

**IN THE COURT OF THE II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, THANJAVUR.**

**Present : Thiru.P.Nagarajan, M.A.,M.L.,
II Additional District and Sessions Judge, Thanjavur.
Monday the 29th day of June 2026
(Thiruvalluvar Andu 2057 - Aani Matham 15th day)
Criminal Appeal.No.69/2026**

(CNR.No.TNTJ0100 3385 2026

**(Arising out of CC.No.1838/2025 in Judicial Magistrate Court
No.II, Thanjavur)**

From which Court this Appeal is preferred	:	Judicial Magistrate No.II, Thanjavur.
Case Number of trial Court	:	C.C.No.1838/2025
Appeal Number	:	C.A. No.69/2026
Name of the Appellant	:	1) Mohaideen, (A1) aged 37 years, S/o.Mohamed Yusuf, Rahamathullapuram, WGS Road, Melur Post, Thothukkudi District. Now at Perumal Kovil Medu, Nandhi Nagar, Collectorate Post, Dharmapuri District.
		2) Shajahan,(A2) aged 28 years, S/o.Mohamed Yusuf, Periya Perumal Gounda Street, Lakkiyapatti Post, Dharmapuri, Now at: Jai Nagar, EB Head Office Back Side, Collectorate Post, Dharmapuri.
		3) Aysha Parveen, (A5) aged 31 years, D/o.Mohamed Yusuf, Periya Perumal Gounder Street, Vennampatti Road, Dharmapuri.

Name of the Respondent : State- Rep., by the Inspector of Police, Thanjavur Tamil University Police Station, Cr.No.537/2025.
u/s.305(a), 331(4) r/w. 49 of BNS.

Judgment of Trial Court : The accused A1 was found guilty u/s. 305(a), 331(4) of BNS and convicted under sec.271(2) of BNSS to under go 3 years S/I for 305(a) and 3 years S/I for 331(4) BNS and a fine for each offence Rs.25,000/- totally Rs.50,000/- for A1. The accused A2 was found guilty u/s. 305(a), 331(4) of BNS and convicted under sec.271(2) of BNSS to under go 3 years S/I for 305(a) and 3 years S/I for 331(4) BNS and a fine for each offence Rs.25,000/- totally Rs.50,000/- for A2. The accused A5 is convicted for the offence u/s.305(a), 331(4) BNS r/w.49 BNS u/.271(2) BNSS to undergo 1.5 years of simple imprisonment for 305(a) and 1.5 years simple imprisonment for 331(4) BNS and a fine for each

offence Rs.25,000/- totally
Rs.50,000/- for A5. The aforesaid
sentence will run consecutively.

Particulars as to whether the : Confirmed
Order of Trial Court confirmed,
set aside or modified.

Date of presentation of Criminal : 10.04.2026
Appeal

Date on which Criminal Appeal : 16.04.2026
was taken on file

Date of Argument : 23.06.2026

Date of Judgment : 29.06.2026

This Criminal Appeal came before this court for final hearing on 23.06.2026 in the presence of **Tmt.Devi.V.Kannukkiniyal**, the Learned Advocate for the Appellant and of **Thiru.Durai.Thiyagarajan**, Learned Additional Public Prosecutor for the respondent and upon hearing both side arguments and upon perusing the Judgment of the Trial Court and relevant records and having stood over for consideration till this day, this court delivered the following....

JUDGEMENT

This Criminal Appeal has been preferred u/s 415(3) of BNSS by the Appellant/accused A1, A2 and A5 to set aside the conviction Judgment delivered by the Learned Judicial Magistrate No.II, Thanjavur in CC No.1838/2025 dated 02.04.2026.

2) The appellant herein is the accused before the trial court in a case for the offence punishable u/s. u/s.305(a), 331(4) r/w. 49 of BNS and the respondent herein is the complainant before the trial court.

(For the sake of convenience and easy reference, the parties herein are referred to as in the trial court).

3) The evidence of prosecution witnesses in brief is as follows:

PW1 Jothimani Vijayan is the defacto complaint of this case. She deposed in her evidence that on 01.12.2025 and that she lodged the said information to the Tamil University Police on the very same day. The complaint statement was marked as Ex.P.1 and the pictures of the jewels, which were allegedly recovered from the accused were marked as P.M.O.1 and P.M.O.2. PW2 Senthilkumar is the signatory in the observation mahazar and the observation mahazar is marked as Ex.P.2. PW3 Mariyappan is the TASMAL salesman in shop No.7878 and he deposed that on 28.11.2025, two persons came to the shop and purchased liquor and used the POS machine to pay. PW.4 Chinnadurai is the receptionist working in NM Lodge and he said that on 21.11.2025 at around 7.00 p.m., Mohideen and Shajahan requested for a room and they vacated on 23.11.2025. The ledger in duplicate and the advance receipt were marked

as Ex.P.3 and Ex.P.4 respectively. PW5 Sivakumar is the Manager of the Thendral lodge who regularly works during the night and he says that on 24.11.2025 at 11.50 p.m., Mohaideen and Shajahan requested for a room and Mohideen furnished the adhar details to him. The register in duplicate where obtained in duplicate by the police after one week. The register in duplicate has been marked as Ex.P.17. PW6 Yagappan room boy of Chandru Lodge and he deposed that on November 2025 two persons requested for a room and they were asked to fill the particulars in the lodge register. After one week the police monitored the CCTV footage and duplicate copy of lodge register has been marked as Ex.P.18. PW.7 Kumar and PW 10 Saravanakumar are the signatory in the confession statements and their signatures marked as Ex.P.6 and Ex.10 & Ex.P11 respectively. PW.8 Pavithra is the signatory in two seizure mahazars and it was marked as Ex.7 and Ex.P.8. PW.9 Prakash signed in the seizure mahazar on 06.12.2025 was marked as Ex.P.9. PW.11 and PW.12 are police officials and investigation officer. They deposed about the details how the police zeroed down on mohaideen and others and details of entire investigation.

4) On receipt of the final report from the Investigation Officer, the Learned Judicial Magistrate No.II, Thanjavur was pleased to take up the

case on file as C.C. No.1838/2025 and issued summon to the accused. On appearance of the accused along with Advocate furnished the copies of the case records u/s 230 of BNSS freely and thereafter, charges have been framed against the accused u/s 234, 235 and 236 r/w. Sec.263 of BNSS against the accused and read over to them, questioned, but they denied and claimed to be tried. Hence, to prove the charges framed against the accused, the prosecution examined 12 witnesses as PW1 to PW12 and marked 30 documents as Ex.P1 to Ex.P30 and the case properties were marked as PMO. 1 to 4.

5) After completion of prosecution side witnesses, the accused were questioned u/s 351 of BNSS with regard to the incriminating evidence found against them during the trial, for which, the accused have been denied as false. The accused have not let in any oral evidence or adduce any documentary evidence.

6) After hearing the arguments of the prosecution and defence and on analysis of evidence, the trial court had arrived at a conclusion that the accused had committed the offence u/s 234, 235 and 236 r/w. Sec.263 of BNSS. On 05.01.2026 charges were framed as envisaged u/s 234, 235 and 236 r/w. Sec.263 of BNSS against the accused u/s.305(a), 331(4) r/w.49

BNS and convicted under sec.271(2) of BNSS. A1 Mohideen is convicted for the offence u/s.305(a), 331(4) BNS to under to 3 years of simple imprisonment for 305(a) and 3 years simple imprisonment for 331(4) BNS and a fine for each offence Rs.25,000/-(totally Rs.50,000/- for A1) A2 Shajahan is convicted for the offences u/s.305(a), 331(4) BNS to under to 3 years of simple imprisonment for 305(a) and 3 years simple imprisonment for 331(4) BNS and a fine for each offence Rs.25,000/- (totally Rs.50,000/- for A2). A5 Aysha Parveen is convicted for the offences u/s.305(a), 331(4) r/w.49 BNS to under to 1.5 years of simple imprisonment for 305(a) and 1.5 years simple imprisonment for 331(4) r/w.49 BNS and a fine for each offence Rs.25,000/- (totally Rs.50,000/- for A5). The already undergone period of pre-trial incarceration with respect to A1, A2 and A5 shall be set off as against the imprisonment that has been awarded u/s.468 BNSS. The above said sentences shall run consecutively.

7) Aggrieved over by the judgment of conviction and sentence of imprisonment, the accused preferred this Criminal Appeal before this court on various grounds and sought to set aside the Judgment of trial court.

8) Gist of memorandum of grounds of appeal:

The judgment of the trial court is against law, weight of evidenced

and opposed to the facts and probabilities of the case. The trial court has convicted the appellant/accused based on only presumptions, surmises and conjectures which are not relevant to the circumstances of the case and there are no chain of circumstances to draw irresistible conclusion that the appellant/accused had committed the offence. The weight of the recovered items is contradictory to the description found in the relevant documents and further submitted that the identification of the accused was not properly investigated and the CCTV footage though allegedly available, has not been produced before the court and the CCTV footage are not produced before the trial court. It is essential to show the chain of video-links that led to the needle of suspicion pointing towards the accused persons. The confession witnesses are members of the DMK party and since the complainant is the wife of top tier politician in the said party, the confession witnesses all were interested witnesses. The identification parade has not conducted in this case and many more contradictions in the confession witness. Therefore, the judgment delivered by the Learned Judicial Magistrate No.II, Thanjavur in CC No.1838/2025 dated 028.04.2026 has to be set aside by allowing this Criminal Appeal.

09) In this Criminal Appeal, there is no oral and documentary

evidences adduced by both sides. The parties are referred to as per their status before the trial court.

10) The point for determination in this appeal is, whether this criminal appeal can be allowed or not?

11) Point:

Heard both side. The appellant/accused have preferred this appeal against the conviction and sentence for the offence u/s.305(a), 331(4) r/w.49 BNS passed in C.C. No.1838/2025 by the Learned Judicial Magistrate No.II, Thanjavur. The case of the prosecution is that on 28.11.2025 to their native Chithamalli. After staying there for 2 days, she returned 01.12.2025 at around 01.00 p.m., to her shock and dismay, she found that jewels worth more than 60 lakhs were missing. She informed her husband about this occurrence and informed the police in Tamil University Police Station. It is alleged that the accused Mohideen, Shajahan, Sathik Basha, Mohammed Yusuf, Aysha Parveen and Fathima Rasul jointly conspired and committed the aforesaid housebreaking offence and final report has been filed u/s.305(a), 331(4) r/w.49 BNS.

12) On perusal of trial court records, it is clearly shows that the PW1

defacto complainant deposed that she left to her native Chithamalli on 28.11.2025 and returned on 01.12.2025. She discovered upon her return, that the jewels were kept in the bedroom went missing. This fact was first conveyed to her driver to which the driver asked her to no touch anything in the bedroom. The husband of PW1 A.K.S.Vijayan returned within an hour and upon his instance PW1 lodged the said information to the Tamil University police on the very same day and she clearly listed the details of the stolen jewels in the said complaint. PW1 has clearly listed the details of the stolen jewels in the said complaint. The pictures of the jewels were marked as P.M.O.1 and P.M.O.2.

13) Further, the PW.12 is the investigation officer and upon receiving an information on 01.12.2025 from Jothimani that the front door of her residence in Sekaran Nagar has been breached, the PC 349 Nallasivam registered the FIR for offences u/s.305 (a) and 331(4) BNS. There is no delay in lodging the FIR and a day's delay in sending the FIR to Court does not affect the case of the prosecution. On perusal of PW2's deposition he says that two suspected persons walked into the area and watched the defacto complaint's residence. At this juncture the I.O started to monitor the other CCTV footage in the area surrounding the scene of crime and

found out that these two suspected persons had apparently stayed in various lodges. The registers of Lodge were perused and it is found that they were stayed those lodges by proved by their aadhar numbers and the mobile numbers. Upon verification of images of the suspected persons in the CCTNS portal, the I.O found out that these two are a slew of previous criminal cases pertaining to house breaking and the mobile numbers were used to tract the location of them. The jewels produced at the time of remand along with form 91. and immedietly, return of property petition was filed by PW1 and allowed. The testimony of PW1 inspires confidence.

14) It is clearly proved that the PW8 deposed that on 05.12.2025, Thanjavur police informed the Bank Manager that one Ayesha Parveen has placed stolen jewels in locker No.233 and PW8 along with four other persons accessed the locker room. Further, the signature of A5 seen in the register therein matches with the sign on 05.12.2025 in the presence of police personnel while effecting recovery. A5 has actively participated in the crime by safe keeping the stolen jewels in the aforesaid bank locker and her sign also matches with the sign on 05.12.2025 in the presence of police personnel while effecting recovery. The involvement of A5 by securing the jewels proves her part in the crime as an abettor.

15) Considering the facts and circumstances of the above cases, this court comes to the conclusion that the reason given by the trial court is fair and proper and there is no need for interference. Hence, this Appellate court proceeds to dismiss the Criminal appeal by confirming the judgment of conviction, sentence and imposing of fine passed by the trial court. Thus, the point is answered accordingly.

In the result, this Criminal Appeal is dismissed and the judgment and sentence passed on 02.04.2026 in Judicial magistrate No.II, Thanjavur in C.C. No.1838/2025 is confirmed. The trial court is directed to take steps to secure the accused to serve out the remaining period of sentence and also to collect the fine amount if not already collected.

The order was dictated to the Steno-typist, who directly typed into computer and printed out by her, corrected and pronounced by me in the open court, that this, **the 29th day of June 2026.**

II Additional District and Sessions Judge,

Thanjavur.

**Copy to:
The Judicial Magistrate No.II,
Thanjavur.**