

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-I,
CHANGANACHERRY**

Present:- Sri.Anil Kumar. T.S, Judicial I Class Magistrate.

Dated this the, 26th day of May, 2026
05th day of Jyaishta, 1948

CC No.4483/2017

Complainant : State represented by the Sub Inspector of Police,
Chingavanam Police Station in
Crime No.657/2017.

(By Smt.Rishna Rahim, APP Changanacherry)

Accused A1 Shiju, Aged 37/17, S/o Gopi,
Polachira puthenparambil (H), Polachira Bhagom,
Chingavanam kara, Nattakom Village, Kottayam.

A2 Omana, Aged 54/17, W/o Gopi,
Polachira puthenparambil (H), Polachira Bhagom,
Chingavanam kara, Nattakom Village, Kottayam.

(By Adv.Robin P Sebastian)

Offence : U/s.498A r/w 34 of the Indian Penal Code, 1860.

Plea : Not guilty

Finding : Not guilty

Sentence/Order : Accused are acquitted u/s.248(1) of Cr.P.C. Their bail
bonds stand discharged and they are set at liberty.

Date of:-

Offence	Report of complaint	Apprehension/ Appearance of accused	Release on bail	Commencement of trial	Close of trial	Sentence of order	Explanation for delay and remarks
25.10.09	06.04.17	03.08.17	24.11.25	17.10.19	22.05.26	26.05.26	---

Description of Accused

Name of accused	Age	Father's Name	Caste or Religion	Callin g	Residence	Taluk
Shiju	37/17	Gopi	Hindu	---	Polachira puthenparambil	Kottayam
Omana	54/17	W/o Gopi	Hindu	---	Polachira puthenparambil	Kottayam

This case having been finally heard on 22.05.2026 and posted for judgment to 26.05.2026 and the court on the same day delivered the following:-

J U D G M E N T

The final report in this case has been filed by the Sub Inspector of Police, Chingavanam Police Station against the accused persons, in crime No.657/2017 alleging the offences punishable u/s.498A r/w 34 of the Indian Penal Code, 1860.

2) Prosecution case in brief is as follows:- A1 is the husband of the de facto complainant and A2 is the mother of A1. A1 married the de facto complainant as per religious rites and customs on 25.10.2009. While residing together at the matrimonial house along with the accused, they ill-treated her physically and mentally, demanding more dowry. On 01.04.2017, A1 beat her, which forced the de facto complainant to leave the house along with her two children. Thus, the accused committed the offences punishable under section 498A r/w 34 of IPC.

3) On filing the final report, summons was issued to accused. The accused appeared and copies of prosecution records were furnished to them. After hearing both sides and after considering the prosecution records, charges under above offences were framed and read over and explained to the accused to which they

pleaded not guilty and claimed to tried.

4) In evidence, PW1 to PW9 were examined and Exts.P1 to P7 were marked from the side of the prosecution. On closing the prosecution evidence, the accused was examined under Section 313(1) (b) of the Code of Criminal Procedure, 1973. The accused denied all the incriminating circumstances appearing in evidence. No defence evidence was adduced.

5) Heard both sides.

6) The following points arise for determination:-

- i. Whether the accused, being the husband and mother-in-law, respectively, physically and mentally ill-treated the de facto complainant, demanding more dowry and thereby committed the offence punishable under Section 498A of the IPC?
- ii. Sentence or order, if any?

7) **Point no.1:-** Heard both sides. To prove the case the prosecution examined altogether nine witnesses. PW1 is the de facto complainant. Her marriage with the first accused was conducted on 25.10.2009. She was adorned with 20 sovereigns of gold ornaments at the time of marriage. Two children are born out of the wedlock. The accused used to ill treat her stating that she is not beautiful and that the dowry is insufficient. The accused left her at her home. After a while, the accused took her child from her custody and she filed complaint at Chingavanam Police Station. On 01.04.2017, A1 forcibly twisted her arm, pushed her down and stamped on her abdomen. On receiving information, police came there and took her to hospital Ext.P1 is the FIS given by her.

8) In the cross examination PW1 deposed that her marriage with the first accused was dissolved and she married again. As per her version, the first accused assaulted her on 01.04.2017 and police took her to hospital on that day itself. PW9 Sub Inspector at Changanacherry Police Station conducted investigation of this case. He categorically deposed that the police received information regarding the assault only on 06.04. 2017. He has no case that the Police took her to hospital on the date of incident itself. So, the contention of PW1 that police came to the scene immediately and took her to hospital is not correct. PW1 has not explained the delay in registering Ext.P1 FIS which also creates doubt.

9) Further, PW1 could narrate only a single incident of assault by the accused. In *Bhagwati Devi v. State of Uttarakhand* 2025 KHC 6752 the Honourable Apex Court discussed the ingredients of offences under Section 498A IPC. The relevant paragraphs are extracted here under:

8. A perusal of S.498A would clearly indicate that whoever, being the husband or the relative of the husband of a woman, subjects her to cruelty would be liable to be punished with imprisonment for a term which may extend to three years and also liable to fine. Under the caption of explanation "Cruelty" has been defined to mean and include 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 said woman or harassment of the woman or where the 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. Demand for dowry

*in any form is itself sufficient for S.498A of IPC being attracted. Demand made in any form either by the husband or by the relative of the husband would also attract S.498A of IPC. Even if the demand exhibits the conduct that would likely to drive the said woman being unable to bear such conduct would attract Explanation (a). Likewise, harassing of a married woman with a view to coercing her or her relative to meet any unlawful demand would also fall within the mischief of the expression 'cruelty'. This court in the case of **Manju Ram Kalita vs. State of Assam, (2009) 13 SCC 330** has held cruelty for purpose of S.498A of IPC is to be established in that context as it may be different from other statutory provisions. In other words, it has been held that it has to be established that the woman had been subjected to cruelty continuously/persistently or at least in close proximity of time of lodging of complaint. It has been further held:-*

"21. "Cruelty" for the purpose of S.498A IPC is to be established in the context of S.498A IPC as it may be different from other statutory provisions. It is to be determined / inferred by considering the conduct of the man, weighing the gravity or seriousness of his acts and to find out as to whether it is likely to drive the woman to commit suicide, etc. It is to be established that the woman has been subjected to cruelty continuously / persistently or at least in close proximity of time of lodging the complaint. Petty quarrels cannot be termed as "cruelty" to attract the provisions of S.498A IPC. Causing mental torture to the extent that it becomes unbearable may be termed as cruelty."

10) In the case at hand, PW1 has no case that the accused beat her on the relevant date demanding a dowry. Similarly, it is trite that a single incident of

beating is not sufficient to attract offence under Section 498A of IPC. PW1 could not specify the date or other details of the harassment said to have been done on previous occasions. Therefore, evidence of PW1 does not establish ingredients of offence under Section 498A.

11) PW2 and PW3 are occurrence witnesses. They have not supported the prosecution case. PW9 conducted investigation of this case. He registered Ext.P5 FIR. Further he prepared Ext.P2 scene mahazer. He arrested the accused and produced them before the Court. After completing the investigation, he laid final report before the court. As already noticed, evidence of PW1 is not reliable. PW9 conducted only a formal investigation which is not sufficient to prove the charge against the accused. Hence the accused deserves acquittal.

12) **Point no.2:-** In view of the finding on point no.1, accused are found not guilty of the offences punishable u/s.498A r/w 34 of the Indian Penal Code, 1860.

In the result, accused are found not guilty of the offences punishable u/s.498A r/w 34 of the Indian Penal Code, 1860 and they are acquitted under section 248(1) of the Code of Criminal Procedure, 1973. Their bail bonds stand discharged and they are set at liberty.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 26th day of May, 2026)

Judicial First Class Magistrate – I
Changanacherry

APPENDIX

Witnesses examined for the Prosecution:-

PW1/CW1	- Smt.Sandhya	14.03.2023
PW2/CW2	- Sri.Dineshan	11.08.2023
PW3/CW3	- Sri.Sasi	11.08.2023
PW4/CW5	- Sri.Chackochan	25.09.2023
PW5/CW6	- Sri.Vijoj	09.11.2023
PW6/CW8	- Smt.Bindu Rani	19.12.2023
PW7/CW7	- Dr.Toniya John	15.10.2024
PW8/CW9	- Sri.Ramachandran V K	28.01.2025
PW9/CW10	- Sri.Anoop C Nair	28.01.2025

Exhibits marked for the Prosecution:-

P1	- FIS marked through PW1	14.03.2023
P1(a)	- Body note marked through PW6	19.12.2023
P2	- Scene mahazer marked through PW4	25.09.2023
P3	- Testimony marked through PW5	09.11.2023
P4	- Wound certificate marked through PW7	15.10.2024
P5	- FIR marked through PW9	28.01.2025
P6	- Section addition report marked through PW9	28.01.2025
P7	- Address report marked through PW9	28.01.2025

Witness examined for the defence :-

Nil

Exhibits marked for the defence :-

Nil

Material Objects Marked:-

Nil

Judicial First Class Magistrate -I
Changanacherry