



**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC.,
MUDIGERE**

**Present: Sri. Prakash P.M, M.B.A., LL.B.,
Senior Civil Judge and J.M.F.C
Mudigere.**

C.C No. 287/2022

Dated on this 2nd Day of April 2026.

Complainant: State by Gonibeedu police station

(Rep. By learned APP)

-Vs-

**Accused : 1. Mr. Ashok,
S/o Srikantha,
Aged about 32 years**

**2. Mr. Rathan,
S/o Nanjunda,
Aged about 26 years (abated)**

**3. Mr. Akarsh H.S.,
S/o Late. Shekhar,
Aged about 26 years**



4. Mr. Abhi,
S/o Venkatesh,
Aged about 23 years

5. Mr. Praveen A.C.,
S/o Late Annappa,
Aged about 22 years

6. Mr. Sachin,
S/o Chennaiah,
Aged about 23 years

Address of Accused Nos. 1 to 6:
Chinniga village,
Gonibeedu Hobli,
Mudigere Taluk,
Chikkamagaluru District

7. Mr. Ganesh A.V.,
S/o Late Vasanthaiah,
Aged about 33 years
R/o Anajuru Village,
Gonibeedu Hobli,
Mudigere Taluk.

**(A1, 3, 4 Rept. by Sri. S.D., Advocate,
A5 By Sri. P.K., Advocate, A6, 7 By
Sri. K.C.C., Advocate and A2 abated)**



Date of commission of offence	24.12.2021
Offences alleged against the accused	Under Sections 379 of IPC
Name of the complainant	Anthoni Lobo.
Date of opening of evidence	07.06.2023
Date of closing of evidence	27.01.2025
Date of Judgment	02.04.2026

(Prakash P.M.)
Senior Civil Judge & JMFC.,
Mudigere

JUDGMENT

The Sub-Inspector of GPP Police Station, has submitted a charge sheet against the accused No.1 to 7 stating that the accused persons have committed offenses punishable under Sections 379 of IPC.

2. The brief summary of the prosecution case is as follows:



On 24.12.2021 at about 11:00 PM, within the jurisdiction of GPP Police Station, all the accused went in the auto-rickshaw bearing No. KA-18-B-5419 belonging to Accused No. 7 (Babu) to the coffee and arecanut plantation in Survey No. 764 belonging to CW-1 Anthoni Lobo at Anajuru Village, and stole 50 kg of fresh arecanuts from the arecanut trees. Again, on 05.01.2022 at about 11:00 PM, all the accused went in the same auto-rickshaw bearing No. KA-18-B-5419 and stole another 50 kg of fresh arecanuts from the arecanut trees. In total, accused persons have stolen about one quintal of arecanuts worth Rs.6,000/-. Hence, the accused persons are charged with the offence mentioned above.

3. After receiving the charge sheet, the court has taken cognizance under Section 190(1) Cr.PC of the offences against the accused No.1 to 7 and issued summons. On service of court summons, the accused



No.1 to 7 appeared before the court and filed bail application and thereafter they enlarged on bail.

4. The copies of the prosecution papers were furnished Under Section 207 Cr.P.C to the accused persons. Thereafter, heard both prosecution and accused No.1 to 7. The charge against the accused No.1 to 7 were framed for the offences punishable under sections 379 of IPC read over and explained to them. Accused No.1 to 7 pleaded not guilty and claimed to be tried and hence, the matter was posted for evidence of the prosecution.

5. In order to substantiate the charges, the prosecution has listed witnesses CW-1 to CW-14. All the witnesses PW-1 to PW-14 have been examined, and the documents have been marked as Ex.P1 to Ex.P33. The prosecution has concluded the presentation of evidence. On the other hand the statement of accused No.6 got marked as Ex.D1.



6. During the pendency of the case, Accused No. 2 was reported to have died, and accordingly, the case against the said accused stands abated.

7. After closure of the prosecution evidence accused No.1 to 7 were examined Under Section 313 of Cr.P.C., and they denied all the incriminating circumstances found against them. Accused No.1 to 7 not chosen to adduce defence evidence.

8. I have heard the arguments of both side. Perused the materials on record.

9. The following points have been arisen for consideration:

POINTS

1. Whether the prosecution proves beyond all reasonable doubt that on 24.12.2021 at about 11:00 p.m., within the jurisdiction of Gonibeedu Police Station, the accused persons, in



furtherance of their common intention, committed theft of about 50 kg of fresh arecanuts from the arecanut trees belonging to CW-1 situated at Anajuru Village, and further, on 05.01.2022 at about 11:00 p.m., again committed theft of another 50 kg of fresh arecanuts from the said property, and thereby, in total, dishonestly removed about one quintal of arecanuts worth Rs.6,000/- without the consent of the owner, thus committing an offence punishable under Section 379 of the Indian Penal Code?

2. What is the order?

10. My findings on the above points are as follows:

Point No.1 : In the Negative.

Point No.2 : As per the final order for the following:



R E A S O N S

11. Point No.1: In order to bring home the guilt of Accused Nos.1 to 7, the prosecution has cited in all fourteen witnesses, i.e., CW-1 to CW-14, who have been examined as PW-1 to PW-14. The prosecution has also relied upon documentary evidence marked as Ex.P1 to Ex.P33. On the other hand, Ex.D1 has been marked on behalf of the defence by way of confrontation.

12. It is the specific case of the prosecution that on 24.12.2021 at about 11:00 p.m., within the jurisdiction of Gonibeedu Police Station, all the accused persons, in furtherance of their common intention, went in an auto-rickshaw bearing No. KA-18-B-5419 belonging to Accused No.7 (Babu), to the coffee and arecanut plantation situated in Survey No.764 of Anajuru Village belonging to CW-1 – Anthoni Lobo, and committed theft of about 50 kg of fresh arecanuts. It is further alleged that on



05.01.2022 at about 11:00 p.m., the accused persons again went in the same auto-rickshaw and committed theft of another 50 kg of fresh arecanuts. Thus, in total, they are alleged to have stolen about one quintal of arecanuts worth Rs.6,000/-. After completion of investigation, the charge sheet came to be filed against the accused persons for the offence punishable under Section 379 of IPC.

13. At the outset, it is pertinent to note that in order to establish an offence punishable under Section 379 of the Indian Penal Code, the prosecution is required to prove, beyond all reasonable doubt, the essential ingredients of theft, namely: that there was theft of movable property; that such property was in the ownership or lawful possession of another; that the property was taken with dishonest intention; and that the accused persons were involved in the commission of the said offence. In the present case, the entire prosecution case rests upon circumstantial evidence,



the mahazars drawn during investigation, the alleged recovery of property, and the testimonies of the complainant and the panch witnesses.

14. PW-1 / CW-1 – Anthoni Lobo, being the complainant and alleged owner of the plantation, has deposed that arecanuts were stolen from his land. He has identified the complaint (Ex.P1), spot mahazar (Ex.P2), sketch (Ex.P3), photographs (Ex.P4 & Ex.P6), and release mahazar (Ex.P5).

15. However, on careful scrutiny, several material inconsistencies emerge. PW-1 admits that though the alleged theft was noticed on 25.12.2021, the complaint was lodged after about 10 days without satisfactory explanation. He further admits that he has not produced any revenue documents to establish ownership of Survey No.764. There is also confusion regarding the survey number, as he refers to both Survey Nos.764 and 792. He admits that signatures on Ex.P2 and Ex.P3 were obtained at the police station



and that at the time of lodging the complaint, he did not know who committed the theft. Thus, his evidence fails to conclusively establish ownership as well as identity of the accused.

16. PW-2 / CW-2 – Balakrishna (Panch Witness), partly supports the prosecution but has been treated as partly hostile. Though he admits his signatures on Ex.P2 and Ex.P3, he states that he had not given any prior statement to police, cannot identify the survey number, and that no proper documentation of footprints, fence damage, or vehicle marks was carried out. He also fails to identify the seized arecanuts. His evidence, therefore, does not connect the accused with the alleged offence.

17. PW-3 / CW-3 – Sanjay (Panch Witness), also turns partly hostile. Though in chief-examination he supports the prosecution, in cross-examination he admits that he has not witnessed the theft, that the police informed him about involvement of the accused,



and that his signatures were obtained possibly at the police station. His statement is thus hearsay in nature and not direct evidence.

18. PW-4 / CW-4 – Ramesh and PW-5 / CW-5 – Chandrashekar (Seizure Panch Witnesses), Both these witnesses have completely turned hostile. They have categorically stated that they do not know the contents of Ex.P8 and that no seizure took place in their presence. They further state that their signatures were obtained at the request of police without knowledge. This creates serious doubt regarding the alleged recovery of arecanuts.

19. PW-6 / CW-6 – Lokesh (Auto Seizure Witness), has also turned hostile and denied the seizure of auto-rickshaw under Ex.P11. He states that he does not know the contents of the mahazar and had signed at the request of police. Hence, the use of auto bearing No. KA-18-B-5419 is not proved.



20. PW-7 / CW-8 – Umseh and PW-8 / CW-9 – Abhishek (Auto Release Witnesses), Both these witnesses admit their signatures on Ex.P15 but deny knowledge of its contents and deny participation in the procedure. Therefore, even the release of the vehicle becomes doubtful.

21. PW-9 / CW-11 – Rudresh (Surveyor), is a formal witness. He admits that Ex.P20 and Ex.P24 are only xerox copies of village maps and that he has not conducted proper measurement or verified ownership of Survey No.764. He also admits that he has not visited the relevant village in some instances. Thus, ownership and exact location remain unproved.

22. PW-10 / CW-12 – Ravindra (Police Constable – Digital Evidence), speaks about photographs and CD (Ex.P26 & Ex.P27). However, he admits that there is no proper compliance with Section 65B of the Evidence Act, and no metadata or authenticity is



established. Therefore, the photographs lose evidentiary value.

23. PW-11 / CW-10 – Indresh, admits his signature on Ex.P5 but gives contradictory statements regarding his presence in Ex.P6 photograph. He admits that no sample was taken and that names in the mahazar were altered using whitener. He also states that no written notice was issued. His evidence suffers from material contradictions and is unreliable.

24. PW-12 / CW-13 – Somegowda Head constable, supports the prosecution regarding registration of complaint and FIR (Ex.P1 and Ex.P28). However, his evidence is limited only to procedural aspects.

25. PW-13 / CW-7 – Ramesh, has turned hostile. Though he admits his signatures, he denies knowledge of contents and states that no seizure took place in his presence. His evidence does not support the prosecution.



26. PW-14 / CW-14 – Dhananjaya (Investigating Officer), has spoken about the investigation, seizure, and recovery. However, in cross-examination, he admits several lapses such as non-mentioning of survey number, not weighing seized property, lack of proper photographic evidence, and corrections in documents. Though he denies fabrication, these lapses create doubt in the prosecution case.

27. At this juncture, it is necessary to carefully evaluate the documentary evidence placed on record. Ex.P1 (Complaint) appears to be both delayed and vague in nature. Ex.P2 (Spot Mahazar) is rendered doubtful in view of the inconsistent and unreliable testimony of the panch witnesses. Ex.P8 (Seizure Mahazar) has not been proved, as the panch witnesses have turned hostile and failed to support the prosecution case. Similarly, Ex.P11 (Auto Seizure Mahazar) is not established in accordance with law.



Further, Ex.P20 and Ex.P24 (Sketches) cannot be relied upon, as they do not satisfactorily establish the exact location or ownership of the property. The photographic evidence also lacks legal credibility, as it has not been proved in compliance with the requirements of law. It is significant to note that the recovery of the alleged stolen property, which constitutes a vital link in establishing an offence of theft, has not been legally proved by the prosecution.

28. It is a settled principle of criminal law that the prosecution must prove its case beyond all reasonable doubt. Suspicion, however strong, cannot take the place of proof. Recovery must be proved through independent and reliable witnesses, and ownership and possession must be clearly established.

29. On cumulative appreciation of the entire oral and documentary evidence on record, this Court finds that the prosecution has failed to establish the essential ingredients of the alleged offence. The



ownership of the property in question has not been satisfactorily proved, and the place of occurrence itself remains doubtful. Further, the delay in lodging the complaint has not been properly or convincingly explained. The panch witnesses, who are material to the prosecution case, have turned hostile and have not supported the prosecution version. The alleged recovery of the stolen property has also not been proved in accordance with law. Moreover, there is neither any direct evidence nor any reliable circumstantial evidence to connect the accused persons with the commission of the alleged offence.

30. In view of the above discussion, this Court is of the considered opinion that the prosecution has failed to establish the guilt of the accused beyond all reasonable doubt. The accused persons are therefore entitled to the benefit of doubt. Accordingly, **Point No.1 is answered in the Negative.**



31. Point No.2: In view of the above findings and discussions, I proceed to pass the following:

ORDER

Acting under Section 248(1) of Cr.P.C., the accused No.1, 3 to 7 are hereby acquitted of the offences punishable under Sections 379 of IPC.

Accused No.1, 3 to 7 are set at liberty.

Acting U/s. 437(A) of Cr.P.C., it is ordered that the bail bond executed by the accused No.1, 3 to 7 shall be in force for another six (6) months.

[Dictated to the Stenographer directly on Computer, typed by her, corrected and initialed by me and then pronounced in the Open Court on this the 2nd day of April 2026)

(Prakash P.M.)
Senior Civil Judge & JMFC.,
Mudigere.



A N N E X U R E

1. List of witnesses examined for the Prosecution:-

PW-1	Sri. Anthoni Lobo	Complainant
PW-2	Sri. Balakrishna	Mahazar witness
PW-3	Sri. Sanjay	Mahazar witness
PW-4	Sri. Ramesh	Mahazar witness
PW-5	Sri. Chandrashekar	Mahazar witness
PW-6	Sri. Lokesh	Mahazar witness
PW-7	Sri. Umesh	Mahazar witness
PW-8	Sri. Abhishek	Mahazar witness
PW-9	Sri. Rudresh	Circumstantial witness
PW-10	Sri. Ravindra	Police officer
PW-11	Sri. Indresh	Mahazar witness
PW-12	Sri. Somegowda	Investigation officer
PW-13	Sri. Ramesh	Mahazar witness
PW-14	Sri. Dhananjay	Investigation officer

2. List of documents exhibited for the Prosecution:-

Ex.P1	Complaint
Ex.P1(a)	Signature of PW-1
Ex.P1(b)	Signature of PW-12
Ex.P2	Spot mahazar



Ex.P2(a)	Signature of PW-1
Ex.P2(b)	Signature of PW-2
Ex.P2(c)	Signature of PW-3
Ex.P2(d)	Signature of PW-14
Ex.P3	Sketch
Ex.P3(b)	Signature of PW-2
Ex.P3(c)	Signature of PW-3
Ex.P3(d)	Signature of PW-14
Ex.P4	Photo
Ex.P5	Release mahazar
Ex.P5(a)	Signature of PW-1
Ex.P5(b)	Signature of PW-11
Ex.P5(c)	Signature of PW-14
Ex.P6	Photo
Ex.P7	Police Notice
Ex.P7(b)	Signature of PW-3
Ex.P7(c)	Signature of PW-14
Ex.P8	Seizure mahazar
Ex.P8(a)	Signature of PW-4
Ex.P8(b)	Signature of PW-5
Ex.P8(c)	Signature of PW-14
Ex.P9	Photo
Ex.P10	Notice



Ex.P10(a)	Signature of PW-4
Ex.P10(b)	Signature of PW-5
Ex.P10(c)	Signature of PW-14
Ex.P11	Auto seizure mahazar
Ex.P11(a)	Signature of PW-6
Ex.P11(b)	Signature of PW-13
Ex.P11(c)	Signature of PW-14
Ex.P12	Police Notice
Ex.P12(a)	Signature of PW-6
Ex.P12(b)	Signature of PW-13
Ex.P12(c)	Signature of PW-14
Ex.P13 & 14	Photographs
Ex.P15	Auto released mahazar
Ex.P15(a)	Signature of PW-7
Ex.P15(b)	Signature of PW-8
Ex.P15(c)	Signature of PW-14
Ex.P16 & 17	Photographs
Ex.P18	Letter dated 08.01.2022
Ex.P18(a)	Signature of PW-14
Ex.P19	Requisition
Ex.P19(a)	Signature of PW-9
Ex.P20	Sketch
Ex.P20(a)	Signature of PW-9



Ex.P20(b)	Signature of PW-14
Ex.P21	Statement
Ex.P21(a)	Signature of PW-9
Ex.P22	Letter dated 17.01.2022
Ex.P22(a)	Signature of PW-14
Ex.P23	Requisition
Ex.P23(a)	Signature of PW-9
Ex.P24	Sketch
Ex.P24(a)	Signature of PW-9
Ex.P24(b)	Signature of PW-14
Ex.P25	Statement
Ex.P25(a)	Signature of PW-9
Ex.P26	Certificate dated 11.03.2022
Ex.P26(a)	Signature of PW-10
Ex.P26(b)	Signature of PW-14
Ex.P27	CD
Ex.P28	FIR
Ex.P28(a)	Signature of PW-12
Ex.P29	PF No. 9/2022
Ex.P29(a)	Signature of PW-14
Ex.P30	PF No. 16/2022
Ex.P30(a)	Signature of PW-14
Ex.P31	Letter dated 09.02.2022



Ex.P31(a)	Signature of PW-14
Ex.P32	B Register Extract
Ex.P32(a)	Signature of PW-14
Ex.P33	Certificate U/Sec 65(B) of Indian evidence Act
Ex.P33(a)	Signature of PW-14

3. List of witnesses examined for the Defence:-

-Nil-

4. List of documents exhibited for the Defence:-

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Ex.D1	Statement of accused No.6
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5. List of material objects.

-Nil-

**(Prakash P.M.)
Senior Civil Judge & JMFC.,
Mudigere.**