

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE - II,
PALAKKAD**

Present: Smt.Anitha.R, Judicial First Class Magistrate – II
Dated: Tuesday, 23rd day of July, 2024/01st day of Sravan, 1946.

C C No. 859/2022

Complainant : State represented by the Sub Inspector of Police, Mankara Police Station in Crime No. 445/2022.
(Rep. by Smt. Bisi, APP)

Accused : Shafeek, Age 32/22, S/o. Alimuthu, Kizhakkekalam House, Edathara, Palakkad.
(Rep. by Adv. Mathew Thomas)

Offence : U/s. 498 A and 323 of Indian Penal Code.

Plea : Not guilty

Finding : Not guilty

Sentence/Order : Accused is acquitted under section 248 (1) of Cr.P.C.

DESCRIPTION OF THE ACCUSED

Name	Father's/ Husband's Name	Occupation	Residence	Age
Shafeek	Alimuthu		Edathara	32/22

DATE OF

Occurrence	Complaint	Apprehension or appearance	Release on bail	Commencement of trial
27.01.2022	21.12.2022	03.12.2022	15.04.2023	07.05.2024
Close of trial		Sentence or	Explanation for delay	

	Order	
23.07.2024	23.07.2024	--

J U D G M E N T

The case is based on the Final Report filed by the Sub Inspector of Police, Mankara Police Station in Crime No. 445/2022 alleging offences punishable U/s. 498 A and 323 of Indian Penal Code.

2. The prosecution case is that on 20-01-2019 the accused married the defacto complainant as per religious customs and thereafter while living the husband and wife at his house at Edathara till 27-01-2022, he subjected her to cruelty demanding more gold and money. Thus the accused committed offence punishable u/s. 498 A and 323 of Indian Penal Code.

3. On appearance of the accused, he was enlarged on bail. Copies of all relevant prosecution records were furnished to him in compliance with S.207 of Cr.P.C. After hearing the prosecution and accused and perusing the materials available, charge was framed for the offences punishable u/s. 498 A and 323 of the Indian Penal Code. It was read over and explained to the him, to which he pleaded not guilty and claimed to be tried.

4. On the side of the prosecution, PW1 to PW3 were examined and Ext.P1 was marked. Since no incriminating circumstances brought out in

evidence adduced by the prosecution, questioning of the accused u/s. 313 (1) (b) of Cr.P.C was dispensed with. No defence evidence was adduced.

5. Heard both sides and perused the records.

6. The following points arise for determination in this case:

1. Did the accused subject PW1 to cruelty demanding more dowry and thereby commit offence punishable u/s.498-A of IPC ?
2. Did the accused on 27-01-2022 voluntarily cause hurt to PW1 and thereby commit offence punishable u/s. 323 of IPC?
3. If the offence is proved, what shall be the order as to sentence?

7. **Point No.1 and 2 :-** Both points are considered together. The defacto complainant was examined as PW1. According to her marriage, her marriage with the accused was solemnized on 20-01-2019 at Pathiripala Madrassa. She was gifted 20 sovereigns of gold ornaments for her marriage. She resided with her husband and a child was born out of the wedlock. She filed Ext. P1 complaint due to misunderstanding. She would say that the accused did not subject her to cruelty demanding more gold and money. According to her matter is settled.

8. PW2 and PW3 are the father and mother of PW1 respectively. According to them their daughter's marriage with the accused was solemnized on 20-1-2019. After the marriage PW1 resided with him and she lodged the complaint due to misunderstanding. They have no knowledge about the alleged

cruelty.

9. As the defacto complainant and the material witnesses in this case did not support the prosecution case, the learned Assistant Public Prosecutor has rightly given up the remaining witnesses. Nothing is brought out in prosecution evidence to connect the accused with the allegations. Moreover the prosecution had not proved the allegations and occurrences. On an overall appreciation of evidence the point is found against the prosecution. Considering the above it can be concluded that the accused is entitled for an acquittal.

10. **Point No. 3**:- In view of the findings in point No.1 and 2, these points does not arise for consideration.

11. In the result accused is found not guilty of the offence punishable u/s. 498 A and 323 of the Indian Penal Code and he is acquitted u/s. 248 (1) of Cr. PC of the above said offence. His bail bond stands cancelled and he is set at liberty.

[Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me in open Court on this, the 23rd day of July, 2024].

Sd/-

Judicial First Class Magistrate –II,
Palakkad.

APPENDIX

Witness for the Prosecution

PW1 - Safna, Age 24 years, D/o. Musthafa, Orampallam House, Mannur PO,

Palakkad.

PW2 - Parijan, W/o. Musthafa, Orampallam House, Mannur PO,
Palakkad.

PW3 - Musthafa, S/o. Siddik, Orampallam House, Mannur PO, Palakkad.

Exhibits for the Prosecution :

Ext.P1 – Complaint, dated 24.08.2022.

Sd/-

Judicial First Class Magistrate –II,
Palakkad.

//True copy//

Judicial First Class Magistrate –II,
Palakkad.