

IN THE COURT OF THE JUDICIAL MAGISTRATE III, TIRUPATHUR,
TIRUPATHUR DISTRICT

Present: Tr. S. Kovendhan, B.A., LL.B., (Hons.)

Judicial Magistrate III (FAC), Tirupathur

Thursday the 2nd day of July 2026

C.C. No. 137 of 2022

{CNR No. TNTU02-005429-2022}

State rep by.

The Inspector of Police,

GRP Jolarpet Railway Police Station,

Crime No. 77/2022

.... **Complainant**

--Vs--

Sabeer (Kooga) (Age. 35) S/o. Ikbal

.... **Accused**

CASE SUMMARY

<i>Statement as per Rule 106 of the Criminal Rules of Practice, 2019</i>		
1.	Serial Number	Calendar Case (C.C.) No. 137 of 2022
2.	Name of the Police Station and Crime Number	The Inspector of Police, GRP Jolarpet Railway Police Station, Crime No. 77 of 2022 ...Complainant
3.	Name of the Accused	Sabeer (Kooga) ...Accused
4.	Father's name	Ikbal
5.	Occupation	--
6.	Residence	(Residing at No.52, Aathumedu, Aadha School Street, Vaniyambadi Taluk, Tirupathur District.)
7.	Age	35
8.	Date of Occurrence	14.05.2022
9.	Date of Complaint	14.05.2022
10.	Date of chargesheet and Date of which chargesheet was filed into Court	Date of Charge sheet: 04.06.2022 Date of filing of Charge sheet in Court: 16.06.2022

11.	Date of Apprehension	14.05.2022-10.08.2022, 25.03.2023-02.06.2023,26.10.2025 to till date
12.	Date of Release on bail	--
13.	Date of Commitment	Not Applicable
14.	Date of Commencement of Trial (The date of furnishing of documents u/s.207, Cr.P.C.)	23.06.2022
15.	Charge framed against the accused u/s. 240(1) of the Code	23.06.2022
16.	Closure of Trial	02.07.2026
17.	Date of examination of the accused U/s. 313 of the code	24.06.2026
18.	Sentence or Order	In light of the discussion and conclusions drawn under the previous head, this Court holds that the prosecution HAS FAILED TO PROVE the charges against the accused beyond all reasonable doubts. Hence, the accused, SABEER (KOOGA) S/o. IKBAL is FOUND NOT GUILTY and ACQUITTED of the offences u/s.379 of Indian Penal Code, 1860 in accordance with section 248(1) of the Code of Criminal Procedure, 1973.
19.	Service of copy of judgement or finding on accused	Copy of the judgment was uploaded on CIS and made available for viewing on E-Courts portal.
20.	Explanation of delay	The delay was occasioned due to the delay in production of witnesses by the prosecution.
21.	Property order u/s.452 of the Code of Criminal Procedure, 1973	Case property in C.P.No.59/2022 dated 16.05.2022 i.e., 1. Oppo Cell phone –1 (வெள்ளை நிறம்), 2. Lenova Tab (கருப்பு கவர் போட்டது) சில்வர் கலர்-1, handed over to the de-facto complainant as interim custody vide Order of this Court dated 16.05.2022 in Crl.M.P.No.3689/2022 shall be allowed to be retained in the permanent custody of the de-

		facto complainant/owner of property in accordance with section 452 of the Code. Bonds if any executed by the de-facto complainant and sureties shall be cancelled.
22.	Counsel for the Complainant	Mrs.Usha , Assistant Public Prosecutor Grade-II
23.	Counsel for Accused	Mr.D. Krishnan , Advocate
24.	<i>Paragraphs in the judgement assigned continuous paragraph numbers in due obedience of the direction of the Hon'ble Supreme Court of India in BS Hari Commandant vs Union of India and others (2023 Live Law SC 303)</i>	

This case came up for final hearing before me on **02.07.2026** in the presence of **Mr.D. Krishnan, B.A., B.L.**, learned counsel for the accused and the learned Assistant Public Prosecutor, **Mrs.Usha** for the State. Having heard both sides, perused the records and having stood over it for consideration, this Court on **02.07.2026** delivers the following,

JUDGMENT

I. CASE OF THE PROSECUTION

1. The first informant in this case is Mr. Aravindhkumar, S/o. Narendhir Gowda. The prosecution case is that, on 14.05.2022 at about 03:25 a.m., while the complainant was travelling in Train No. 17230, Sabari Express, in Coach No. S6, Berth No. 46, he kept his bag containing a white-coloured OPPO mobile phone and a black-coloured Lenovo tablet and was asleep. Taking advantage of the situation, the accused herein dishonestly committed theft of the said bag along with the white-coloured OPPO mobile phone and the black-coloured Lenovo tab kept inside it, with the intention of causing wrongful loss to the complainant and wrongful gain to himself.
2. Based on the complaint lodged by the de facto complainant, a First Information Report in Crime No. 77 of 2022 under Section 379 of the Indian Penal Code was registered against unknown accused persons for the offence punishable under

Section 379 of the Indian Penal Code, 1860, at Jolarpet Railway Police Station. The accused was arrested in connection with this case on 14.05.2022.

3. At the completion of investigation in the case, Final Report dated 04.06.2022 was laid out against the accused, Sabeer (Kooga) (Age. 35) S/o. Ikbal for the offences u/s.379 of the Indian Penal Code, 1860.

II. THE CHARGE AND PLEA OF ACCUSED

4. Upon service of the summons u/s.204 of the Code of Criminal Procedure, 1973 (“Code”) and appearance of the accused; copies of the final report and documents were given to the accused in compliance with section 207 of the Code on 23.06.2022.
5. Thereafter, the charge for the offences u/s. 379 of the Indian Penal Code, 1860 was read out and explained to the accused as per section 240(1) of the Code. When the accused was questioned on the charge, he pleaded not guilty and claimed to be tried. The plea of the accused was recorded and case was posted for trial in accordance with section 242(1) of the Code.

III. EVIDENCE ADDUCED BY THE PROSECUTION

6. In order to prove the charge against the accused, the prosecution examined witnesses, P.W.1 to P.W.4. Exhibits P.1 to P.9 and M.O.I and M.O.II was marked on behalf of the prosecution.
7. P.W.1 is the first informant in the case. P.W.2 and P.W.3 are witnesses to the confession statement of the accused and seizure mahazar in the case. P.W.4 is a police officer examined as an additional witness in this case. He has deposed regarding the investigation conducted and the procedural steps taken by the Investigating Officer during the course of the investigation.

IV. QUESTIONING u/s.313(1)(b) OF Cr. P.C., 1973

8. The circumstances appearing in the evidence against the accused was put to him and his answer was elicited. The accused replied that the case against him is false. The accused further stated that there are no defence witnesses and evidence.

V. ARGUMENTS ADVANCED

9. The prosecution did not place any oral arguments. The defence submitted that the prosecution story is false and that they failed to prove the charges against the accused beyond all reasonable doubt. The defence prayed for acquittal of the accused.

VI. POINT FOR DETERMINATION

10. Whether the prosecution has proved beyond all reasonable doubts that the accused has committed the offences charged against him?

VII. APPRECIATION OF EVIDENCE AND FACTS

11. As per the prosecution, on 14.05.2022 at about 03:25 a.m., the accused had committed theft of white-coloured OPPO mobile phone and the black-coloured Lenovo tab owned by the complainant travelling in the Sabari Express. Hence, the prosecution charged the accused of the offences u/s.379 of the Indian Penal Code, 1860.
12. A glance at the evidence of the prosecution witnesses will reveal that none of the witnesses have witnessed first-hand the act of theft by the accused. Hence, it can be perceived that the case is based on circumstantial evidence/indirect evidence.
13. In State of *Uttar Pradesh vs. Dr.R.P.Mittal (1992 3 SCC 300)*, the essential ingredients to prove the guilt by circumstantial evidence were spelt by the Hon'ble Supreme Court of India as follows:

- i. Circumstances from which conclusion is drawn should be fully proved.
- ii. Circumstances should be conclusive.
- iii. All facts so established should be consistent only with the hypothesis of guilt and inconsistent with innocence of the accused.
- iv. Circumstances should exclude the possibility of guilt of a person other than the accused.

14. Therefore, in this background, this Court has to examine whether the prosecution through its witnesses has proved the circumstances leading only to the guilt of the accused.

● **With respect to the evidence of P.W.1**

15. P.W.1, Mr. Aravindh S/o. Narendhar is the first informant/alleged victim in the occurrence. P.W.1 states that on On 14.05.2022, while he was travelling from Hyderabad to Tiruppur by Train No. 17230, Sabari Express, at about 03:25 a.m., when the train was nearing Jolarpettai, an unknown person stole his bag, which he had kept near his seat. As he was unable to trace the bag despite searching for it, he lodged a complaint with the Jolarpettai Railway Police Station, and the same is marked as Ex. P1.

16. P.W.1 further states that, few days later, the Jolarpet Police officials informed him that his Oppo Mobile phone and Lenova Tab had been recovered. The above said Oppo Mobile phone (M.O.I) and Lenova Tab (M.O.II) was handed over to the witness on interim custody.

17. **During his evidence P.W.1 didn't stated any information regarding the identity of the accused. Hence his evidence didn't incriminate the accused with the alleged theft.**

● **With respect to the alleged recovery of the case property in the case**

18. The major incriminating circumstance relied upon by the prosecution in the case is the alleged recovery of the case property based on the confession statement of the accused. In this context, the evidence of witnesses, P.W.2 and P.W.3 assume great significance. Before moving to the evidence of P.W.2 and 3, it is important to see what P.W.4/Investigation Officer has to say about the arrest of the accused, alleged confession statement of the accused and recovery of the case property from him.
19. P.W.4, Mr. Muthukrishnan S/o. Mani is a police officer examined as an additional witness in this case. He has deposed regarding the investigation conducted and the procedural steps taken by the Investigating Officers Mr. Sridhar and Mrs. Elavarasi during the course of the investigation. With respect to the arrest of the accused and alleged recovery of the case property from him, the evidence of P.W.4 is as follows:

"பின்னர், 14.05.2022 அன்று காலை 06.30 மணிக்கு ஜோலார்பேட்டை இருப்பு பாதை நடை மேடை எண். 1 தெற்கு பகுதியில் இருந்த ஒரு நபரை சந்தேகத்தின் பேரில் பிடித்து விசாரணை செய்ய அவர் முண்ணுக்கு பின் முரணாக அளித்த தகவலின் அடிப்படையில், சாட்சிகள் திரு. திருப்பதி மற்றும் திரு. சரவணன் ஆகியோர் முன்னிலையில் எதிரி சபீர் (கூகா) தானாக முன்வந்து கொடுத்த ஒப்புதல் வாக்குமூலத்தின் அடிப்படையில் எதிரி சபீர் (கூகா) இவ்வழக்கில் ஈடுபட்டது தெரியவந்தது. (எதிரி கொடுத்த ஒப்புதல் வாக்குமூலத்தின் அனுமதிக்கப்பட்ட பகுதி என்னால் அ.சா.ஆ 7 ஆக குறியீடு செய்யப்படுகிறது.) பின்னர், எதிரியை அன்றைய தினம் காலை 06.30 மணிக்கு காரணம் கூறி கைது செய்து காவல் நிலையம் அழைத்து வந்து மேற்படி அதே சாட்சிகள் முன்னிலையில் எதிரி தானாக எடுத்து ஆஜர்

செய்த Oppo செல்போன் -1, கருப்பு கலர் கவர் போடப்பட்ட சில்வர் கலர் Lenovo Tab ஐ 08.15 மணிக்கு கைப்பற்றுதல் மகசர் மூலம் கைப்பற்றியுள்ளார் (அந்த கைப்பற்றுதல் மகசர் அ.சா.ஆ 8 ஆக குறியீடு செய்யப்படுகிறது.) பின்னர் கைப்பற்றப்பட்ட வழக்கு சொத்தினை படிவம் - 91 மூலம் நீதிமன்றத்திற்கு அனுப்பி வைத்துள்ளார். (அந்த படிவம் - 91 அ.சா.ஆ. 9 ஆக குறியீடு செய்யப்படுகிறது). பின்னர், கைது செய்யப்பட்ட எதிரியை உரிய திரேக பரிசோதனை செய்து நீதிமன்ற காவலுக்கு உட்படுத்தியுள்ளார் "

20.The admissible portion of the confession statement of the accused is marked as exhibit P.7, Seizure Mahazar marked as exhibit.P8 and the Form - 91 is marked as exhibit P.9.

21.As per P.W.4, on 14.05.2022 at about 08.15 A.M, the case properties were recovered from the accused in the police station, in the presence of witnesses, Triupathi and Saravanan.

● With respect to the evidence of P.W.2 and P.W,3

22.P.W.2, Mr. Saravanan S/o. Veerappan and P.W.3, Mr. Tirupathi S/o. Munisami are the alleged witnesses to the confession statement of accused and seizure mahazar in the case. P.W.2, didn't identify the accused in the dock as long time has been passed, he could not remember him. He admitted that witness signature in the confession statement of the accused and Seizure Mahazar as his own. His 2nd signatures in confession statement of the accused and seizure mahazar are marked as Ex. P2, P3 respectively

23. P.W.3 didn't identify the accused in the dock as long time has been passed, he could not remember him. He admitted that witness signature in the confession

statement of the accused and Seizure Mahazar as his own. His 1st signatures in confession statement of the accused and seizure mahazar are marked as Ex. P4, P5 respectively.

24.Even though P.W.2 and P.W.3 (Confession Statement and Seizure Mahazar witnesses) are deposed that they had been signed in confession statement of the accused and seizure mahazar as witnesses and they didn't stated about the alleged recovery of case property from the accused, they did not stated that accused gave the alleged confession statement voluntarily. Hence, the admissibility of the alleged confession statement becomes questionable.

25.Hence, the evidence of the Investigation Officer/P.W.4 is not corroborated with the evidence of P.W.2 and P.W.3.

26.The contradictory evidence of witnesses P.W.2, P.W.3 with Investigation officer/P.W.4 create a suspicion over the alleged recovery of the case property from the accused.

27.Hence, Recovery of case property based upon the confession statement given by the accused is not proved through the prosecution side witnesses.

28.Therefore, having due consideration to the overall facts and circumstances of the case and the evidence of prosecution witnesses, P.W.2 to P.W.4, this Court is of the view that it is not proved beyond all reasonable doubts that the case properties were recovered from the accused herein on 14.05.2022 at 08:15 Hrs in the manner alleged by the prosecution. As the Prosecution had failed to link the Chain of Circumstances, proving the guilt of the accused, the involvement of the accused in the occurrence on 14.05.2022, remains Doubtful. As per Principles of Natural Justice, Benefit of Doubt should be given to the accused.

VIII. THE DECISION

29.In light of the discussion and conclusions drawn under the previous head, this Court holds that the prosecution HAS FAILED TO PROVE the charges against the accused beyond all reasonable doubts. **Hence, the accused, Sabeer (Kooga) S/o. Ikbali is FOUND NOT GUILTY and ACQUITTED of the offences u/s.379 of Indian Penal Code, 1860 in accordance with section 248(1) of the Code of Criminal Procedure, 1973.**

IX. PROPERTY ORDER u/s. 452 OF THE CODE

30.Case property in **C.P.No.59/2022 dated 16.05.2022** i.e., 1. Oppo Cell phone – (வெள்ளை நிறம்), 2. Lenova Tab (கருப்பு கவர் போட்டது) சில்வர் கலர், handed over to the de-facto complainant as interim custody vide Order of this Court dated 16.05.2022 in CrI.M.P.No.3689/2022 shall be allowed to be retained in the permanent custody of the de-facto complainant/owner of property in accordance with section 452 of the Code. Bonds if any executed by the de-facto complainant and sureties shall be cancelled.

X. BOND u/s.437-A OF THE CODE OF CRIMINAL PROCEDURE, 1973

31.The accused shall furnish an own bond for a sum of Rs.10,000/- in accordance with section 437A of the Code of Criminal Procedure, 1973 to appear before the Higher Court as and when such Court issues notice in respect of any appeal or petition against the judgment. The bond shall remain in force for six months from the date of its execution.

Directly typed by me on my personal laptop, corrected and pronounced by me in Open Court on this 02nd day of July, 2026.

**Judicial Magistrate No. III (FAC),
Tirupathur.**

LIST OF EVIDENCE

(As per Rule 107(1) of Criminal Rules of Practice, 2019)

For Prosecution

Witnesses:

S.No.	Examined as	Name of Witness	Description of witness	Exhibits Marked
1.	P.W.1	Mr. Aravindh S/o. Narendhar	First Informant	P.1, M.O. I and M.O.II
2.	P.W.2	Mr. Saravanan S/o. Veerappan	Confession and Seizure Mahazar Witness	P.2, P.3
3.	P.W.3	Mr. Tirupathi S/o. Munisami	Confession and Seizure Mahazar Witness	P.4, P.5
4.	P.W.4	Mr. Muthukrishnan S/o. Mani	Investigation Officer witness	P.6 to P.9

Documents:

S.No.	Exhibits	By whom marked	Date	Description of Document
1.	P.1	P.W.1	18.02.2026	Complaint
2.	P.2	P.W.2	16.03.2026	2 nd Signature at confession statement of the accused
3.	P.3	P.W.2	16.03.2026	2 nd Signature at Seizure Mahazar
4.	P.4	P.W.3	16.03.2026	1 st Signature at confession statement of the accused
5.	P.5	P.W.3	16.03.2026	1 st Signature at Seizure Mahazar
6.	P.6	P.W.4	16.06.2026	First Information Report in Crime No.77 of 2022

7.	P.7	P.W.4	16.06.2026	Admitted portion of confession statement of the accused
8.	P.8	P.W.4	16.06.2026	Seizure Mahazar
9.	P.9	P.W.4	16.06.2026	Form -91

Material Object

S.No.	Material Object	By whom marked	Date	Description of Material Object
1.	M.O -I	P.W.1	18.02.2026	Oppo Mobile Phone
2.	M.O -II	P.W.1	18.02.2026	Lenova Tab

For Defense

Witnesses: Nil

Documents: Nil

Material Objects: Nil

Note:

- i. *No witness was retained more than three times.*
- ii. *The outcome of the case shall be forthwith communicated to the complainant and the learned APP of this Court vide email.*
- iii. *Since, the accused is in judicial custody a copy of judgment is sent to concerned prison through mail.*

**Judicial Magistrate No. III (FAC),
Tirupathur.**