

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE KOYILANDY

Present: Sri. Ajikrishnan S, Judicial First Class Magistrate
Monday, the 30th day of March 2026

CC No. 282/2020

Complainant : State- Rep. by Sub Inspector of Police,
Koyilandy Police Station,
in crime No. 133/2020.
[By Sri. Latheesh M,
Asst. Public Prosecutor Gr-I, Koyilandy]

Accused : Ratheesh Babu A K, S/o Unni, aged 43/20, Kakkadathil
Paramba (H), Parappilthazham, Kakkodi (PO), Makkada,
Kozhikode.
[By Adv. P Sajith]

Offence : U/SS. 498A and 406 IPC.
Plea : Not guilty
Finding : Not guilty
Sentence or order : The accused is acquitted under S. 248(1) CrPC.

DESCRIPTION OF THE ACCUSED

Sl. No.	<u>Name</u>	<u>Father's name</u>	<u>Occupation</u>	<u>Residence</u>	<u>Age</u>
1.	Ratheesh Babu A K	Unni	Nil	Makkada	43/20

DATE OF:

<u>Offence</u>	<u>Complaint</u>	<u>Apprehension of accused</u>	<u>Release on bail</u>
After 29.01.2022	06.02.2020	08.05.2020	08.05.2020

<u>Commencement of trial</u>	<u>Close of trial</u>	<u>Sentence/Order</u>	<u>Explanation of delay</u>
20.05.2022	23.03.2026	30.03.2026	No delay

This case having been finally heard on 23.03.2026, the court on 30.03.2026 delivered the following:

J U D G M E N T

1. The accused is facing trial for the offences punishable under SS. 498A and 406 of the Indian Penal Code (hereinafter "IPC"). The final report was filed by the Sub Inspector of Police, Koyilandy Police Station.
2. **The prosecution case**, in brief, is that the accused is the husband of PW3. While the accused and PW3 were residing together as husband and wife, the accused subjected PW3 to cruelty. The accused committed criminal breach of trust with respect to the 35 sovereigns of gold ornaments of PW3. Hence, the accused is alleged to have committed the aforesaid offences.

General proceedings and charge

3. Upon filing the final report, the case was taken on file. On issuance of summons, the accused entered appearance and he was released on bail. The accused is represented by a counsel of his choice. Copies of all relevant prosecution records were furnished to the accused, and thereby mandate under section 207 of the Code of Criminal Procedure (hereinafter referred to "Cr.P.C.") was complied with. After hearing, charge was framed, read over and explained to the accused for the offences punishable under SS. 498A and 406 IPC, and to which he pleaded not guilty.

Evidence in the case

4. From the side of the prosecution, PW1 to PW8 were examined and Exts. P1 to P10 were marked. Thereafter, the accused was examined under S. 313 (1)(b) CrPC. He denied all incriminating circumstances appearing against him. Exts.D1 and D2 were marked on the side of the accused. No other defence evidence was adduced.
5. Heard both sides. Perused the records.
6. **The points arise for consideration** are:
 - i. Whether the accused subjected PW3 to cruelty as alleged and thereby committed the offence punishable under S. 498A IPC?
 - ii. Whether the accused committed criminal breach of trust with respect to 35 sovereigns of gold ornaments belonged to PW3 and thereby committed the offence punishable under S.406 IPC?
 - iii. What shall be the order or sentence to be passed?

Arguments and discussion

7. **Point Nos. (i) and (ii)**: These points are interconnected. Hence, they are considered together. The learned Assistant Public Prosecutor submitted that the evidence on record is sufficient to prove the offences alleged. PW2, PW3 and PW5 deposed about the cruelties committed by the accused. No serious inconsistencies were elicited during their evidence. Hence, the accused is liable to be convicted. *Per contra*, The learned counsel for the accused submitted that the evidence on record would demonstrate that there was no demand for gold from the accused. The gold was not entrusted to the accused. The prosecution has failed to produce the bill for the gold ornaments or any photographs to substantiate this claim. The specific details of the

alleged misappropriation of the gold ornaments by the accused have also not been established. The accused was abroad for a long time after the marriage. The details of the alleged cruelties have not been stated by the material witnesses. The date or time of the alleged incident was not specified by PW3. The evidence of PW2, PW4, and PW5 is hearsay. The evidence of PW2 and PW3 is inconsistent. There are no independent witnesses to corroborate the prosecution's case. Even though it was stated by PW3 that she had taken treatment from the hospital, no medical records were produced by the prosecution. There are also no documents to show that the family of PW3 had given utensils to the family of the accused. Also, no material has been produced by the prosecution to prove that the accused pledged the gold ornaments of PW3. Exts.D1 and D2 would establish that the accused was abroad when the alleged incident of cruelty alleged by PW3 occurred. This would indicate that the allegations are false. Hence, there is no evidence to substantiate the prosecution's case. The accused is liable to be acquitted. The learned counsel relied on the decisions of the Hon'ble Supreme Court of India in *Sunshel Kumar Purbey (Dr.) v. State of Bihar, 2026 KHC 6162*, *Sanjay D Jain v. State of Maharashtra, 2025 KHC 269*, *Bhagwati Devi v. State of Uttarakhand, 2025 KHC 6752* and the decision of Hon'ble High Court of Kerala in *Vaishnavi v. Valsala, 2025 KHC 1963*, in support of his contentions.

8. PW3 lodged Ext.P2 FIS. PW1 issued Ext.P1 marriage certificate of the marriage between the accused and PW3. PW2 is the father, and PW5 is the mother of PW3. PW4 participated in the marriage between PW3 and the accused and mediated the disputes between them. PW6 conducted the investigation of the case. He also deposed as to the investigation conducted by CW10, who was no more at the time of the evidence. PW7 recorded Ext.P2 statement of PW3, and PW8 registered Ext.P5 FIR based on the same.

9. One of the offences alleged in this case against the accused is criminal breach of trust. To prove the offence of criminal breach of trust, there has to be evidence of entrustment of property to a person or dominion of that person over the property and dishonest misappropriation of property by that person. S. 405 defines criminal breach of trust. It is as follows:

S. 405. Criminal breach of trust.—Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or willfully suffers any other person so to do, commits "criminal breach of trust"

10. The case of the prosecution is that the accused misappropriated 35 sovereigns of gold ornaments of PW3 and household utensils given to the accused by PW3's family. PW3 deposed about the same. However, no documents have been produced by the prosecution to show that PW3 had 35 sovereigns of gold ornaments. The bills of the gold ornaments purchased have not been produced. Even though Ext.P3 photograph has been produced, the certification required for the same has not been produced. The evidence of PW3 would not show the nature or the details of her gold ornaments. Her evidence also lacks the details regarding the entrustment of gold ornaments with the accused. She stated during cross-examination that she placed her gold ornaments in the almirah in the house of the accused. It cannot be said that PW3 entrusted her gold ornaments to the accused by merely keeping them in an almirah in the house. The learned counsel for the accused relied on the decision of the Hon'ble High Court of Kerala in *Vaishnavi v. Valsala, 2025 KHC 1963*, to contend that in the absence of convincing evidence regarding the entrustment of gold, the offence under S. 406 IPC would not stand. The above decision is rendered by the Hon'ble Court in the context of the Family Courts Act. It was held by the court that to get back the gold ornaments, the petitioner has to state the specific details of the

entrustment; in the absence of pleadings and proof regarding the date, month or year of the entrustment and the description of gold ornaments, it cannot be said the initial burden to prove the entrustment of the gold ornaments has been discharged by a party. Even though PW3 stated that her gold ornaments were pledged by the accused, no evidence has been produced to substantiate the same. The evidence of PW2, PW4 and PW5 also would not show the details of the gold ornaments, or entrustment with, or its misappropriation, by the accused. The cross-examination of PW2 and PW5 would show that they had only hearsay knowledge about the alleged misappropriation. Thus, in the absence of specific averments regarding the entrustment and subsequent misappropriation of property by the accused, S. 406 IPC cannot be said to be made out. The prosecution has also not produced any documentary evidence to show that PW3's family had given utensils to the accused and they were misappropriated by the accused. No evidence has also been adduced to prove the financial capacity of the family of PW3 to provide the gold ornaments or household items. In the face of these pieces of evidence, I am of the view that the prosecution has failed to prove the transactions, entrustment or misappropriation of gold ornaments alleged beyond reasonable doubt.

11. To attract the offence under S. 498A IPC, there has to be clear and convincing evidence of cruelty. S. 498A is as follows:

S. 498A. Husband or relative of husband of a woman subjecting her to cruelty.—

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purposes of this section, "cruelty" means—

- (a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable

security or is on account of failure by her or any person related to her to meet such demand.

12. The cruelty defined in the section is either willful conduct by the husband or his relative that drives a woman to commit suicide or to cause grave injury or danger to life, or harassment to meet any unlawful demand for money. The learned counsel for the accused relied on the decisions of the Hon'ble Supreme Court of India in *Sunheel Kumar Purbey (Dr.) v. State of Bihar, 2026 KHC 6162, Sanjay D Jain v. State of Maharashtra, 2025 KHC 269, Bhagwati Devi v. State of Uttarakhand, 2025 KHC 6752*, to submit that vague allegations, without specific details, are insufficient to constitute cruelty. In this case, PW2, PW3, PW4 and PW5 are the witnesses who deposed about the alleged incident. PW3 deposed that the accused took away her gold ornaments and demanded household articles from her family. The accused told her that he was not interested in marrying her and was involved in another relationship. The accused used to beat her for money. On one occasion, the accused forcefully poured alcohol into her mouth, beat her, kicked her, and struck her head against a wall, threatening to kill her. The accused went abroad when his financial liabilities increased, and her father provided financial assistance for the same. In 2017, she returned to her house, and a mediation was conducted with the intervention of ward member Mr. Balakrishnan. During the mediation, an agreement was executed, and the accused issued a cheque for Rs. 3,50,000/- in her favour. Subsequently, she filed Ext.P2 petition.
13. PW4, Mr. Balakrishnan, deposed that he acted as mediator in the dispute between PW3 and the accused and had also participated in their marriage to assist in resolving the dispute. PW2 and PW5, the parents of PW3, deposed that the accused subjected their daughter to cruelty and misappropriated her gold ornaments.
14. The evidence of PW3 and other material witnesses would show that they have not

stated the date, time or other specific details of the alleged cruelties. Even though PW2 deposed that the accused ill-treated his daughter, the prosecution put questions under S. 154 of the Indian Evidence Act to the witness when he deposed that he did not give any statement to the police regarding this case. In cross-examination, he admitted that he did not give a statement to the police that the accused made his daughter drink alcohol. The evidence of PW4 and PW5 would show that they did not have direct knowledge about the alleged cruelties. Thus, the allegations raised can only be said to be vague and general in nature. It was admitted by PW3 that the accused was abroad from 2016 to 2018. Then, the absence of the date, time, or other specific details in the allegations assumes significance. Such general allegations are not sufficient to fasten liability on the accused.

15. Even though PW3 stated that the accused made her borrow money from her family, she admitted that the accused was abroad when she borrowed money from her father (para No.21 of the evidence of PW3). While PW3 alleged that the accused ill-treated her, she further admitted that she filed this case because the accused failed to provide maintenance to her and her son. The accused had stopped sending money, and therefore, she filed this case (para Nos. 22 and 23 of PW3). The accused used to send money to her account at SBI, Mananchira Branch, to meet her expenses and other liabilities (para No.26 of PW3); she added that the amount was barely sufficient to meet her expenses. It was admitted by her that she remarried and she has a child in that marriage. She denied that she was suspicious of her husband and remarried before the appeal period was over.

16. Therefore, the evidence of PW3 indicates that she filed this case due to the accused's failure to provide maintenance. PW3's evidence is not sufficient to show that the accused engaged in any willful conduct likely to drive her to commit suicide or cause

grave injury or danger to life, limb, or health. It also cannot be established that the accused coerced her to meet any unlawful demand for property. The allegation that the accused demanded utensils from the family of PW3, or that such utensils were given by the family of PW3 to the accused, lacks specific details. Quarrels between spouses or a straining of the marital relationship in later years are not sufficient to constitute the offence of cruelty under S. 498A IPC.

17. When examined under S. 313 CrPC, the accused stated that he was abroad at the time of the alleged incidents of cruelty stated by PW3. PW3 deserted him and married another person while a petition for divorce was pending before the Family Court, Vatakara. This case was filed to coerce him to consent to the divorce. The accused produced Ext.D2 passport to show that he was abroad for a long time. Ext.D1 is the certified copy of the petition filed by PW3 before the Family Court for divorce. PW3 stated in Ext. D1 that the accused assaulted her on 27.07.2017. It was reiterated by her that the said date stated by her in Ext.D1 is correct. However, Ext.D2 passport would show that the accused was not in India on the said date. Therefore, the evidence of PW3 would show that the allegations of cruelties stated by PW3 cannot be believed. The prosecution has also not produced any medical evidence to substantiate the allegations of cruelties. The standard of proof mandated in criminal law is 'proof beyond reasonable doubt'. The evidence must be clear and cogent to satisfy the said standard. There is no evidence in this case that inspires confidence in this court to reach a finding of guilt. There has to be proof beyond reasonable doubt to prove the offences alleged. No such evidence is forthcoming from the record. After carefully going through the evidence of PW2, PW3 and PW5, I am of the considered view that the evidence adduced is not sufficient to prove the offences under SS. 498A and 406 IPC against the accused. Without convincing material showing the ingredients of S. 498A and 406 IPC, it would be unsafe to convict the

accused for the said offences. Hence, the prosecution has failed to prove the alleged offences against the accused beyond reasonable doubt. **These points are found against the prosecution.**

18. **Point No. (iii)**: In view of the findings in point Nos. (i) and (ii), the accused is found not guilty of the offences punishable under sections 498A and 406 IPC. He is liable to be acquitted of the said offences. The point is found accordingly.

19. **In the result:**

The accused is acquitted under S. 248(1) CrPC of the offences punishable under SS. 498A and 406 IPC. His bail bond is cancelled. He is set at liberty.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open court on this, the 30th day of March 2026).

Judicial First Class Magistrate
Koyilandy

APPENDIX

List of Prosecution/Defence/Court Witnesses

Prosecution Witnesses

Rank	Name	Whether Eye witness, Expert witness, Medical witness, Other witness
PW1 (CW6)	Ramesan K P, Registrar, Death, Birth and Marriage section, Koyilandy Municipality.	Other witness
PW2 (CW3)	Raveendran	Other witness
PW3 (CW1)	Ragisha K	First informant
PW4 (CW5)	Balakrishnan P K	Other witness
PW5 (CW2)	Vilasini C	Other witness
PW6 (CW9)	Rajesh Kumar K, SI of Police, Koyilandy PS	Other witness-investigation
PW7 (CW7)	Sheeba K M, SCPO, Koyilandy PS	Other witness

PW8 (CW8)	Unnikrishnan, Inspector of Police, Koyilandy PS	Other witness- FIR
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Prosecution Exhibits

Sl. No.	Exhibit Number	Description
1	Ext.P1/ PW1	Marriage certificate of Ratheesh Babu and Ragisha.
2	Ext.P2/ PW3	FIS, dated 06.02.2020.
3	Ext.P3 series/ PW3	Marriage photographs (3 in number)
4	Ext.P4/ PW3	Marriage invitation letter of Ragisha and Ratheesh
5	Ext.P5/ PW8	FIR in Crime No. 133/2020 of Koyilandy PS, dated 06.02.2020.
6	Ext.P6/PW6	Proceedings of the District Police Chief, Kozhikode rural Vatakara, dated 26.02.2020.
7	Ext.P7/PW6	Report regarding taking over of investigation, dated 26.02.2020.
8	Ext.P8/PW6	Arrest memo, dated 08.05.2020
9	Ext.P9/PW6	Bail bond, dated 08.05.2020
10	Ext.P10/PW6	Report to add name and address of accused, dated nil.

Defence Witnesses examined - Nil

Exhibits marked for defence

Sl. No.	Exhibit Number	Description
1.	Ext.D1/ PW3	Certified copy of divorce petition filed before the Family Court, Vatakara
2.	Ext.D2/no witness	Copy of passport of Ratheesh Babu bearing No. M5972004.

Court Witnesses and Exhibits - Nil

Judicial First Class Magistrate

Koyilandy