

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

MONDAY, THE 8TH DAY OF SEPTEMBER 2025 / 17TH BHADRA, 1947

CRL.A NO. 1562 OF 2011

AGAINST THE JUDGMENT DATED 25.07.2011 IN CC NO.1 OF 2004 OF
SPECIAL JUDGE, SPE/CBI) II, ERNAKULAM

APPELLANT/ACCUSED:

JAYASREE RAJKUMAR,
KANVEEDU PARAMBU, NEAR CHINMAYA VIDYALAYA,
THONDAYADU, CALICUT-16.

BY ADV SHRI.MARTIN G.THOTTAN

RESPONDENTS/COMPLAINANT:

- 1 INSPECTOR OF POLICE
CBI/SPE, COCHIN,
REPRESENTED BY STANDING COUNSEL FOR CBI.
- ADDL.2 DEPARTMENT OF POSTS REPRESENTED BY SENIOR
SUPERINTENDENT OF POST OFFICES
CALICUT DIVISION, CALICUT.

(IMPLEADED AS PER ORDER DATED 06.08.2025 IN I.A.1/2025
IN CRL.A.1562/2011)

BY ADVS.
SRI. SASTHAMANGALAM S. AJITHKUMAR, SPL.P.P. FOR C.B.I.
SHRI.SUVIN R.MENON, SENIOR PANEL COUNSEL
SREELAL N. WARRIER, SC, CENTRAL BOARD OF EXCISE
SENIOR PUBLIC PROSECUTOR SMT.REKHA S FOR VACB
SPECIALL PUBLIC PROSECUTOR SRI RAJESH A FOR VACB

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 06.08.2025,
THE COURT ON 08.09.2025 DELIVERED THE FOLLOWING:



“C.R”

A. BADHARUDEEN, J.

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Crl.Appeal No.1562 of 2011-A

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Dated this the 8th day of September, 2025

J U D G M E N T

The sole accused in C.C.No.1 of 2004 on the files of the Enquiry Commissioner and Special Judge, (SPE/CBI) II, Ernakulam, is the appellant herein and he assails judgment in the above case dated 25.07.2011. The respondent herein is the Inspector of Police, CBI/SPE, Cochin, represented by the Special Public Prosecutor for C.B.I.

2. Heard the learned counsel for the appellant/accused as well as the learned Special Public Prosecutor for CBI. Also heard the learned Standing Counsel representing for the 2nd additional respondent/defacto complainant in this case.

3. Perused the judgment under challenge as well as the records of the Special Court and the decisions placed by both sides.



4. I shall refer the parties in this appeal as 'prosecution' as well as 'accused' for easy reference.

5. In this case the prosecution alleges commission of offences punishable under Sections 409 and 477A of the Indian Penal Code ('IPC' for short) as well as under Section 13(1)(c) and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 ('PC Act' for short hereinafter), by the accused. The prosecution allegation is that the accused while working as Sub Postmaster in the Sub Post Office, Pulpally, misappropriated Rs.2,73,318.65 in between May, 2002 to March, 2003, which was entrusted to her in her official capacity, by abusing her official position.

6. When final report alleging commission of the above said offences was filed before the Special Court, the court took cognizance of the matter and proceed with the trial on completing the pre trial formalities. During trial, PW1 to PW20 were examined and Exts.P1 to P73 were marked. Then the accused was questioned under Section 313(1) (b) of the Code of Criminal Procedure ('Cr.P.C' for short). Even though opportunity was given to the accused to adduce defense evidence, no



defense evidence adduced.

7. On considering the contentions raised by prosecution and the contentions raised by the defence, the Special Court found that the accused committed offences punishable under Sections 409 and 477A of the IPC as well as under Section 13(1)(c) and 13(1)(d) read with Section 13(2) of the PC Act. Accordingly she was sentenced for the said offences.

8. The learned counsel for the accused, who assailed the verdict, vehemently canvassed that on perusal of the evidence available, it is discernible that PW13 examined in this case Sri Joseph Pazhayathottam, also worked along with the accused as Money Order Clerk at Pulpally Sub Post Office from January, 2002 to March, 2003 and he was the joint custodian of the money alleged to have misappropriated by the accused. According to the learned counsel for the accused, when the entrustment of money is in the joint custody of the accused and PW13, avoidance of PW13 from the liability and fastening the entire liability upon the accused could not be justified, since the liability of the joint custodian is also involved in the allegation of misappropriation. It is pointed out that since the joint custodian was excluded from the penal consequences, it is not



right to conclude that misappropriation regarding the shortage of Rs. 2,73,318.65 was done by the accused. Further that shadows doubt in the prosecution case.

9. It is argued further that excluding the evidence to find joint liability of the accused along with PW13, the prosecution has given reliance on Exts.P2 and Ext.P16 confession statements dated 26.03.2003 and 27.03.2003, though proved through PW4 and PW7, the same could not be acted upon to fasten criminal liability upon the accused, since the same was obtained by inducement, threat or promise as provided under Section 24 of the Indian Evidence Act. According to the learned counsel for the accused, in so far as the proof as to whether the confession statement was recorded by inducement, threat or promise, the test of proof is that there is such a high degree of probability that a prudent man would act on the presumption that the thing is true. In this connection, the learned counsel placed decision of this Court reported in [AIR 1965 Ker 175 : 1965 CriLJ 102], *Abraham Varghese v. State of Kerala*.

10. Per contra, the learned Special Public Prosecutor for the CBI opposed the contentions and argued that even though PW13 had given



evidence that he also was the joint custodian of the assets of Post Office, Pulppally, his evidence would show that he used to keep the key of the Iron safe, where the money and articles to be kept in his drawer and also he used to leave the office at 6 p.m, and the calculation and keeping of the stamps and money would usually done in between 9-9.30 and 10 during night. It is pointed out by the learned Special Public Prosecutor further that, as per his own evidence, supported by Ext.P6, on 15.03.2003, 17.03.2003, 19.03.2003, 20.03.2003, 21.03.2003, 22.03.2003 and 24.03.2003 he did not sign in the SO Account. Thus it is pointed out that, in fact, PW13, who, at the time of evidence initially stated that he had memory loss and never dealt with the money and it was the accused who dealt with the cash and she misappropriated the same. This is the reason why CBI avoided him from the array of accused. According to the learned Special Public Prosecutor, in order to apply Section 24 of the Evidence Act and to make the confession statements at the instance of the accused are irrelevant, inducement, threat or promise should be established by the materials available. In the instant case, the Assistant Superintendent of Post Office inspected the Post Office, Pulpally on 26.03.2003 and on



26.03.3003 itself, on noticing the deficiency in the cash the accused written a confession statement Ext.P2 stating that she had misappropriated the amount. On the next day also she had given Ext.P16 statement and as per this confession statement she agreed to repay the money and thereby FIR was registered after delay. Therefore, the petitioner couldn't go out of the confession statements and even ignoring the confession statements, independent evidence available would suggest that the accused was the custodian of the stamps and money of the Post Office, Pulpally during the relevant period and she misappropriated the same. Therefore, conviction and sentence imposed by the Special Court would require no interference. In view of the rival arguments, the points arise for consideration are:

(i) Whether the trial court went wrong in holding that the accused committed offence punishable under Section 409 of IPC?

(ii) Whether the trial court is justified in holding that the accused committed offence punishable under Section 477 of IPC?

(iii) Whether the trial court went wrong in holding that the accused committed offence punishable under Section 13(1)(c) read with 13(2) of the PC Act?

iv) Whether the trial court is justified in holding that the accused committed offence punishable under Section 13(1)(d) read with 13(2) of the PC Act?



v) Whether it is necessary to interfere with the verdict under challenge?

(iv) The order to be passed?

Point Nos.(i) to (iv)

11. In this case PW1 examined is P.K.Madhavan, the Assistant Superintendent of Post Offices, Sub Division during 2003. According to him, he was given charge to inspect and do statistical verification of Post Offices as authorised by the Senior Superintendent, Kozhikode Division. He testified that Pulpally Sub Post Office is under the Sub Division of Kalpetta, within his jurisdiction. Sub Postmaster is the head of Sub Post office. Sub Post Officer is entrusted with the duties of day to day works to be controlled independently. The Superintendent was given power to keep cash upto a minimum and there was account for the Sub Post Office in Canara Bank. According to him, he received an error entry of the Head Post Master, Kalpetta and he visited the Pulpally Sub Post Office on 26.03.2003. During the said period, the Sub Post Master was Smt.Jayasree Rajkumar, the accused (he identified the accused at the dock). Thereafter he verified the account, cash and stamps in the presence of the accused and it was found that an amount of Rs.2,73,000/- shown as



balance, as per the account book on the previous day, was in deficit and he informed the cash shortage to the Senior Superintendent, Kozhikode Division through phone. Later, Senior Superintendent of Post Officer, Kozhikode Division George along with his inspection party reached Pulpally Post Office to make the accused as a witness in the said investigation and then he informed about the shortage in cash to the accused. During inspection he found that the accused taken the money for her personal needs and he noted the balance as on 26.03.2003. According to him, the maximum amount the Sub Post Master could keep during the relevant period was Rs 50,000/- and the minimum was Rs.30,000/-. Excess amount would be deposited in Canara Bank and later in times of need the same could be withdrawn. He deposed that an iron cash safe was available in the Sub Post Office and joint custodians were there to manage the iron cash safe. He deposed further that Jose Pazhathottam (PW13) was one among the joint custodians and both of them have their own independent keys. He deposed about the error entry forwarded with regard to the Sub Post Office, Pulpally, addressed to Sri A.Gopalan and Kunjumammed, Head Postmasters. According to him, since Post Office, Pulpally is a



Lower Selection Grade (LSG), the Sub Post Master would keep only Rs.30,000/-, the minimum amount. According to him, regarding this shortage, Sri Jaffar, Jose Pazhamthottam, the accused and Murali had given statements to him. Thereafter as directed by the Division Senior Superintendent he carried out investigation and conducted verification of transactions during the said period in detail and he prepared a report for the same as Ext.P1 and the same was signed by witnesses. He also deposed about the confession statement written by the accused as on 26.03.2003 in the presence of T.K.Ramakrishnan, Post Master, Pulpally, a witness, after identifying the same as Ext.P2 and he deposed that the handwriting in Ext.P2 was that of the accused. According to him, he had verified the account from 29.08.2001 to 26.03.2003 and the said documents were marked as Exts.P3, P4 and P5. He also deposed in detail in support of the prosecution.

12. PW2 examined in this case is Kunjumuhammed. He was the Post Master, Kalpetta from 21.03.2003 and he deposed about the procedure for keeping cash and stamps. PW3 examined in this case is Sri C.P George, the Senior Superintendent of Post Office, Postal Division,



during 2003. His evidence is that he received Ext.P13, copy of letter addressed to SPM, Pulpally by the Kalpetta Post Master and he instructed PW1 to make a surprise inspection in Sub Post Office, Pulpally and he carried out surprise inspection on 26.03.2003 and reported deficiency of Rs.2,73,318/-. Then the same was brought to the notice of the accused. Soon she confessed that she had taken Rs.2,73,318/- for her personal use and no others have any role in this. According to him, when the accused was asked about her statement, she stated that accounts examined by PW2 were correct and she had taken the money for her personal use. According to PW3, admitting these facts the accused given Ext.P16 statement. Later K.Jaffar was posted as the Sub Postmaster. He had given evidence regarding taking up of charge by Jaffar etc. On his inspection he found that Jose Pazhathottam (PW13) kept the key of the iron safe without locking the same in the drawer of his table and the same was admitted by PW13 and by the accused in her Ext.P16 confession statement. He also deposed that disciplinary action was taken against Jose in this regard.

13. PW4 examined in this case worked as Officer, Canara Bank, Pulpally Branch from 1993 to 2003 and he deposed explaining the



procedure in the matter of deposits and withdrawals made by the Postmasters. He also deposed that the account of the Pulpally Sub Post Office maintained with the Pulpally branch vide account No.171 was in operation from June, 2002 to March, 2003. He also deposed about getting specific signature when a new Postmaster would be appointed and it was possible to operate the bank account by the accused in the presence of PW4 from 28.05.2002 through Ext.P20 signature card marked. He also deposed about withdrawal as shown in Ext.P20 series periodically.

14. PW6, who worked as Acting Postal Assistant at Pulpally Post Office during March, 2003, deposed that he was present when PW1 conducted surprise visit at Pulpally Sub Post Office and when he prepared Ext.P1(a) inventory regarding the cash and stamps available there.

15. PW7, who was working as Post Man at the Pulpally Post Office from July, 2009 witnessed the surprise check at Pulpally Post Office by PW1 and he also signed in Ext.P2 confession statement given by the accused. PW8 to PW11 also supported the versions of the other witnesses. It was through PW17 the Postal Assistant, Pulpally Sub Post Office from 19.04.199 to July, 2003. Exts.P12 series, P16 series, P18



series, P22 series, P28 series, P31 series, P62 series, P63 series, P64 series, 47-49 series, 51 series and 52-59 series were marked. Apart from that, Exts.P32, P33, P34, P35, P36, P37, 43, 43A, 65 and Exts.P65 and P65A also marked by PW17 to show that as on 26.03.2003 the unclaimed balance alleged to be misappropriated by the accused would come to Rs.2,73,318/-.

16. The sanction to prosecute the accused in this case got marked as Ext.P66 was proved through PW18, who had given the said sanction. During cross examination, nothing asked to PW18 challenging the sanction. Despite that, the learned counsel for the petitioner placed decision of the Apex Court reported in [(2016) 3 SCC (Cri) 316], ***T.K.Ramesh Kumar v. State through Police Inspector***, with reference to paragraph 17 to contend that the sanctioning authority should apply his mind and verify prosecution records carefully while granting sanction to prosecute the accused herein. In fact, this challenge has no relevance in the instant case since the sanction was not at all challenged while cross examining PW18. Otherwise on perusal of Ext.P66, it was issued by applying mind by PW18 on perusal of the prosecution records and on



satisfying the necessity of the prosecution of the accused.

17. From the relevant evidence discussed, it could be gathered that in between the period from 01.06.2002 to 26.03.2003 the accused while working as Sub Postmaster in the Sub Post Office Pulpally, she herself entered the necessary entries in SO account/SO daily account which consists of Exts.P3, P4, P5, and P15 series, as deposed by PW17, who worked under her, identifying her signature. The shortage as noted by PW1 and verified by PW2 to the tune of Rs.2,73,318/- was not deposited before the bank as deposed by the General Manager with reference to their account. Ext.P13 would show the details of cash retained by the accused Sub Postmaster, Pulpally as : 15.03.2003 – Rs.3,42,791.55; 17.03.2003 – Rs.3,28,652.35; 18.03.2003 – Rs.3,39, 495.35; 19.03.2003 – Rs.3,60,645.25; 20.03.2003 – Rs.3,39,711.50; 21.03.2003 – Rs.3,23,441.50. PW2 was also sent to Sub Post Office, Pulpally as per rules in order to seek explanation from the accused Sub Postmaster. The evidence of PW1 read along with the relevant documents including Ext.P3 would show that the accused failed to deposit the amount in the bank and the same was found in deficit on the date of inspection. The role of PW13,



being the joint custodian, found in the negative by the investigating officer. While addressing the role of PW13 on the premise of his joint custodianship, the evidence would suggest that he used to put the key in the drawer of his table and leave the office at 6 p.m even though calculation and placement of the stamp and money in the iron safe would be done in between 9-9.30 and 10 p.m. He, in fact, did not carefully done his duty as joint custodian, for which disciplinary action was taken. Thus, in fact, as evident from the records, it was the 1st accused, who dealt with the money and, therefore, the responsibility can be found independently without support of Exts.P2 and P16 confession statements against her.

18. Even though it is argued by the learned counsel for the accused that Ext.P2 confession statement given by the accused on 26.03.2003 and Ext.P16 statement signed on 27.03.2003 are the outcome of inducement, threat, etc., the evidence would not support the said contention as the first confession was made on the date of inspection in her hand writting soon after the shortage was found without any compulsion and as volunteered by the 1st accused and on the next day she had given Ext.P16 confession in her handwriting acknowledging the liability on



stating that the amount in shortage was taken by her for her personal purpose. It is relevant to note that if any inducement, compulsion, threat, behind Exts.P2 and P16, definitely the accused would have made complaint to the superior officials regarding obtainment of Exts.P2 and P16 in that way. No such course of action opted by the accused till the date of trial. That apart, PW4 and PW7 consistently given evidence stating that Exts.P2 and P16 confession statements were voluntary written and signed by the accused admitting her liability. Thereafter the challenge raised by the learned counsel for the accused that Exts.P2 and P16 confession statements were obtained by inducement, compulsion or threat could not be found. To the contrary, the same are found to be issued voluntarily by the accused.

19. Thus on re-appreciation of evidence, this Court could not found that the Special Court went wrong in finding that the accused committed offences punishable under Sections 409 and 477 of IPC as well as under Section 13(1)(c) and 13(1)(d) read with 13(2) of the PC Act, since the ingredients to find commission of the above offences by the accused beyond reasonable doubts. Therefore, the conviction is only to be



confirmed.

20. Regarding the sentence, the Special Court *sentenced the accused under Section 409 IPC to undergo SI for three years and to pay fine of Rs.1 lakh (Rupees One lakh only) with default sentence of one year of the same description and also to undergo SI for two years for the offence under Section 477(A) IPC, both substantive jail sentences to run concurrently. No separate sentence is awarded for the offence under Section 13(2) r/w Section 13(1)(c) or Section 13(1)(d) P.C.Act.*

21. Acting on the request made by the learned counsel for the accused/appellant to reduce sentence, I am inclined to modify the sentence. Accordingly, for the offence punishable under Section 409 of IPC, the accused is sentenced to undergo simple imprisonment for 18 months and to pay fine of Rs.1,50,000/- (Rupees One lakh fifty thousand only). In default of payment of fine, the accused shall undergo default imprisonment for a period of four weeks. For the offence punishable under Section 477(A) of IPC, the accused is sentenced to undergo simple imprisonment for 18 months and to pay fine of Rs.1,50,000/- (Rupees One



lakh fifty thousand only). In default of payment of fine, the accused shall undergo default imprisonment for a period of 4 weeks. No separate sentence is awarded for the offence under Section 13(2) r/w Section 13(1) (c) or Section 13(1)(d) P.C.Act. The substantive sentences shall run concurrently; whereas the default sentence shall run separately.

22. Since it is prayed by the learned counsel for the additional 2nd respondent/defacto complainant that if this Court confirms the conviction, sentence may be modified by enhancing the fine form part of the sentence and the fine may be permitted to be given to the additional 2nd respondent since the amount was lost by the 2nd respondent. The submission appears to be convincing as the same could be gathered from the prosecution records. In view of the matter, it is ordered that if the fine amount is paid or released, Rs.2,75,000/- (Rupees Two lakh seventy five thousand only) shall be paid to the additional 2nd respondent as compensation under Section 357(1)(b) of Cr.P.C.

23. In the result, this appeal is allowed in part. Accordingly the conviction stands confirmed while modifying sentence as indicated above.



24. As a sequel thereof, the order suspending sentence and granting bail to the accused stands cancelled and the bail bond also stands cancelled.

25. The accused is directed to surrender before the Special Court to undergo the sentence forthwith, failing which the Special Court shall execute the sentence forthwith.

Registry is directed to forward a copy of this judgment to the Special Court for compliance and further steps.

Sd/-

A. BADHARUDEEN, JUDGE

rtr/