

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,
MATTANNUR

Present:- Smt.Shahina.N.V,
Judicial First Class Magistrate

Dated this the 29th day of April 2026 / 09th day of Vaishka 1948

MC.No.39/2020

Raheena.V.C, W/o.Muhammed, Aged 25/20, Najeera Manzil, Kuzhakkunnu Amsom Desom, Kakkayangad. Within the limits of Muzhakkunnu Police station. <i>(Represented by Adv.Muhammed Shabeer.K.C)</i>	:	Petitioner
Muhammed, S/o.Hammed, Aged 39/20, K.M.House, Haripannur, P.O.Porora. Within the limits of Mattannur Police station. <i>(Represented by Adv.K.A.Philip)</i>	:	Respondent

ORDER

1. This is an application filed under Section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986.

2. Case of the petitioner in brief is as follows: The petitioner is the legally divorced Muslim wife of the respondent as per the order in O.P. No. 767/2018 dated 02.12.2019 of the Hon'ble Family Court, Thalassery. Their marriage was solemnized on 12.10.2014 in accordance with Muslim personal law, and thereafter the petitioner resided in the matrimonial home of the

respondent. At the time of marriage, the petitioner was given 30 sovereigns of gold ornaments by her parents and relatives, of which 26 sovereigns were purchased from Malabar Gold, Thalassery, and the remaining 4 sovereigns were gifted by relatives. After the marriage, the petitioner was subjected to continuous mental and physical cruelty by the respondent and his relatives, including persistent demands for additional gold and money. Due to repeated demands and harassment from the side of the respondent, the petitioner was compelled to hand over 27 sovereigns of gold ornaments to the respondent, which were misappropriated and never returned. Subsequently, the respondent's sister compelled the petitioner to pledge the remaining 3 sovereigns of gold ornaments in Kolari bank, Mattannur and wrongfully appropriated an amount of ₹53,000/- obtained therefrom, which has also not been returned till date.

3. The respondent continued his unlawful demands and, in February 2015, coerced the petitioner to arrange ₹1,00,000/- for his travel abroad. The petitioner raised the said amount from her father and handed it over to the respondent. Thereafter, on 02.03.2015, the respondent left for the Gulf. Even thereafter, the petitioner was subjected to neglect and ill-treatment by the respondent's family members. During June 2015, when the petitioner fell seriously ill with jaundice, neither the respondent nor his relatives provided any

care or assistance. The petitioner was taken back to her parental home by her father for treatment. Thereafter, the respondent and his family refused to take her back, thereby effectively abandoning the petitioner from 10.06.2015 onwards. No child was born in the wedlock. The respondent has failed and neglected to maintain the petitioner at any point of time. He is an able-bodied person, engaged in business abroad, earning approximately ₹1,00,000/- per month, apart from an additional income of ₹10,000/- per month from landed properties. Despite having sufficient means, he has willfully neglected to provide maintenance to the petitioner.

4. It is further contended that the petitioner had earlier filed a petition before the Hon'ble Family Court, Thalassery, as O.P. No. 798/2018 for past maintenance, which was allowed. It is also asserted that after the divorce between the petitioner and the respondent, as per the decree in O.P. No. 767/2018 dated 02.12.2019, the petitioner observed the period of iddah; however, the respondent failed to provide maintenance during the iddah period or any reasonable and fair provision (Matah) thereafter. The petitioner, being unemployed and without any independent income, is unable to maintain herself, whereas the respondent is financially sound and capable of providing adequate provision. Therefore, the petitioner has filed this application seeking orders

directing the respondent to pay ₹45,000/- towards maintenance during the period of iddah, to pay ₹20,00,000/- towards reasonable and fair provision and maintenance (Matah), to return 30 sovereigns of gold ornaments entrusted to him or in the alternative to pay ₹12,00,000/- being the value thereof, to return ₹1,00,000/- received from the petitioner, to grant costs of the proceedings, and to pass such other order(s) as this Hon'ble Court deems fit and proper in the interests of justice.

5. The respondent entered appearance and filed a counter statement, wherein he admits that the petitioner was his wife and that their marriage was solemnized on 12.10.2014, and further admits that the petitioner obtained a decree of divorce as per the order of the Family Court, Thalassery, in O.P. No. 767/2018 dated 02.12.2019. However, the respondent denies the averment that the petitioner possessed 30 sovereigns of gold ornaments at the time of marriage and also denies the allegation of misappropriation of gold ornaments, as well as the alleged misappropriation of ₹1,00,000/- by him and ₹53,000/- by his sister. According to the respondent, the petitioner had only 10 sovereigns of gold ornaments.

6. It is admitted that the respondent went abroad on 02.03.2015. However, it is contended that the petitioner left the matrimonial home on the

very same day and thereafter never returned. The respondent submits that the allegations regarding the petitioner suffering from jaundice and lack of care are not within his knowledge. It is further contended that after the respondent left abroad, the petitioner neither contacted the respondent nor his relatives. Therefore, the respondent prays that the petition be dismissed.

7. From the side of the petitioner, she was examined as PW1 and Exhibit P1 was marked. From the side of the respondent, DW1 to DW3 were examined and Exhibits D1 to D6 were marked.

8. Heard both sides and perused the records.

9. Following are the points that would arise for consideration.

(1) Whether the petitioner is a divorced Muslim wife of the respondent?

(2) Whether the petitioner is entitled to maintenance of ₹45,000/- for the period of iddah from the respondent, as prayed for?

(3) Whether the petitioner is entitled to ₹20,00,000/- towards reasonable and fair provision and maintenance (Matah) as prayed for?

(4) Whether the petitioner is entitled to the return of 30 sovereigns

of gold ornaments or, in the alternative, to their value of ₹12,00,000/-as prayed for?

(5) Whether the petitioner is entitled to the return of ₹1,00,000/- as prayed for ?

(6) Order?

10. **Point No.1:** - To prove the divorce, the petitioner relied on Exhibit P1, which is the certified copy of the decree passed by the Hon'ble Family Court, Thalassery, in O.P. No. 767/2018 dated 02.12.2019. As per Exhibit P1, the marriage between the petitioner and the respondent, solemnized on 12.10.2014, stands dissolved. The respondent has also admitted the marriage as well as the dissolution thereof as per the said decree. There is also no dispute that both parties are Muslims. In the light of the oral and documentary evidence, coupled with the admission of the respondent, this Court finds that the petitioner is the divorced Muslim wife of the respondent. Hence, point No.1 is found in favour of the petitioner.

11. **Point Nos.2 and 3:** For the sake of brevity and convenience and to avoid repetition, Point Nos. 2 and 3 are considered together. PW1 adduced oral evidence in tune with the averments contained in the petition. She stated that she has not remarried. According to her, the marriage was solemnized after

completion of her TTC education while she was pursuing her graduation. She further deposed that she was informed at the time of marriage that the respondent was doing business in Dubai, and that after the marriage, he left for abroad in March 2015 and thereafter did not maintain any contact with her. The petitioner asserted that she is entitled to all the reliefs sought in the petition.

12. During cross-examination, PW1 admitted that she had resided with the respondent only for about five months, and thereafter they lived separately as the respondent went abroad. She further stated that she had received maintenance up to December 2019 as per court order, but she does not remember the exact amount awarded. PW1 further stated that she has not remarried. At that stage, the learned counsel for the respondent confronted her with a photograph, and she admitted that one of the persons in the photograph is herself, but stated that she does not know the person standing along with her in the photograph. The said photograph was marked as Exhibit D1. It was suggested to PW1 that she is presently pregnant; however, she denied the suggestion.

13. PW1 denied the suggestion that she remarried in the year 2021 and travelled abroad with her husband and later returned. PW1 further deposed that her father was a national permit lorry driver and that her parents owned 17

cents of land and a house in their name. She denied the suggestion that her family was poor at the time of marriage and stated that they belonged to a middle-class family. She also stated that she does not know whether the respondent has been residing in his native place for the past two years and running a car accessories business there, and further stated that she is unaware of the financial status of the respondent's family. She denied the suggestion that she is entitled to compensation only until her alleged remarriage in December 2022, and also denied that she is entitled to only ₹5,000/- towards maintenance for the iddah period.

14. Though the respondent did not contend in his counter statement that the petitioner had remarried after her divorce, during the evidence stage he asserted that the petitioner had remarried in December 2022 with one Sahir, son of Savan, a native of Kannur. In order to substantiate the said contention, DW1 to DW3 were examined and Exhibits D1, D5 and D6 were marked. In this regard, DW1 specifically deposed before the court that the alleged remarriage of the petitioner was not mentioned in his counter statement as he came to know of it only at a later stage, and he described it as a secret marriage.

15. DW1 deposed before the court that he and the petitioner resided together for about six months after the marriage. He stated that at the time of

marriage he was running a flour mill and that he had not received any money or gold from the petitioner. He denied all allegations of harassment and misappropriation of gold ornaments and money by him or his sister. However, he stated that he went abroad on 15.03.2015 for employment in sales and was earning approximately ₹30,000/- per month. He further deposed that he has remarried and has two children in the subsequent wedlock. He also stated that the petitioner had remarried in December 2022 with one Sahir, a native of Kannur, who is residing at Kuruva within the jurisdiction of the Kannur City Mahal Committee. According to him, Exhibit D1 photograph contains the image of the petitioner along with her present husband.

16. DW1 further deposed that the financial status of both the petitioner and the respondent was poor and that he did not return abroad after March 2023. In support of this contention, he produced an attested copy of his passport, which was marked as Exhibit D2. He stated that the petitioner had filed two original petitions before the Family Court, Thalassery, namely O.P. No. 767/2018 for divorce and O.P. No. 798/2018 for return of gold ornaments and money, and that both petitions were disposed of by a common judgment dated 02.12.2019. According to him, as per the said judgment, the claim for return of gold ornaments and money was declined, while past maintenance at

the rate of ₹5,000/- per month for a period of 36 months was granted, and the marriage between the parties was dissolved. The certified copy of the common judgment was marked as Exhibit D3, and the certified copy of the decree in O.P. No. 798/2018 was marked as Exhibit D4. DW1 further stated that he is not aware whether the petitioner had observed iddah after the dissolution of marriage and contended that she is not entitled to any maintenance, compensation, or other reliefs as claimed. He further contended that even if the petitioner is entitled to any compensation, such entitlement would extend only up to the date of her alleged remarriage in 2022.

17. During cross-examination, DW1 admitted that he is aware of a criminal case pending against him. He stated that the petitioner did not possess any gold ornaments at the time of marriage; however, he admitted that he had given her 10 sovereigns of gold as *mahr*. He further deposed that he had gone abroad in 2008 and remained there till 2010, and again went abroad in 2015. He denied the suggestion that he had borrowed money for the purpose of going abroad. He also admitted that he had not paid any maintenance to the petitioner during the iddah period, stating that he was not aware of any such legal obligation. He further stated that he does not know whether the petitioner had observed iddah for three months. He admitted that he is aware of the order

granting past maintenance to the petitioner at the rate of ₹5,000/- per month for three years. He also stated that the petitioner is TTC qualified, but he is not aware whether she is presently pursuing any studies. He further deposed that both parties belonged to financially weak families, though he stated that he does not know the exact extent of such financial condition. He also stated that he was working abroad as a supplier in a restaurant from 2008 to 2023 and denied the suggestion that he was running a hotel or earning a monthly income of ₹2,00,000/-.

18. DW1 further deposed that he is presently working as an employee in a shop named “Carland” near the court. With respect to Exhibit D1 photograph, DW1 stated that it was obtained through his friend. He denied the suggestion that Exhibit D1 is an edited or fabricated photograph or that the petitioner has no connection with the person shown therein.

19. DW2, the Secretary of Kakkayangad Mahal Juma Masjid, deposed before the Court and produced the original marriage register relating to the marriage purportedly solemnized between the petitioner and one Sahir on 10.09.2023; the relevant document was marked as Exhibit D5, and DW2 identified his signature therein. During cross-examination, DW2 admitted that in Exhibit D5, the house name of the petitioner is not recorded, and only the

address is shown as Iritty, Kannur. He further admitted that he had affixed his seal and signature in Exhibit D5. However, he stated that he had not produced any document to substantiate that he is the Secretary of the said committee, though such records are available in the committee office.

20. During re-examination, DW2 deposed that he would be able to identify the petitioner if he sees her in person or from her photograph. When Exhibit D1 photograph was shown to him, he identified the woman in the photograph as the petitioner and clarified that the Raheena (petitioner) shown in the photograph is the same person mentioned in Exhibit D5. He also stated that the petitioner is his neighbour. During further cross-examination, a suggestion was put to DW2 that he had falsely identified the petitioner in the photograph; however, the said suggestion was denied by him.

21. DW3, the Secretary of Kuruva Jama Masjid Committee, Kannur City, deposed before the Court and produced a document, stating that it is a form issued from the bride's Mahal to the groom's Mahal at the time of marriage, which is duly signed by the Mahal Committee and returned after verification. He further stated that the original form is returned and the relevant particulars are entered in the Mahal register. The extract of the entries in the register was marked as Exhibit D6. DW3 deposed that as per Exhibit D6, the

name of the groom is Sahir Pattanam and the name of the bride is Raheena, belonging to Kakkayangad Juma Masjid. He further stated that he would be able to identify Sahir if he sees him in person or from a photograph. When Exhibit D1 photograph was shown to him, he identified the person in the photograph as Sahir.

22. During cross-examination, DW3 admitted that he has not produced any document to establish that he is the Secretary of the said committee. He denied the suggestion that the document produced by him is fabricated or created for the purpose of this case, and also denied that he had falsely identified the person in the photograph as Sahir. However, he stated that the document by itself does not conclusively establish that the marriage was actually solemnized.

23. It is not in dispute that the marriage between the parties stood dissolved as per Exhibit P1 decree dated 02.12.2019. It is also already found under Point No.1 that the petitioner is the divorced Muslim wife of the respondent. The evidence on record reveals that the petitioner and the respondent resided together only for a short period of about five to six months after the marriage, and thereafter the respondent left for abroad. The evidence of DW1 clearly shows that no amount was paid by the respondent towards

maintenance during the iddah period. Though DW1 denied the allegations of misappropriation of gold ornaments and money, he admitted non-payment of iddah maintenance. DW1 has also specifically contended during his evidence that the petitioner has remarried one Sahir, and therefore her entitlement, if any, is limited only up to the date of such remarriage.

24. The petitioner (PW1) has consistently asserted that she had observed iddah for a period of three months after dissolution of marriage and that she is entitled to maintenance for the said period and also to reasonable and fair provision (Matah). She denied the suggestion that she had remarried and maintained that she is entitled to all the reliefs claimed.

25. Therefore, the crucial issue that arises for consideration is with regard to the alleged remarriage of the petitioner. In this regard, the respondent has examined DW2 and DW3 and relied upon Exhibits D1, D5 and D6. DW2, the Secretary of Kakkayangad Mahal Juma Masjid, produced the marriage register (Exhibit D5) showing the marriage of a person named Raheena (petitioner) with one Sahir on 10.09.2023. DW3, the Secretary of Kuruva Jama Masjid Committee, produced Exhibit D6, which contains corresponding entries relating to the said marriage. Both DW2 and DW3 identified the parties in the Exhibit D1 photograph. PW1 also admitted that she is the woman seen in

Exhibit D1, though she denied knowledge of the person standing along with her. The identification of the petitioner by DW2 and of Sahir by DW3, coupled with documentary entries in Exhibits D5 and D6, probabalises the case of the respondent regarding remarriage.

26. Further, on perusal of Exhibit D1 Photograph, it appears that the petitioner is posing for a photograph resembling a wedding or engagement function, along with a man standing close to her with his arm around her, suggesting a couple-like pose. It is also pertinent to note that though the respondent had taken steps to issue summons to the said Sahir, the same was returned with an endorsement “left India”. When the oral evidence of DW2 and DW3 is read along with Exhibit D1 photograph, D5 and D6 documents and the surrounding circumstances, this Court is inclined to hold that the petitioner has remarried on 10.09.2023.

27. Once remarriage is established, the legal position is that the entitlement of a divorced Muslim woman to reasonable and fair provision cannot extend beyond the date of remarriage. However, such remarriage will not extinguish her right to claim maintenance during the iddah period and reasonable and fair provision which accrued prior to remarriage.

28. As regards the quantum of maintenance and provision, the

petitioner has contended that she belonged to a middle-class family and that the respondent was employed abroad at the time of marriage. PW1 has stated that her father was a national permit lorry driver and that her family owned 17 cents of land and a residential house. It is also in evidence that the petitioner is TTC qualified and no children were born in the wedlock.

29. On the other hand, the respondent contended that both parties belonged to financially weak families. However, his own evidence shows that he had been working abroad for a considerable period from 2008 onwards and had returned in 2023. He has also remarried and is presently maintaining a family with children. Though he claims to be presently working as an employee in a shop, no convincing documentary evidence has been produced to establish his exact income. The overall evidence indicates that both parties cannot be treated as belonging to extremely poor backgrounds, but rather to an average middle-class strata.

30. Considering the short duration of marital cohabitation, the admitted fact that the parties lived together only for a brief period, the subsequent remarriage of both parties, the educational qualification of the petitioner, and the financial capacity of the respondent as revealed from the evidence on record, this Court is of the view that the petitioner is entitled to

maintenance during the iddah period and to a reasonable and fair provision. At the same time, the quantum claimed by the petitioner appears to be excessive and not commensurate with the overall circumstances of the case. Further, the entitlement of the petitioner to fair provision cannot extend beyond the date of her remarriage.

31. Taking into account all these factors, including the standard of life of the parties, the nature and duration of the marital relationship, and the respective financial positions of both parties, this Court finds it just and reasonable to award a moderate amount towards iddah maintenance and fair provision rather than the amount claimed in the petition. Hence, Point Nos.2 and 3 are found partly in favour of the petitioner.

32. **Point Nos. 4 and 5:** For the sake of brevity and convenience and to avoid repetition, Point Nos. 4 and 5 are considered together. It is the case of the petitioner that at the time of marriage she was given 30 sovereigns of gold ornaments, out of which 27 sovereigns were purchased from Malabar Gold, Thalassery and the remaining were gifted by her relatives. It is further alleged that the said gold ornaments were entrusted to the respondent and were subsequently misappropriated by him. The petitioner has also a case that the remaining 3 sovereigns of gold ornaments were pledged in her name at Kolari

Bank, Mattannur, at the instance of the respondent's sister, and the amount obtained therefrom was taken by the said sister and not returned. Further, it is her case that in February 2015, she paid an amount of ₹1,00,000/- to the respondent, which was raised from her father, for the purpose of his travel abroad, and the same has not been repaid. Per contra, the respondent has denied all the above allegations and contended that the petitioner had only 10 sovereigns of gold ornaments at the time of marriage and that he has not taken or misappropriated any gold ornaments or money from the petitioner.

33. On an appreciation of the evidence, it is seen that except the oral testimony of PW1, no independent oral or documentary evidence has been adduced to establish the entrustment and subsequent misappropriation of gold ornaments or the payment of ₹1,00,000/- to the respondent. No purchase bills, pledge records, bank documents, or other supporting materials have been produced to substantiate the said claims. Though PW1 has given a detailed version, the same remains uncorroborated. It is also pertinent to note that the petitioner had earlier approached the Family Court, Thalassery, seeking return of gold ornaments and money, and as per Exhibit D3, the said claims were not allowed.

34. In view of the above discussion and in the absence of cogent and

reliable evidence, this Court finds that the petitioner has failed to prove the entrustment and misappropriation of gold ornaments and the payment of ₹1,00,000/- as alleged. Accordingly, the claim for return of 30 sovereigns of gold ornaments or its value and the claim for return of ₹1,00,000/- are liable to be rejected. Hence, Point Nos. 4 and 5 are found against the petitioner.

35. **Point No.6:** In the light of the findings on Point Nos.1 to 5, this Court holds that the petitioner is entitled to maintenance during the iddah period and reasonable and fair provision up to the date of her remarriage, and not thereafter, and that the claim for return of gold ornaments and money is liable to be rejected for want of proof.

In the result, the petition is partly allowed as follows:

- 1. The respondent is directed to pay ₹10,000/- per month to the petitioner towards maintenance for the iddah period.***
- 2. The respondent is further directed to pay ₹5,00,000/- (Rupees Five Lakhs only) to the petitioner as a reasonable and fair provision under Section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986.***
- 3. All other reliefs claimed by the petitioner are hereby dismissed.***

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open court, this the 29th day of April 2026).

Sd/-
Judicial First Class Magistrate,
Mattannur

APPENDIX

WITNESSES EXAMINED FOR PETTIONER:

<i>Rank</i>	<i>Name</i>	<i>Whether Eyewitness, Police witness, Expert witness, Medical witness, Other witness</i>
PW1	Raheena.V.C	Complainant

EXHIBITS MARKED FOR PETTIONER:

<i>Sl.No.</i>	<i>Exhibit Number</i>	<i>Description</i>
1.	Exhibit P1 / PW1	Decree in OP.767/2018 dated 02-12-2019 of Hon'ble Judge, Family Court, Thalassery

WITNESSES EXAMINED FOR RESPONDENT:

<i>Rank</i>	<i>Name</i>	<i>Whether Eyewitness, Police witness, Expert witness, Medical witness, Other witness</i>
RW1	Muhammed	Respondent
RW2	Zhakariya	Secretary, Kakkayangad Juma Masjid Mahall
RW3	Muhammed Ali	Secretary, Kannur City Kuruva Juma Masjid

EXHIBITS MARKED FOR RESPONDENT:

<i>Sl.No.</i>	<i>Exhibit Number</i>	<i>Description</i>
1.	Exhibit D1 / PW1	Photograph (Subject to proof)
2.	Exhibit D2 / DW1	Attested copy of Passport
3.	Exhibit D3 / DW1	Judgment in OP.767/18 and OP.798/18 of Family Court, Thalassery
4.	Exhibit D4 / DW1	Certified copy of Decree in OP.798/2018 dated 02-12-219
5.	Exhibit D5 / DW2	Marriage register / certificate (Juma Masjid committee, Kakkayangad)
6.	Exhibit D6 / DW3	Copy of Marriage register (Hidayathul Islam Sabha, Kuruva)

MOS.MARKED: Nil

Sd/-
Judicial First Class Magistrate,
Mattannur

-/True copy/-

Judicial First Class Magistrate,
Mattannur

/vt