

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS,
PATTAMBI**

Present:- Smt. Neema Noor Mohamed, Judicial Magistrate of First Class.

Tuesday, this the 21st day of April, 2026/ 1st day of Vaisakha, 1948 S.E.

Calendar Case No. 945/2024.

State represented by the Sub Inspector of Police, Pattambi Police Station in crime No. 383/2011. (By Smt. Resmi.V.S. Grade II A.P.P)		Complainant
Asharaf Ali, aged 23/11 years, S/o. Aboobacker, Pottachira House, Prabhapuram. (By Adv. Smt. Smitha Manojkumar)		Accused
Offence	Punishable under sections 498A r/w 34 IPC.	
Plea	Not guilty	
Finding	Guilty	
Sentence or order	The accused is sentenced to undergo simple imprisonment for a period of eight months and to pay compensation of ₹25,000/- (<i>Rupees twenty five thousand only</i>) to PW1 for the offence under section 498A r/w 34 IPC. In default of payment of compensation the accused shall undergo simple imprisonment for a further period of 15 days. The accused is entitled to get set off for the period of under trial detention undergone by him in this case under Sec. 428 Cr.P.C for a period from 30/07/2025 to 21/04/2026.	

DATE OF

Offence	Complaint	Apprehension	Release on Bail	Commencement of Trial	Close of Trial	Order	Explanation for
01/08/10 to 03/08/11	03/08/11	28/03/25	JC	21/11/25	18/04/26	21/04/26	No delay

DESCRIPTION OF ACCUSED

Name	Father's Name	Age	Residence
Asharaf Ali	Aboobacker	23/11	Prabhapuram

J U D G M E N T

This is a case instituted upon the final report submitted by the Sub Inspector of Police, Pattambi Police Station in crime No. 383/2011 against accused 8 in numbers alleging the commission of offence punishable under Sec. 498A r/w 34 IPC. Accused herein is the 1st accused as per final report.

2. The summary of the prosecution case is as follows: The marriage between PW1 with the accused was solemnized on 01/08/2010 as per Muslim religious rites. During the subsistence of marriage, the accused along with his relatives had subjected her to cruelty and harassment demanding more money and gold ornaments. The accused had taken 25 sovereigns of gold ornaments and ₹ 2 lakhs of PW1, which were gifted at the time of marriage by her parents. Thus the accused is alleged to have committed the aforesaid offences.

3. PW1 filed a complaint before the court and the same was forwarded to SHO, Pattambi for investigation. On receipt of the same, PW9 registered the first information report and after completing investigation, he filed the final report before the court.

4. Originally the case was taken on file as CC 208/2012. On 25/11/2024, judgment was passed convicting the 3rd accused and acquitting the 4th to 8th accused. The case against 2nd accused abated as he was no more and as the 1st accused was absconding during the evidence stage, case against him was split up and refiled as this case.

5. The accused was produced before the court. The accused was represented by a legal aid counsel. Copies of all relevant prosecution records were already furnished to the accused under section 207 of Cr.P.C and charge was already read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

6. In order to prove the prosecution case, the Investigating Officer cited 9 witnesses. From the side of prosecution PW1 to PW4 were examined and Exts. P1 to P9 were marked. On closure of prosecution evidence, the accused was examined under section 313(1)(b) of Cr.P.C. as to the incriminating evidence brought out against him in prosecution evidence. He denied all that evidence and repeated the plea of innocence.

7. Accused was then called upon to enter upon his defence and produce his evidence. No oral evidence adduced from the side of defence, document Ext. D1 was marked.

8. After hearing both sides the following points arose for consideration;

1. *Whether the accused subjected PW1 to physical or mental cruelty with a view to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or on account of failure by her or any person related to her to meet such demand thereby committed offence under section 498A IPC ?*

2. *If the accused committed the offence in furtherance of their common intention to commit offence under section r/w 34 IPC ?*
3. *If the accused is found guilty, what should be the proper sentence?*

9. **Point No.1 and 2** :- For brevity these points can be considered together.

PW1: PW1 is the victim who deposed that at the time of marriage, she was gifted ₹2,00,000/- and 25 sovereigns of gold. The amount of ₹2,00,000/- was handed over to the accused. She further deposed that the accused and his family members misappropriated her gold ornaments and have not returned the same till date, for which she had already approached the Family Court and obtained an order in her favour. Despite the same, the gold ornaments have not been returned till date. She testified that the accused and his family persistently harassed her in connection with dowry demands, and hence she initiated legal action against accused and his family. The complaint filed before this court was identified by this witness which bears her signature. The same was marked as Ext.P1. The wedding invitation card was marked as Ext.P2. She further deposed that out of the 25 sovereigns of gold, 10 sovereigns were taken by her mother-in-law, 5 sovereigns were taken by the brother of the accused, namely Sakkeer, and the remaining ornaments were misappropriated by the accused for his personal use. She also testified that the accused physically assaulted her, which resulted in miscarriage, and for this she had taken treatment at Nila Hospital under Dr. Zainaba on 09/06/2011. She further deposed that she had narrated the incident of harassment by accused to the doctor. She deposed that on 29/07/2011,

she approached the Dy.S.P office with a petition, following which she and the accused were called for mediation at Pattambi Police Station. After the mediation talks, she was sent back to the matrimonial house. However, on the very same day, the accused physically assaulted and verbally abused her, questioning how she dared to file a petition against him and family and further threatened that she would not be allowed to reside in the house. During her deposition, her demeanour was recorded, and she was found to be weeping. She further deposed that on 30/07/2011, the accused again harassed her and threatened that she would be killed and thrown into a well. On the same day, she called her father and left for her parental house. Thereafter, on 03/08/2011, she gave a complaint before this court. During cross-examination, she was confronted with her statement under Section 161 Cr.P.C., wherein it was recorded that the entire gold ornaments were misappropriated by the accused. The said portion was marked as Ext.D1.

10. PW2 is the father of PW1. He deposed that in the year 2010, his daughter was married to the accused. According to him, at the time of marriage, he had given 25 sovereigns of gold and an amount of ₹2,00,000/-, which were misappropriated by the accused. He further deposed that after the marriage, the accused demanded additional money and dowry from his daughter, and that she was subjected to continuous harassment and abuse, resulting in a difficult marital life. He also stated that when PW1 became pregnant, the accused kicked her on her abdomen, which resulted in miscarriage. He deposed that thereafter, mediation talks were conducted, and his daughter was sent back to the matrimonial house; however, the accused again

began to harass her. During cross-examination, he stated that the amount of ₹2,00,000/- was handed over to the accused, and that other persons were present at the time of such handing over.

11. PW3 is a police witness. She deposed that in the year 2011, while she was working as a Civil Police Officer at Pattambi Police Station, she had occasion to work with CW9, the Investigating Officer, and is acquainted with his signature and handwriting. She was shown the certified copy of the FIR registered by CW9, in which she identified the signature of CW9, and the same was marked as Ext.P3. She was also shown the seizure mahazar prepared by CW9, in which she identified his signature, and the same was marked as Ext.P4. Through this witness, Form No.15 prepared by CW9 was marked as Ext.P5. The seizure mahazar dated 10.08.2011 prepared by CW9 was marked as Ext.P6. The Form No.15 (FIR forwarding/related certificate) prepared by CW9 was identified and marked as Ext.P7. She was also shown the certified copy of the address report of all the accused prepared by CW9, which was marked as Ext.P8. The charge sheet prepared by CW9, bearing his signature, was also identified by the witness.

12. PW4 is a medical witness. She deposed that while she was working as a Senior Gynecologist at Nila Hospital, Pattambi, on 09/06/2011, she examined PW1, namely Sareena. The patient was admitted with complaints of bleeding per vagina following one and a half months of amenorrhea, with a clinical diagnosis of threatened abortion. On sonographic examination, complete abortion was confirmed, and the patient was discharged on 10/06/2011. She further deposed that the patient

again presented at the outpatient department with complaints of bleeding per vagina. On examination after one month, the general condition of the patient was found to be satisfactory. On vaginal examination, the uterus was of normal size and the fornices were intact. The condition was treated as a normal menstrual episode with slightly excessive bleeding. Based on the above examination, she issued a medical certificate bearing her signature and seal. The certificate copy of the said medical certificate was marked as Ext.P9. This witness was cross-examined, wherein she deposed that amenorrhea means missed periods and threatened abortion. In medical terms it refers to bleeding during pregnancy. She further stated that it is an unusual clinical presentation and not one caused by external factors.

13. The offence alleged in the instant matter is under section 498A r/w 34 IPC. The definition of cruelty as contemplated in the provision under Section 498A of the Indian Penal Code reads as follows:

“Explanation.—For the purpose 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.”

14. At the outset, it is to be noted that in the parent case arising out of the very same occurrence, the mother of the accused stood convicted, and the present case represents the second round of trial, necessitated by the fact that the accused herein had absconded during the earlier proceedings.

15. On a careful evaluation of the evidence, the chronological sequence of events assumes significance in appreciating the continuity and gravity of the acts alleged. The marriage between PW1 and the accused was solemnized on 25/09/2010, after which PW1 began residing in the matrimonial home. According to her, the initial phase of matrimonial life soon gave way to persistent demands for additional dowry, accompanied by both mental and physical harassment.

16. The evidence of PW1 reveals that such harassment was not an isolated incident but a continuing course of conduct. Unable to endure the same, she herself approached the Dy.S.P office on 29/07/2011 and submitted a petition. Pursuant thereto, both parties were called for mediation at Pattambi Police Station. The very fact that she approached the Dy.S.P shows that the issues between the parties had become aggravated.

17. However, what is of crucial importance is the conduct of the accused immediately thereafter. PW1 has categorically deposed that despite the intervention and mediation, she was subjected to further acts of cruelty on the very same day when she returned to the matrimonial home. She has testified that the accused physically assaulted her and verbally abused her, questioning her as to how she dared to approach the police and stating that she would not be allowed to reside in the

house. This immediate continuation of harassment, even after mediation, shows the persistence of the conduct of the accused.

18. The events did not end there. PW1 has further deposed that on the very next day, i.e., 30/07/2011, the accused continued the harassment and went to the extent of threatening her with death by stating that she would be killed and thrown into a well. This further aggravation of the conduct is a crucial circumstance. Faced with such circumstances, PW1 was left with no option but to immediately contact her father and leave the matrimonial home on the same day. The promptness with which she left the matrimonial house and the subsequent lodging of the complaint on 03/08/2011 further support the sequence of events as narrated by her. Thus, the chronology as emerging from the evidence clearly establishes a continuous and unbroken chain, beginning with dowry-related harassment, followed by her approaching the Dy.S.P with a complaint, mediation, and thereafter an immediate continuation of cruelty culminating in threats to life, which ultimately forced PW1 to leave the matrimonial home and initiate legal action.

19. In matrimonial offences of this nature, which predominantly occur within the confines of the household, direct independent evidence is seldom available. The court is therefore required to assess the probabilities and the natural course of human conduct in such situations. The testimony of PW1, in this regard, is found to be consistent and natural. The fact as to the assaulting PW1 during her pregnancy narrated by the PW1 and PW2 strengthens the prosecution case in terms of cruelty inflicted upon PW1 during the subsistence of marriage. The medical evidence

adduced through PW4 establishes that PW1 had undergone a pregnancy-related complication during the relevant period, which forms part of the overall factual background. Despite thorough cross-examination, her version on the material particulars remains unshaken.

20. The demeanour of PW1 during deposition, wherein she was found to be weeping while narrating the incidents, also lends assurance to the genuineness of her testimony and reflects the continuing impact of the trauma she had undergone.

21. The evidence of PW2, being the father, lends support to the version of PW1 regarding the harassment and the sequence of events leading to her leaving the matrimonial home. Having regard to the totality of the circumstances, the consistent testimony of PW1, the supporting evidence on record, and the surrounding circumstances viewed in the light of social realities, this Court finds that the prosecution has succeeded in establishing the guilt of the accused beyond reasonable doubt. Accordingly, the accused is found guilty of the offences alleged and is liable to be convicted under section 248(2) of Cr.PC. The point is answered accordingly.

Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court, this the 21st day of April, 2026.

Sd/-
Judicial Magistrate of First Class,
Pattambi.

22. Considering the nature of offence, I am not satisfied that this is a fit case to invoke the benevolent provisions of the Probation of Offenders Act. Hence the accused was heard on the question of sentence under section 248(2) of the Criminal Procedure Code. The accused prayed for leniency in sentence. Considering the entire matter in detail, I am of the view that awarding the following sentence to the accused will meet the ends of justice.

In the result,

1. **The accused is sentenced to undergo simple imprisonment for a period of eight months and to pay compensation of ₹25,000/- (*Rupees twenty five thousand only*) to PW1 for the offence under section 498A r/w 34 IPC. In default of payment of compensation the accused shall undergo simple imprisonment for a further period of 15 days.**
2. **The accused is entitled to get set off for the period of under trial detention undergone by him in this case under Sec. 428 Cr.P.C for a period from 30/07/2025 to 21/04/2026.**

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Sd/-
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APPENDIX

Witnesses examined for the Prosecution:-

PW1:	Sareena.C.K, aged 39 years, D/o. C.K. Koya, Maruthur, Pattambi.	First informant CW1
PW2:	Koya, aged 77 years, S/o. Kunjalan, Ongallur, Pattambi.	CW10
PW3:	Sandhya.M, aged 52 years, D/o. Sreedharan, Ongallur, Pattambi	Additional police witness
PW4:	Dr. P.M.Zainaba , aged 71 years, D/o. Abdul Khader, Anakkara, Pattambi	Medical witness

Witnesses examined for the Defence:- NIL

Exhibits marked for Prosecution:-

- P1 : 03/08/2011 Complaint (PW1)
- P2: 25/10/2011 Marriage invitation letter Medical certificate (PW1)
- P3: 05/08/2011 Certified copy of FIR (PW3)
- P4: 11/08/2011 Certified copy of Seizure mahazer (PW3)
- P5: Certified copy of Form 15 (PW3)
- P6: 10/08/2011 Certified copy of Seizure mahazer (PW3)
- P7: Certified copy of Form 15 (marriage certificate) (PW3)
- P8: Certified copy of report to add name and address of accused(PW3)
- P9: 25/10/2011 Copy of Wound certificate (PW4)

Exhibits marked for Defence:-

D1: 161 statement of CW8

Sd/-

Judicial Magistrate of First Class,
Pattambi.

// True Copy//

Judicial Magistrate of First Class,
Pattambi.