

TNTS080007242024



**IN THE COURT OF ADDITIONAL DISTRICT MUNSIF / JUDICIAL
MAGISTRATE, SANKARANKOVIL**

Present: Selvi. Pavithra G, LL.M.,

Additional District Munsif / Judicial Magistrate,

Sankarankovil

Dated Thursday, the 04th day of June 2026

Calendar Case No. 284/2024

CNR No.TNTS08 – 000724 – 2024

The State represented by

The Sub-Inspector of Police,

Sankarankovil Town Police Station.

... Complainant

//Vs//

Devanesan @ Deva, (aged 19/2018)

S/o. Senthattikalai

Ramasamiyapuram 2nd street,

Sankarankovil

... Accused

1.	Case Number	CC No.284/2024	
2.	Name of the Police Station and Crime Number	Sankarankovil Town Police station Crime No.592/2018	
3.	Name of the Accused	Devanesan @ Deva	
4.	Date of Occurrence	22.07.2018	
5.	Date of Complaint	23.07.2018	
6.	Date of Arrest	10.11.2018	
7.	Period of remand	10.11.2018 to 24.11.2018 (15 days)	
8.	Date of release on bail	24.11.2018 (Condition bail)	
9.	Date of filing final report	29.11.2018	
10.	Date of Commencement of trial	20.06.2025	
11.	Date of Chief examination	PW1	24.07.2025
		PW2	24.07.2025
		PW3	26.03.2026
		PW4	26.03.2026
		PW5	19.05.2026

		PW6	22.05.2026
12.	Date of Cross examination	PW1	24.07.2025
		PW2	24.07.2025
		PW3	26.03.2026
		PW4	26.03.2026
		PW5	19.05.2026
		PW6	22.05.2026
13.	Date of Conclusion of trial	25.05.2026	
14.	Plea of the accused	Not guilty	
15.	Finding of the Court	The accused is found not guilty for the offence u/s. 379 of IPC and is acquitted u/s. 248(1) of Cr.P.C.	

This case came up for a final hearing on 25.05.2026 in the presence of Thiru.Salaman Jaccob, Assistant Public Prosecutor Gr.I representing the State, and Advocate Thiru.T.Gandhikumar, representing the Accused. After hearing both side arguments and perusing the documents and having stood over for consideration till this day, this Court pronounced the following:

JUDGMENT

1. The Sub-Inspector of Police, Sankarankovil Town police station filed a final report alleging that on 22.07.2018 at about night 1.00, the accused stole TVS Jupiter bearing registration no. TN 79 C 4242 (which is of the value of Rs. 40,000), which belongs to LW1 – Anitha and which was parked before LW1's house in Gomathiyapuram 2nd street. Hence the accused was charged for the offences u/s. 379 of Indian Penal Code, 1860 (Hereinafter IPC).

2. Cognizance:

On perusal of the charge sheet, this Court was satisfied that a prima facie case was made out against the accused. Hence, this Court took cognizance of the offences u/s. 379 of IPC as against the accused. Copies of the records was furnished to the accused, free of cost.

3. Framing of Charges:

On perusal of the records, this Court was satisfied that there is ground for proceeding against the accused. Hence, this Court framed charge for the offences u/s. 379 of IPC as against the accused. Having understood the charge, the accused pleaded not guilty and claimed to be tried. Hence, this Court proceeded with trial of the case.

4. Prosecution Witnesses:

In order to prove its case, the prosecution examined about 6 witnesses as PW1 to PW6. Ex.P.1 to Ex.P.13 were marked on behalf of the prosecution side. M.O.1 was marked. The Learned Assistant Public Prosecutor dispensed with the

examination of the rest of the witnesses. Hence, the prosecution side evidence was closed.

5. Brief of the Prosecution side evidence:

i) PW1 – Anitha deposed in her chief examination that she knows the accused; that on 22.07.2018 at 10.00 p.m., she had parked her Jupiter two-wheeler vehicle bearing registration no. TN 79 C 4242 before her house. PW1 further deposed that on the next day (i.e.) on 23.07.2018, at 6.00 a.m., when she came out of her house and saw, she found that her vehicle was not there. PW1 then deposed that value of the stolen two-wheeler vehicle amounts to Rs. 40,000. PW1 further deposed that she searched for her two-wheeler vehicle in the surrounding areas and that she could not find the said two-wheeler vehicle. She then deposed that she went to the police station and gave complaint in that regard. PW1 then admitted that the signature in complaint was her signature. Complaint was marked as Ex.P.1. PW1 further deposed that about 1 – ½ months after registration of the case, police asked her to come to the police station, where she identified the two-wheeler vehicle which was stolen. PW1 then deposed that she also identified the accused in the station. PW1 further deposed that she filed petition in the Court and obtained her two-wheeler vehicle. PW1 then admitted that the vehicle in 4 photos shown to her was her stolen vehicle. Photo of Jupiter two-wheeler vehicle bearing registration no. TN 79 C 4242 was marked as Ex.P.2. The Jupiter two-wheeler vehicle bearing registration no. TN 79 C 4242 was marked as M.O.1. PW1 also deposed that police investigated her.

ii) PW2 – Murugaiah deposed in his chief examination that he was currently residing at Sankarankovil; that he was working as car driver and that PW1 is his

wife. He then deposed that on 22.07.2018 at about 10.00 p.m., they had parked Jupiter two-wheeler vehicle belong to them in front of their house. PW2 then deposed that on the next day at about 7.00 a.m., they found that their two-wheeler vehicle was missing. PW2 further deposed that they could not find their vehicle despite searching for the same in the surrounding area and that his wife went to police station and gave complaint. PW2 then deposed that about 2 months after, police asked them to come to the police station and that they identified their two-wheeler vehicle. PW2 further deposed that he does not know the accused and that police did not investigate him.

iii) PW3 – Muthumani deposed in his chief examination that the first signature in observation magazhar was his signature; that he had put the said signature as requested by the police and that he does not know the contents written therein. PW3's signature in observation magazhar was marked as Ex.P.3. PW3 also deposed that police did not investigate him.

iv) PW4 – Vairamuthu deposed in his chief examination that he was working as driver and that he does not know the accused. PW4 then deposed that the first signature in confession statement and seizure magazhar were his signatures. He then deposed that he put those signatures as requested by the police and that he does not know as to what was written therein. PW4's signature in confession statement was marked as Ex.P.4. PW4's signature in seizure magazhar was marked as Ex.P.5. PW4 also deposed that police did not investigate him.

v) PW5 – Soundhira rajan deposed in his chief examination that he was currently working as driver and that he does not know the accused who was produced before this Court through VC. PW5 further deposed that the second

signature in confession statement and seizure magazhar were his signatures. PW5 then deposed that in 2018 at about 7.30 hrs., the police had obtained his signature near Sankarankovil railway feeder road signal and that he had signed as requested by the police. PW5 further deposed that he does not know the contents therein. PW5's signature in confession statement was marked as Ex.P.6. PW5's signature in seizure magazhar was marked as Ex.P.7. PW5 then deposed that no property was seized before him. PW5 also deposed that police did not investigate him.

vi) PW6 – Rajagopal deposed in his chief examination that he worked as police SI and had retired now. He then deposed that on 18.09.2018, when he was working as SI in Sankarankovil town police station, the head constable Krishnasamy Thalaivar who was in station duty, received the complaint given by Anitha and based on the said complaint, he registered FIR with crime no. 592/2018 u/s. 379 of IPC. First Information report was marked as Ex.P.8. PW6 then deposed that original of the complaint and FIR were sent to Sankarankovil JM Court; that copies of the same were sent to the concerned authorities and that one of the copies was submitted for the perusal of PW6 for investigation. PW6 further deposed that he took up the said FIR for his investigation; that on the same day, at 14.00 hrs., he went to the place of occurrence, investigated it in the presence of witnesses, namely, Muthumani and Paramasivan and prepared observation magazhar and rough sketch. Observation magazhar was marked as Ex.P.9. Rough sketch was marked as Ex.P.10. PW6 then deposed that he investigated and recorded the statements of aforementioned witnesses at the place of occurrence. PW6 further deposed that he investigated and recorded the statements of following prosecution witnesses, namely, Anitha, Murugaiah, Muthu and head constable Krishnasamy Thalaivar who registered FIR. PW6 then deposed that on 10.11.2018 at 9.45 a.m.,

PW6 arrested the accused and investigated him in the presence of witnesses, namely, Vairamuthu and Soundhira rajan. PW6 then deposed that during such investigation, the accused voluntarily gave a confession statement; that in the said confession statement, the accused had stated about stealing the two-wheeler vehicle from place of occurrence on 22.07.2018 at night 1.00 and that the accused had stated about removing registration number plate of the two-wheeler vehicle on the same day, at Coimbatore. PW6 further deposed that based on the said confession statement of the accused, on 10.11.2018 at 11.00 hrs., PW6 seized TVS Jupiter two-wheeler vehicle without number plate at the front and back side of the said vehicle, at Railway feeder junction in the presence of the aforementioned witnesses and PW6 prepared seizure magazhar in that regard. Admissible portion of the accused's confession statement was marked as Ex.P.11. Seizure magazhar was marked as Ex.P.12. PW6 further deposed that at the same place, he investigated and recorded the statement of persons who were witnesses to confession statement and seizure magazhar. PW6 then deposed that he brought the arrested accused and seized material objects to the station; that he sent the accused to be produced before the Court and that he submitted the material objects before the Court through Form – 91. Form – 91 was marked as Ex.P.13. PW6 also deposed that on the same day, he completed investigation and filed final report u/s. 379 of IPC as against the accused.

6. Proceedings u/s. 313 of Cr.P.C.:

After the completion of prosecution evidence, accused was questioned u/s. 313 of Cr.P.C. about incriminating evidences against him and he denied it. No Oral

or documentary evidence was adduced by the defence side. Hence, the defence side evidence was closed.

7. Point for determination:

On hearing both side arguments and perusing the documents and records, the questions that arises for consideration are:

Whether the Prosecution has proved the allegation u/s. 379 of IPC as against the accused beyond all reasonable doubts?

8. Appreciation of Evidence and Observations of the Court:

8.1. Both side arguments were heard and records were perused. Before looking into the point for consideration, it is pertinent to note that the burden to prove allegations against the accused beyond all reasonable doubts lies on the prosecution as u/s. 101 of Indian Evidence Act, 1872.

8.2. The Case of the prosecution is that on 22.07.2018 at about night 1.00, the accused stole TVS Jupiter bearing registration no. TN 79 C 4242 (which is of the value of Rs. 40,000), which belongs to PW1 and which was parked before PW1's house in Gomathiyapuram 2nd street. Hence, in this case, charge under section 379 of IPC was framed against the accused. It is now the burden of proof of prosecution to prove that the accused had committed the aforesaid offence charged against him.

8.3. On the prosecution side, PW1 to PW6 were examined. Ex.P.1 to Ex.P.13 and M.O.1 were marked. Out of the said prosecution witnesses, PW1 is the defacto complainant. PW2 is hearsay witness. PW3 is the observation magazhar witness.

PW4 and PW5 are witnesses to confession statement and seizure magazhar. PW6 is the investigation officer witness.

8.4. In final report, date and time of occurrence of the offence have been mentioned as 22.07.2018 and night 1.00. In Ex.P.1., it has been mentioned that on 22.07.2018 at 10.00 p.m., PW1 parked her two-wheeler TVS Jupiter vehicle bearing registration no. TN 79 C 4242 before her house and that on the next day (i.e.) on 23.07.2018 at 6.00 a.m., PW1 found that her two-wheeler vehicle was found missing. As per Ex.P.1., the theft should have occurred between 22.07.2018 at 10.00 p.m. and 23.07.2018 at 6.00 a.m. In Ex.P.8., it has been mentioned that the theft occurred between 22.07.2018 at 22.00 hrs. and 23.07.2018 at 06.00 hrs. In Ex.P.1. and Ex.P.8., it has been mentioned that complaint was filed on 18.09.2018. On perusal of the aforementioned facts, this Court is of the opinion that there has been delay of about 2 months in filing of complaint by PW1 with regards to the theft of her two-wheeler vehicle. With regards to the filing of complaint, during her cross examination, PW1 has deposed as follows: “புகார் மனு யாரால் எழுதப்பட்டது என்றால் போலீசார் எழுதிக் கொடுத்தனர். வண்டி காணாமல் போன மறுநாளே நான் புகார் மனு அளித்து வழக்கு பதிவு செய்யப்பட்டது என்றால் சரிதான். எனது வண்டி காணாமல் போனதிலிருந்து 1 – ½ மாதத்தில் எனது வண்டியை கண்டு பிடித்து விட்டார்கள் என்றால் சரிதான்.” In this regard, PW2 who is the husband of PW1, has deposed during his cross examination as follows: “22.07.2018 ம் தேதி எங்களது இருசக்கர வாகனம் காணாமல் போன பிறகு மறுநாளே எனது மனைவி புகார் அளித்த அதன்பேரில் வழக்கு பதிவு செய்யப்பட்டதா என்றால் எனக்கு தெரியாது.” On analysis of the aforementioned testimonies of PW1 and PW2, this Court finds that their testimonies are contradictory to each other. As per PW1’s testimony, she

had given complaint on the next day after the theft of her two-wheeler vehicle and that case against the accused was registered on the same date. This is in contradiction with the contention given in Ex.P.1. (complaint given by PW1), where in it has been mentioned that complaint was filed on 18.09.2018. On perusal of PW2's testimony, this Court finds that his testimony does not clear up the aforementioned discrepancy (between PW1's testimony and Ex.P.1) with respect to the date on which complaint was filed, since he has deposed in his cross examination that he does not know if his wife (PW1) gave complaint regarding theft of her two-wheeler vehicle in the police on the next day after the alleged date of occurrence of theft. Besides the said witnesses, no other prosecution witnesses have deposed anything which bring clarity with regards to the discrepancy between PW1's testimony and Ex.P.1., with respect to the date on which the complaint was filed by PW1. In such circumstances, this Court is of the opinion that the discrepancy between PW1's testimony and Ex.P.1., with respect to the date on which complaint was filed is material in nature and that such material discrepancy remains unresolved. In this context, this Court is also of the opinion that neither the prosecution nor PW1 has adduced satisfactory reasons for the 2 months delay in filing of complaint and that such failure to adduce reason for the 2 months delay in filing of such complaint gravely weakens the prosecution case.

8.5. With regards to the incident, PW1 has deposed in her chief examination that she knows the accused; that on 22.07.2018 at 10.00 p.m., she had parked her Jupiter two-wheeler vehicle bearing registration no. TN 79 C 4242 before her house; that on the next day (i.e.) on 23.07.2018, at 6.00 a.m., when she came out of her house and saw, she found that her vehicle was not there; that she searched for her two-wheeler vehicle in the surrounding areas and that she could not find the

said two-wheeler vehicle; that she went to the police station and gave complaint in that regard. PW1 then admitted that the signature in complaint was her signature; that about 1 – ½ months after registration of the case, police asked PW1 to come to the police station, where she identified the two-wheeler vehicle which was stolen and that she also identified the accused in the station. As per the aforementioned PW1's chief examination testimony, PW1 had identified the accused as the person who had stolen her vehicle. When PW1 was questioned with regards to the identification of accused during her cross examination, she deposed as follows: “நான் காவல் நிலையம் சென்று எதிரியை பார்த்த போது அவர் எதற்காக அங்கு இருந்தார் என்று தெரியுமா என்றால் முதலில் எனக்கு தெரியாது. போலீசார் கூறிய பிறகு எனது வண்டி எதிரியால் திருடப்பட்டது என்று தெரிந்து கொண்டேன்.” On joint consideration of the aforementioned chief and cross examination testimony of PW1, this Court is of the opinion that PW1 came to know that it was the accused who had stolen her vehicle, only after being informed about the same by police, when she went to the police station and that PW1 did not directly witness the accused stealing her two-wheeler vehicle. With regards to the theft incident, PW2 has deposed in his chief examination that on 22.07.2018 at about 10.00 p.m., they had parked Jupiter two-wheeler vehicle belong to them in front of their house; that on the next day at about 7.00 a.m., they found that their two-wheeler vehicle was missing; that they could not find their vehicle despite searching for the same in the surrounding area and that his wife went to police station and gave complaint; that about 2 months after, police asked them to come to the police station and that they identified their two-wheeler vehicle. PW2 has further deposed in his chief examination that he does not know the accused. With regards to identification of the accused in police station, PW2 has deposed in his

cross examination as follows: “நான் முதல் விசாரணையில் கூறியவாறு 2 மாதம் கழித்து காவல் நிலையம் சென்ற போது ஆஜர் எதிரி காவல் நிலையத்தில் இல்லை என்றால் சரிதான்.” On comparative analysis of the aforementioned testimony of PW1 in light of PW2, this Court finds that both the said testimonies are in contradiction to each other with respect to identification of the accused at police station by PW1. Such contradiction is material and affects the credibility of PW1’s testimony regarding identification of the accused in police station. Further, from the afore mentioned discussion, this Court is of the opinion that neither PW1 nor PW2 have directly witnessed the accused stealing PW1’s two-wheeler vehicle and that neither of the said two witnesses have deposed anything which establishes the presence of the accused in the place of occurrence on the alleged date and time of occurrence of the theft.

8.6. On perusal of testimony of PW3 (observation magazhar), this Court finds that PW3 has turned hostile and has deposed that he does not know the contents of observation magazhar in which he put his signature. On perusal of testimonies of witnesses to confession statement and seizure magazhar, namely, PW4 and PW5, this Court finds that both the witnesses have deposed to not know the accused; that they put the signature in confession statement and seizure magazhar, as requested by the police and that they did not know the contents written therein. In this regard, PW5 has also deposed in his chief examination that no material objects were seized before him. On perusal of the aforementioned testimonies of PW4 and PW5, this Court is of the opinion that the above said testimonies of PW4 and PW5 make Ex.P.11 (admissible portion of confession statement of the accused) and Ex.P.12 (seizure magazhar) unreliable. In this context, this Court finds it essential to point out that the prosecution has failed to

prove that the material object was actually seized from the accused. Besides the aforementioned witnesses, the remaining witness namely PW6 is the investigation officer witness who has merely deposed regarding the investigation process carried out in the case. PW6 has not deposed anything which establishes the presence of accused in the place of occurrence on the alleged date and time of occurrence of the offence.

8.7. In light of the above discussion, this Court is of the view that the prosecution has failed to establish the very presence of accused in the place of occurrence on the alleged date and time of occurrence of the theft and that prosecution has failed to establish the nexus between the material object and the accused. Hence, this Court concludes that the prosecution has failed to prove the charge u/s. 379 of IPC as against the accused, beyond all reasonable doubts.

8.8. Order with respect to property: On perusal of records, it is found that interim custody of M.O.1 (PR No. 536/2018) was granted to PW1 through order in Cr.M.P. No. 7400/2018. This Court orders that the interim custody of M.O.1 granted to PW1 shall stand absolute.

9. Finding of the Court:

The prosecution has failed to prove the charge u/s. 379 of IPC as against the accused, beyond all reasonable doubts.

10. Decision:

In the result,

The accused is found not guilty for the offence u/s. 379 of IPC and is acquitted u/s. 248(1) of Cr.P.C.

Interim custody of M.O.1 (PR No. 536/2018) granted to PW1 through order in Cr.M.P. No. 7400/2018 is made absolute. Bond executed by PW1 in this regard shall stand cancelled after expiry of appeal or appeal period.

If any, bail bonds executed by the accused, are ordered to be cancelled after the expiry of the appeal period.

This judgment was typed by me in my laptop, corrected and pronounced by me in the Open Court on 04th June, 2026.

Additional District Munsif / Judicial Magistrate

Sankarankovil.

Appendix – A

Prosecution side Witnesses:

S.No.	Rank of Witness	Name of Witness	Remarks
1.	PW1	Anitha	Defacto complainant
2.	PW2	Murugaiah	Hearsay witness
3.	PW3	Muthumari	Observation magazhar witness
4.	PW4	Vairamuthu	Witnesses to confession statement and seizure magazhar

5.	PW5	Soundhirarajan	Witnesses to confession statement and seizure magazhar
6.	PW6	Rajagopal	Investigation officer witness

Appendix – B

Prosecution side Exhibits:

S.No.	Exhibit	Description of Document
1.	Ex.P.1	Complaint
2.	Ex.P.2	Photo of Jupiter two-wheeler vehicle bearing registration no. TN 79 C 4242
3.	Ex.P.3	PW3's signature in observation magazhar
4.	Ex.P.4	PW4's signature in confession statement
5.	Ex.P.5	PW4's signature in seizure magazhar
6.	Ex.P.6	PW5's signature in confession statement
7.	Ex.P.7	PW5's signature in seizure magazhar
8.	Ex.P.8	First Information report
9.	Ex.P.9	Observation magazhar
10.	Ex.P.10	Rough Sketch
11.	Ex.P.11	Admissible portion of the accused's confession statement

12.	Ex.P.12	Seizure magazhar
13.	Ex.P.13	Form – 91

Appendix – C

Material Object:

S.No.	Rank	Description of Material Object
1.	M.O.1	The Jupiter two-wheeler vehicle bearing registration no. TN 79 C 4242

Appendix – D

Defence side Witness – Nil

Appendix – E

Defence side Exhibits – Nil

Additional District Munsif / Judicial Magistrate

Sankarankovil.