

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

Present: Sri. Rajmohan C.V., Judicial First-Class Magistrate – II, Kozhikode

Dated this the 25th day of February, 2026

C.C. No. 77/2024

(Crime No.1107/2023 of Feroke Police Station)

Complainant	State rep. by Sub Inspector of Police, (Smt. Lekha K.V., APP Grade II)
Accused	Najad P.V. (Rep. by Adv. Anwar C.K.)
Offences tried	Sections 406 and 498A of the IPC.
Plea of the Accused	Not guilty
Findings	Not guilty
Order(s)	The accused is acquitted of committing the above said offences. The bail bonds executed by the accused shall stand discharged and he is set at liberty forthwith.

DESCRIPTION OF ACCUSED

Name	Age	Parent's/Spouse's name	Address	Calling
Najad P.V	33/2023	S/o. Muhammed Kutty P.V	Naduvilakkandy, Anthiyoorkunnu, Pulikkal, Malappuram.	Business

DATE OF

Occurrence	Complaint/ Information	Filing	Commencement of trial	Close of trial	Orders and/or Sentence
Between 01.05.2014 and 01.05.2022	03.12.2023	05.03.2024	07.07.2025	25.02.2026	25.02.2026
Apprehension			Release on bail		
15.02.2024			15.02.2024		

This case having been heard finally and coming on to this day's proceedings, this court passed the following:-

JUDGMENT

In the above numbered case, the Prosecution contends that: The accused and PW1 got married on 01.05.2014. While residing together in matrimony, the herein accused and his mother subjected PW1 to cruelty including by saying that the gold ornaments gifted to her at the time of the wedding was not sufficient and also by making remarks regarding her appearance. They also committed the offence of criminal breach of trust with respect to the 35 sovereigns of gold ornaments belonging to PW1. Thus, the accused committed the offences punishable under Sections 406 and 498A of the IPC.

(2) On receipt of the Final Report, this Court took cognizance of the above offences and issued process to the herein accused as well as to his mother who had been arraigned as an accused. Both of them appeared before this Court, and were released on bail. Copies of all the relevant prosecution records were furnished to them. After hearing, charges were framed against them and it was read over and explained to them. The accused were asked what the plea were and a plea of not guilty were entered. Thereafter, this Court proceeded to hear the Prosecution and to examine the witnesses produced by it.

(3) Prior to the commencement of Prosecution's evidence, the Hon'ble High Court vide Order in Crl.M.C. No. 7011/2025 dt, 26,11,2025 quashed all further proceedings in this case as against the mother of the herein accused. Thus, the above case has proceeded only as against the now herein accused.

(4) On the side of the Prosecution, this Court examined PW1 to PW3 witnesses and marked Ext. P1 to P5 documents. The Prosecution's evidence was closed and the accused was examined under Section 351 of the BNSS. The accused denied the

incriminating evidence that had appeared on record and claimed innocence. Subsequently, the accused was called upon to enter defense and it was submitted that there was no defense evidence.

(5) Heard both sides and considered the matters before this Court. Considering the discussion to follow, the point for determination need only be raised as follows.

(6) The point for determination is:-

- i. Has the accused committed the offences punishable under Section 406 and 498A of the IPC?

(7) **Point No. (i):** PW1 is the informant/victim in this case and as admitted by the accused as well, PW1 and the accused had shared a matrimonial relationship. PW2 is the father of PW1 and PW3 is the Investigator in this case. The remaining witnesses cited by the Prosecution had been given up by the learned Prosecutor since the accounts of the witnesses cited as CW2, CW4 and CW5 were the same as that of PW2 (CW3) or were hearsay and since the accused admitted the marriage certificate as well as the factum of registration of the FIR which were to be respectively proved through officials cited as CW6 and CW7.

(8) PW1 to PW3 gave evidence in support of the Prosecution's case. PW2 is not a direct witness to any of the incidents alleged and knows of the same only as stated by PW1. Hence, his evidence can have only some corroborating effect (*if any*) and that too when the evidence of PW1 is found reliable by this Court. PW1 gave evidence before this Court that from the very next date after the wedding i.e., from 02.05.2014, the cruelty had begun in the form of humiliation by alleging lack of sufficient gold. According to her, in the name of gold, the accused had begun hurting her from the time when she became first pregnant itself and that during her pregnancy the accused had even pushed her and on one occasion choked her in her sleep. She stated that when harassment like this continued, she returned to her parental home and that by that time, the 30.5 sovereigns of gold ornaments gifted to her at the time of wedding,

her mahr of 5 sovereigns and the 4.75 sovereigns of gold gifted to her daughter and the 0.5 sovereign worth gold ring of her son was taken by the accused for his business. This is the long and short of her grievances and led her to file the Ext. P1 FIS.

(9) As submitted by the learned counsel for the accused, the evidence led by the Prosecution can only be considered as fatally inadequate to sustain the charge against the accused. In Cross Examination of PW1 and through Cross Examination of PW3, the defense has brought out that the only specific allegation of being pushed and of being choked at the time of her pregnancy was an improvement made by PW1 during the time of trial and that during the time of investigation, she had not made out any such specific case to the Investigator. According to the Investigator (PW3) himself, PW1 has only told him about being “physically hurt.” That is but a vague statement. It is not sufficient in law to make general and vague statements to sustain a charge against an accused. A witness who states that she was physically hurt must also state specific details like when, where, why, how and by whom that hurt was caused. No such or other specific details to the physical hurt has been stated by PW1 before this Court. Without such specific details, this Court will not be in a position to judge whether the physical hurt complained satisfies the ingredients of cruelty or any other offence punishable under law. It is in this context – where the specific details are not stated – that the delay of nine and a half years in instituting proceedings also becomes fatal to the Prosecution. Though both PW1 and PW3 assigned the reason for delay as wanting to continue with the marriage, such a reason does not appear to be sufficient in the particular context of this case where PW1 cannot even state a specific incident (other than the improvement that she made before this Court). Further, it has also been brought out through PW3’s evidence that at the time of instituting the case, cases before the Hon’ble Family Court had already been instituted and were pending. All of this suggests that this case was clearly an afterthought on the side of PW1.

(10) As regards the charge under Section 406 of IPC is concerned, one further matter must also be noted. In that regard, the grievance of PW1 is that the accused used her own and the children's gold ornaments. It needs no elaborate discussion to hold that such evidence is also grossly inadequate to satisfy the several ingredients under Section 405 of the IPC which defines the offence of criminal breach of trust as punishable under Section 406. If such evidence of taking or using is seen as sufficient, then in every matrimonial relationship there will be an offence of criminal breach of trust. This is because of the fact that it is natural in matrimonial relationships for partners to rely on one another and even put each others property to use. In order for such use to be criminal breach of trust, there must be entrustment of property and dishonest misappropriation of such property or unlawful conversion in the manner as stated in the definition of the offence. No such facts having been brought out in evidence, there can be no question of holding the accused liable for committing the offence punishable under Section 406 of the IPC.

(11) Thus, in light of the above discussion, it can only be held that the above point must be answered against the Prosecution.

Order(s): In the result, the accused is found not guilty of committing the offences punishable under Sections 406 and 498A of the IPC. He is acquitted thereof under Section 271(1) of the BNSS. The bail bonds executed by the accused will stand discharged and he is set at liberty forthwith.

(Dictated to C.A. transcribed by him, corrected and pronounced by me in open court on this the 25th day of February, 2026)

Sd/-
Judicial First-Class Magistrate – II,
Kozhikode

APPENDIX

Witnesses examined for Prosecution

Rank	Description	Whether Eye witness, Police Witness, Expert witness, Medical witness, Other witness
PW1	Farha Shahul P.V., D/o. Shahul Hameed - CW1	Informant
PW2	Shahul Hameed., S/o.Muhammedkutty - CW2	Indirect Witness
PW3	Muhammed Haneefa K.P., SI of Police, Feroke PS. - CW8	Investigating Officer

Exhibits marked for the prosecution :

Sl. No	Exhibit No.	Description
1.	P1/PW1	First Information Statement dt. 03.12.2023
2.	P2	Marriage Certificate dt. 18.02.2023 (Admitted by the accused)
3.	P3/PW3	Arrest Memo dt.15.04.2024
4.	P4/PW3	Report to add name and address of accused (Received in Court on 04.03.2024)
5.	P5/PW3	First Information Report dt.03.12.2023

Witnesses examined for defence: NIL

Exhibits marked for Defence:NIL

Material Objects:NIL

Sd/-

Judicial First-Class Magistrate – II,
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