

JUDGMENT

This case arises out of a final report in Crime No. 64 of 2024 on the file of Uthukuli Police Station for the offences punishable under Sections 457, 380 and 34 IPC . The case has been taken on file in C.C. No. 20 of 2024 by this Court.

2. The prosecution case, in brief, is that on 13.02.2024, the accused persons, in furtherance of their common intention, committed lurking house trespass by night into the house of the defacto complainant and committed theft of gold ornaments and a mobile phone. Based on the complaint given by the defacto complainant, a case was registered and investigation was taken up. Upon completion of investigation, the Investigating Officer laid a final report against both the accused alleging commission of offences under Sections 457, 380 and 34 IPC.

3. The accused appeared before this Court and were furnished with copies of documents under Section 207 Cr.P.C. Upon hearing both sides and on perusal of materials available on record, this Court framed charges against the accused for the offences punishable under Sections 457, 380 and 34 IPC. When questioned, both the accused denied the charges and claimed to be tried.

PROSECUTION CASE

4. In order to substantiate the charges levelled against the accused, the prosecution examined seven witnesses as P.W.1 to P.W.7 and marked sixteen documents along with two material objects. It is to be noted that due to an inadvertent clerical error during the marking of documents, the exhibits relating to Unidentified Chance Print, Comparison Report and NAFIS report, FIR, Rough Sketch, Observation Mahazar, Seizure Mahazar (mobile phone), Seizure Mahazar (cash of Rs.20,000/-), Seizure Mahazar (jewels), CD, Photocopies, and

SDR were wrongly marked as Ex.P4 to Ex.P14. In fact, these documents ought to have been marked as Ex.P6 to Ex.P16. Therefore, this Court hereby clarifies and rectifies the said error, and it is directed that the aforesaid documents shall be read and treated as Ex.P6 to Ex.P16 for all purposes of this judgment.

5. P.W.1 Ranjithkumar, the defacto complainant, has deposed that he is residing at Velliyampalayam and is running a polybag company . According to him, on 10.02.2024, he along with his family had gone to Vathalagundu, and on 13.02.2024, he received a phone call from his neighbour Thilagavathi at around 09.00 AM., informing that the door of his house was found broken. Upon returning home, he found that the main door was broken open and the articles inside the house were scattered. He has further stated that the almirahs kept in the bedroom were opened and from the jewel box, gold ornaments including 2 sets of half sovereign ear studs, 1 sovereign chain, one gram om dollar, 2 sovereign gold coin and also a keypad mobile phone were found missing. Thereafter, he lodged Ext.P1 complaint before the Uthukuli Police Station.

6. P.W.1 has further deposed that subsequently on same day lifted finger prints from his house and on 05.03.2024, the police informed him about the arrest of the accused and recovery of certain properties. He went to the police station and identified the accused as well as the recovered articles. He has specifically identified the P.M.O.2 keypad mobile phone recovered from the first accused and has also produced the Ext.P2 purchase bill for the said phone, to show that it was purchased from 'Supreme Mobiles'. He has further identified

the P.M.O.1 gold ornaments recovered during the course of investigation as belonging to him.

7. In the cross-examination, P.W.1 has admitted that he has not produced purchase receipts for the jewels. He has also admitted that the almirah was not broken but was opened using the key which was kept in the house. However, he has consistently maintained that the jewels and mobile phone were stolen from his house and that the recovered properties belong to him .

8. P.W.2 Kulothungan, who is a neighbour of P.W.1, has deposed that the police came to the place of occurrence and prepared observation mahazar and rough sketch in his presence and obtained his signature. His evidence is formal in nature relating to the preparation of mahazar .

9. P.W.3 Nallathambi, who is working as a Manager in Abirami Finance, has deposed that on 13.02.2024, PW4 Nagajothi pledged certain gold ornaments in the finance shop. Subsequently, on 05.03.2024, the police came to the shop along with the 1st accused and PW4 Nagajothi, seized the PMO1 pledged jewels. He has also spoken about the availability of CCTV footage relating to the pledge transaction and also identified his Ext.P4 signature seizure mahazar.

10. In the cross-examination, P.W.3 has admitted that he came to know about the 2nd accused only through the police. He has also stated that he cannot identify the person seen in the CCTV footage with certainty .

11. P.W.4 Nagajothi, who is the mother of the second accused Bhuvaneshwaran, has turned hostile. She has deposed that the jewels seized by the police are her own jewels and not stolen property. She has further alleged that the police coerced her. However, she has not produced any documentary evidence to substantiate her claim and has admitted that she has not lodged any complaint regarding the alleged coercion .

12. P.W.5 Subramani, the Finger Print Expert, has deposed that on the request of the Investigating Officer, he visited the scene of occurrence and lifted chance fingerprints from the almirah. On comparison using NAFIS, certain fingerprints were found to match with the fingerprint of the first accused Karthi.

13. P.W.6 Kumar, who is cited as a witness for confession and recovery, has deposed that on 05.03.2024, the police took him from a tea shop and made him witness the enquiry of the accused. According to him, both the accused gave statements and based on the same, a keypad mobile phone was recovered from the first accused and cash as well as jewels were recovered from the side of the second accused. He has also spoken about the recovery of a sum of Rs.20,000/- from the mother of the second accused.

14. P.W.7 Balamurugan, the Investigating Officer, has deposed that on receipt of complaint from P.W.1, Ext.P8 FIR in Crime No.64 of 2024 was registered for the offences under Sections 457 and 380 IPC. He has further deposed that he visited the place of occurrence, prepared Ext.P8 observation mahazar and Ext.P7 rough sketch, and arranged for collection of fingerprint

evidence. Based on the Ext.P4 and Ext.P5 fingerprint report, he identified the first accused and secured both the accused.

15. P.W.7 has further stated that upon enquiry, the accused gave voluntary confession statements and based on the same, the keypad mobile phone belonging to P.W.1 was recovered from the possession of the first accused. He has also deposed about recovery of cash from the mother of the second accused and seizure of pledged jewels from Abirami Finance, that were pledged in name of PW4 i.e., mother of 2nd accused. He has further spoken about verification of IMEI details of the seized mobile phone vide Ext.P14 SDR and completion of investigation .

16. After completion of prosecution evidence, the accused were questioned under Section 313 Cr.P.C. with regard to the incriminating circumstances appearing against them. The accused denied the same as false and did not choose to examine any witnesses on their side.

POINTS FOR DETERMINATION

17. From the materials available on record and the rival submissions made, the following points arise for determination before this Court:

1. Whether on 13.02.2024, the accused persons, in furtherance of their common intention, committed lurking house trespass by entering into the house of PW1 and thereby committed an offence punishable under Section 457 IPC?

2. Whether the accused persons committed theft of gold ornaments and a keypad mobile phone belonging to PW1 and thereby committed an offence punishable under Section 380 IPC?
3. Whether the prosecution has proved beyond reasonable doubt the involvement of the accused persons in the commission of the above offences?
4. To what relief, the accused are entitled?

DISCUSSION & FINDINGS

18. This Court has carefully considered the entire evidence available on record and the submissions made on either side. Since there is no direct eyewitness to the occurrence, the case of the prosecution rests substantially on circumstantial evidence, recovery of stolen properties, and supporting scientific evidence.

19. At the outset, the occurrence of house-breaking and theft is spoken to by P.W.1 Ranjithkumar. His evidence clearly establishes that on 13.02.2024, his house was found in a disturbed condition with the main door broken open and the articles inside scattered. He has categorically deposed that gold ornaments and a keypad mobile phone were found missing from his house. His testimony in this regard remains consistent and inspires confidence.

20. The defence has attempted to discredit the evidence of P.W.1 by pointing out that the almirah was not broken open but was opened using the key

kept inside the house. However, this circumstance, in the considered view of this Court, does not in any manner demolish the prosecution case. The essential fact remains that the accused had unauthorized access into the house and committed theft. The manner in which the almirah was opened is not of much significance when the factum of theft stands established.

21. It is true that P.W.1 has not produced purchase receipts for the gold ornaments. However, in cases of this nature, it is well settled that absence of documentary proof for ownership of household jewels is not fatal to the prosecution. Gold ornaments kept in a household can be identified by the owner based on familiarity and such identification cannot be lightly discarded. Further, the 'OM' doller seized matches with description in the complaint, adding credibility to the occurrence.

22. P.W.1 has clearly identified the recovered gold ornaments (P.M.O.1) as belonging to him. He has also specifically identified the keypad mobile phone (P.M.O.2) and has produced Ext.P2 purchase bill to substantiate his ownership. This piece of evidence assumes considerable significance in linking the recovered property with the theft.

23. Therefore, this Court finds that the prosecution has successfully established the occurrence of theft in the house of P.W.1 and the ownership of the mobile phone and the gold ornaments, at least to the extent necessary for the purpose of this case.

24. The next and most crucial circumstance relied upon by the prosecution is the recovery of the stolen keypad mobile phone (P.M.O.2) from the possession of the first accused. The evidence of P.W.6 Kumar and P.W.7 Balamurugan, the Investigating Officer, establishes that pursuant to the confession given by the first accused, the said PMO2 mobile phone was recovered from his possession.

25. Though P.W.6 has stated that he was taken by the police from a tea shop and made to witness the proceedings, this Court is of the considered view that such a circumstance, by itself, is not sufficient to discard the recovery in toto. The evidence of P.W.6 is substantially corroborated by P.W.7 and more importantly by the recovery of the material object itself. It is well settled that recovery evidence, if otherwise credible and supported by surrounding circumstances, cannot be rejected merely on the ground that the witness is not wholly independent.

26. The recovery gains considerable strength from the evidence of P.W.1, who has identified the said mobile phone and has produced Ext.P2 purchase bill. The ownership of the mobile phone is thus clearly established.

27. However, what significantly strengthens the prosecution case is the electronic evidence in the form of Ext.P16 Subscriber Detail Records (SDR) and call data analysis. The Investigating Officer has collected and verified the SDR relating to the mobile numbers in question.

28. The Ext.P16 SDR reveals that the mobile number 9942993265 stands in the name of P.W.1 Ranjithkumar, with corresponding subscriber details and

address. This establishes that the mobile number and the handset were originally in the lawful possession of P.W.1 prior to the occurrence.

29. Further, the Ext.P16 SDR and IMEI analysis disclose that the same mobile handset bearing IMEI No. 357072920738190 came to be used with another SIM card bearing mobile number 9944391354, which stands in the name of Karthik, the first accused. Notably, the said SIM was activated on 15.02.2024, i.e., immediately after the date of occurrence.

30. The call detail records further show that the said handset was actively used from locations within Tiruppur, particularly around Muruganathanapuram area, which is connected to the residence of the first accused . Thus, the electronic trail clearly demonstrates that the stolen mobile phone was not only recovered from the first accused but was also being used by him soon after the occurrence.

31. This electronic evidence provides a scientific and objective link connecting the first accused with the stolen property. The continuity of the IMEI number, despite change of SIM card, conclusively establishes that it is the very same handset which was stolen from the house of P.W.1 and later used by the first accused.

32. The first accused has not offered any explanation whatsoever as to how he came into possession of the said PMO2 mobile phone. In such circumstances, the doctrine of recent possession squarely applies. When a stolen article is found in the possession of an accused soon after the theft and the accused fails to

account for such possession, a presumption arises that he is the author of the theft.

33. In the present case, the recovery of the mobile phone, the identification by P.W.1, the production of Ext.P2 purchase bill, and the corroborative electronic evidence in the form of Ext.P16 SDR and IMEI tracking, together form a complete and unbroken chain of circumstances pointing unmistakably towards the guilt of the first accused.

34. Apart from the above, the Ext.P7 NAFIS fingerprint evidence also lends further corroboration. P.W.5 has deposed that the chance fingerprints lifted from the scene of occurrence matched with the fingerprint of the first accused. Though certain omissions exist in the collection of elimination prints, this evidence nevertheless strengthens the prosecution case when read along with the recovery and electronic evidence.

35. Therefore, this Court has no hesitation in holding that the prosecution has successfully established beyond reasonable doubt that the first accused was in possession of the stolen mobile phone soon after the occurrence and that such possession is not innocently explainable. The cumulative effect of recovery, identification, fingerprint evidence, and electronic data clearly proves the involvement of the first accused in the commission of the offence.

36. The prosecution has also relied upon the recovery of gold ornaments (P.M.O.1), which are alleged to have been stolen from the house of P.W.1. According to the prosecution, these jewels were pledged in Abirami Finance in

the name of P.W.4 Nagajothi, the mother of the second accused, and were subsequently recovered during investigation.

37. P.W.3 Nallathambi, the Manager of the said finance company, has spoken about the pledge of jewels and the subsequent seizure by the police. However, his evidence does not conclusively establish the identity of the 2nd accused, as he has admitted during the cross that he came to know about the 2nd accused only through the police.

38. The evidence of P.W.4 Nagajothi assumes significance in this regard. She has admitted her signature in seizure mahazar for the jewels, but turned hostile and has taken a specific stand that the jewels seized by the police are her own jewels and not stolen property. Though she has not produced documentary evidence to substantiate her claim, it cannot be lost sight of that she is the mother of the second accused and her evidence has to be appreciated with caution. This Court finds that the claim made by P.W.4 does not inspire confidence, as she has failed to produce any acceptable material to show that the jewels belong to her. Further, she has not taken any steps to assert her alleged ownership before the court. Therefore, her evidence cannot be relied upon to discredit the prosecution case in toto.

39. However, at the same time, the recovery of jewels does not stand on the same footing as the recovery of the mobile phone. The linkage between the 2nd accused and the pledged jewels is not established with the same degree of certainty. The evidence of P.W.3 is inconclusive, and the prosecution has not

produced any independent material to show that it was the 2nd accused who personally pledged the jewels. Insofar as the second accused is concerned, the prosecution relies primarily on the alleged recovery of cash and jewels through his mother, P.W.4.

40. There is no fingerprint evidence or any other scientific evidence connecting the second accused with the scene of occurrence. There is also no recovery of any stolen property directly from his possession. The alleged involvement of the second accused is therefore not established through cogent and reliable evidence.

41. In a case resting on circumstantial evidence, the chain of circumstances must be complete and must exclude every hypothesis except the guilt of the accused. Insofar as the second accused is concerned, the chain is clearly incomplete and several missing links are evident.

42. On the other hand, in respect of the first accused, the prosecution has established a complete chain of circumstances. The recovery of the stolen mobile phone from his possession, the identification by P.W.1, the production of purchase bill, the fingerprint evidence, and most importantly, the electronic evidence in the form of SDR and IMEI tracking, together form a consistent and unbroken chain pointing towards his guilt.

43. Thus, while the prosecution has succeeded in proving the case beyond reasonable doubt against the first accused, it has failed to establish the guilt of

the second accused. The second accused is therefore entitled to the benefit of doubt.

44. In the result, this Court holds that the prosecution has successfully proved the charges against the first accused beyond reasonable doubt, whereas it has failed to establish the case against the second accused.

45. Before proceeding further, this Court deems it necessary to examine whether the offence under Section 457 IPC is made out. In order to attract Section 457 IPC, the prosecution must establish that the lurking house trespass or house breaking was committed by night.

46. In the present case, the evidence of P.W.1 discloses that he had left his house on 10.02.2024 and the occurrence was noticed only on the morning of 13.02.2024. There is no material on record to show the exact time at which the offence had taken place. The prosecution has not adduced any evidence to establish that the occurrence had taken place during night hours.

47. In the absence of such evidence, this Court is of the considered view that the essential ingredient required to constitute an offence under Section 457 IPC is not made out. However, the evidence clearly establishes that house trespass and theft have been committed. Therefore, the act of the first accused would fall within the ambit of house breaking under Section 454 IPC and theft under Section 380 IPC.

48. Accordingly, the first accused Karthik is found guilty for the offences punishable under Sections 454 and 380 IPC and is hereby convicted thereunder. Insofar as the second accused Bhuvaneshwaran is concerned, he is found not guilty of the offences charged and is hereby acquitted under Section 248(1) Cr.P.C. It is also brought on record that P.W.4 Nagajothi, who was examined during trial, has died during the pendency of the case. In view of her demise, no further proceedings can be pursued insofar as any alleged involvement attributable to her is concerned.

49. The first accused was questioned on the quantum of sentence. He pleaded for leniency. However, it is brought to the notice of this Court that the first accused has antecedents.

50. Considering the nature of the offence and the antecedents of the accused, this Court is not inclined to extend the benefit under the Probation of Offenders Act.

51. Taking into account the facts and circumstances of the case, this Court is of the view that a sentence of imprisonment along with fine would meet the ends of justice.

52. Accordingly, the first accused Karthik is sentenced as follows:

53. *For the offence under Section 454 IPC, the first accused is sentenced to undergo Simple Imprisonment for a period of one year and to pay a fine of Rs.5,000/-, in default to undergo Simple Imprisonment for two week. For the*

offence under Section 380 IPC, the first accused is sentenced to undergo Simple Imprisonment for a period of one year and to pay a fine of Rs.5,000/-, in default to undergo Simple Imprisonment for two week. Both the sentences shall run concurrently.

54. The properties in P.R.No. 61 of 2024, was already handed over to PW1 for interim custody. Since, no established claims were made as to those properties, the interim custody is herewith made absolute.

Directly typed by me in my official laptop and pronounced by me in open court on this 30th day of March 2026.

Sd/-Thiru.B.Dharaneether B.A.,L.L.M.,
District Munsif Cum Judicial Magistrate,
Uthukuli.

APPENDIX

List of Prosecution Witnesses:

S.No.	Date of Examination	Witness Name	Category of witness
PW1	14.03.2024	Tr.Ranjithkumar	De-facto Complainant
PW2	14.03.2024	Tr.Kulothungan	Observation mahazar witness
PW3	19.03.2024	Tr.Nallathambi	Seizure witness
PW4	22.04.2024	Tmt.Nagajothi	Seizure witness
PW5	15.05.2024	Tr.Subramani	Expert witness
PW6	24.06.2024	Tr.Kumar	Material witness
PW7	19.08.2025	Tr.Balamurugan	Investigation Officer

List of Prosecution Exhibits:

Ex.No.	Marked Through	Particulars of documents
Ex.P1	PW1	Complaint

Ex.P2	PW1	Receipt for purchase of mobile phone
Ex.P3	PW2	Signature of PW2 in Observation mahazar
Ex.P4	PW3	Signature of PW3 in Seizure mahazar
Ex.P5	PW4	Signature of PW4 in Seizure mahazar
Ex.P6	PW5	Unidentified Chance Print Comparison Report
Ex.P7	PW5	NAFIS report
Ex.P8	PW6	FIR
Ex.P9	PW6	Rough Sketch
Ex.P10	PW6	Observation mahazar
Ex.P11	PW6	Seizure Mahazar with respect to mobile phone
Ex.P12	PW6	Seizure Mahazar with respect to cash of Rs.20,000
Ext.P13	PW6	Seizure Mahazar with respect to jewels
Ext.P14	PW6	CD
Ext.P15	PW6	Photo copies
Ext.P16	PW6	SDR

Witnesses examined for defence- Nil

Exhibits marked for defence - Nil

Material Objects marked –

PMO1 – Jewels

PMO2 – Keypad phone

Sd/-Thiru.B.Dharaneether B.A.,L.L.M.,
District Munsif Cum Judicial Magistrate,
Uthukuli.

NOTE :

- 1) A2 acquitted, A1 convicted
- 2) Result of this case informed to the concerned department.
- 3) Date of Judgment 30.03.2026

Copy submitted to

The Hon'ble Chief Judicial Magistrate, Tiruppur.