

IN THE FAMILY COURT, PATHANAMTHITTA
Present: Sri.Doney Thomas Varghese, Judge.

Saturday the 30th day of May, 2026
9th day of Jyeshtha of 1948 S.E.

OP No. 124/2024

Between:-

1 xxxxxxxx
 xxxxxxxxxxxx
 xxxxxxxxxxxxxxxx
 xxxxxxxxxxxxxxxxxxxx

(By Adv. Suresh Mathai)

Petitioner

AND:-

1 xxxxxxxxxxxx
 xxxxxxxxxxxxxxxx
 xxxxxxxxxxxx

(By Adv. B Gopakumar & Adv, Swatha
 Soman)

2 xxxxxxxxxxxx
 xxxxxxxxxxxxxxxx

3 xxxxxxxxxxxx
 xxxxxxxxxxxxxxxx
 xxxxxxxxxxxx

(By Adv. Jayakumar, Adv. Suresh Kumar N
 &
 Adv. Harikumar T G)

Respondents

This petition having been finally heard on 30.05.2026 and the court on the same day the court delivered the following:-

JUDGMENT

Petition preferred by the petitioner/wife for return of gold ornaments or in the alternative its market value and also for setting aside settlement deeds.

2. The case of the petitioner/wife in brief is as follows:- Marriage between herself and 1st respondent was solemnised on 18.11.1998 in accordance with Hindu religious rites and ceremonies. 2nd respondent is the mother of the 1st respondent whereas 3rd respondent is his brother. At the time of marriage petitioner was adorned with 101 sovereigns of gold ornaments. Out of which 81 sovereigns of gold ornaments were obtained by the 2nd respondent. A few months after the marriage while 1st respondent was out of station in connection with his employment as a soldier, 2nd respondent has sold or pledged 35 sovereigns of gold ornaments of the petitioner for discharging the debts incurred in connection with the purchase of vehicles and also for business purposes. When the petitioner has enquired about the same 2nd respondent has uttered filthy abusive words. Remaining gold ornaments were either sold or pledged by the respondents 2 and 3 for their purposes. 1st respondent was acting under the dictation of other respondents. The father of the petitioner was employed abroad. Respondents 2 and 3 had asked the petitioner to bring more money and they were in the habit of blackmailing the petitioner for that end. She had to suffer severe mental

cruelty on the part of the respondents even after child birth. In April 2001 petitioner and the child were evicted from her matrimonial home. When 1st respondent questioned the aforesaid attitude of the other respondents, petitioner, 1st respondent and their child were dispossessed by respondents 2 and 3 in December 2001. Despite repeated demands respondents 2 and 3 failed to return her gold ornaments. 3rd respondent went to the extent of assaulting the petitioner and her child at a public place. Respondents came forward with a settlement to settle the land of 2nd respondent in favour of the petitioner as a consideration for misappropriating her gold ornaments. But thereafter 3rd respondent has unscrupulously obtained the said properties in his favour by virtue of settlement deed No. 872/2013. Even in 2018 when the petitioner and 1st respondent made a visit to the 2nd respondent during her hospitalization she agreed to convey her land in favour of the petitioner as a consideration for her 81 sovereigns of gold. In July 2022, 2nd respondent became ill due to brain stroke. After the demise of the father of 1st respondent when petitioner and 1st respondent visited the said house in August, 2023 respondents 2 and 3 misbehaved with them. On 21.01.2024 petitioner came to know about the execution of settlement deed by 2nd respondent in favour of 3rd respondent in respect of remaining properties. Upon getting the said information when the petitioner demanded return of her gold ornaments she was ridiculed by

the respondents 2 and 3 by uttering abusive words. Petitioner is entitled to recover the said gold ornaments or in the alternative its market value from respondents 2 and 3. But on 15.02.2024 petitioner has got reliable information from a person namely Maneesh Kumar that the 3rd respondent is making hasty preparations to alienate the schedule property with a view to delay or defeat the decree that may be passed against him. Hence this petition for return of 81 sovereigns of gold ornaments or in the alternative its market value and also for setting aside settlement deed no.872/13 and 492/21 of Aranmula SRO.

3. 1st respondent entered appearance and filed objection with the following contentions:- 1st respondent joined Indian Army in February 1995 at the age of 18 years 6 months. 1st respondent was very particular in sending money to the 2nd respondent. He stayed there at the family house by ensuring the welfare of his parents and siblings. Even after his marriage, he continued there as stated above. On the date of marriage, out of 101 sovereigns of gold ornaments of the petitioner, 81 sovereigns of gold ornaments were entrusted to 2nd respondent in the presence of 1st respondent. There were four shop rooms appurtenant to the family house. Bakery and grocery business were there in the said shop rooms. A few vehicles were also there in connection with the said business. Debts incurred in connection with the purchase of vehicles and also to compensate the business loss father of

the 1st respondent and respondents 2 and 3 had pledged the gold ornaments of the petitioner. Gold ornaments of the petitioner were again pledged and sold by them for the construction of a retaining wall. Gold ornaments were sold and pledged at Kottakkakam Idayaranmula Sree Krishna Finance and IOB, Kozhippalam branch during 1998 to 2001. Loans were availed in the name of the father and mother of 1st respondent and the same is evident from the records available in those financial institutions. Accordingly 81 sovereigns of gold ornaments of the petitioner were misused by respondents 2 and 3. At the time when the petitioner has returned to her paternal home in connection with delivery a gold chain having a weight of 2 sovereigns was taken by the 2nd respondent. 2nd respondent failed even to visit the newborn baby. In December 2001, when the 1st respondent came on leave, respondents 2 and 3 asked him to go and stay there at the paternal house of the petitioner. They also asked him to bring money by selling the family house of the petitioner. They had asked the 1st respondent to divorce the petitioner. He was forcibly thrown out of his family house. Thereafter he had shifted his residence to the paternal house of the petitioner. 1st respondent has asked the respondents to return the gold ornaments and cash but the 1st respondent and the petitioner were thrown out by them and they denied access to them to the family house. 3rd respondent has assaulted the petitioner and 1st respondent. A

petition was preferred before Aranmula Police. As 3rd respondent has to go abroad said petition was subsequently settled. It was agreed to allot family property in lieu of the gold ornaments and cash. 1st respondent came to know about the transfer of all family properties in favour of 3rd respondent. He came to know about the same only in 2024. There is no collusion between the petitioner and 1st respondent.

4. Respondents 2 and 3 entered appearance and filed objection with the following contentions:- After the marriage petitioner and 1st respondent stayed there at her matrimonial home only for a period of one week. Thereafter they have been living there at the paternal home of the petitioner. 81 sovereigns of gold ornaments were not entrusted by the petitioner with the 2nd respondent. Petitioner was not adorned with 101 sovereigns of gold ornaments. Her gold ornaments are still in the possession of the petitioner. She was not subjected to physical or mental cruelty as alleged by her. Vehicles were purchased prior to the marriage of the petitioner and 1st respondent and those vehicles were purchased by the father of the 1st respondent on hire purchase agreement. Gold ornaments of the petitioner were not sold or pledged by respondents 2 and 3 for discharging the loan nor for constructing any compound wall. She was not dispossessed from her matrimonial home as alleged by her. Present application is the out come of collusion between the petitioner and the 1st respondent. No such assurance was given to the petitioner as

part of a settlement to convey the land belonging to 2nd respondent. Petitioner and 1st respondent had not visited the 2nd the respondent as alleged by her. By taking note of the readiness and willingness of the 3rd respondent to take care of 2nd respondent the properties were conveyed in his favour and there was no such undue influence. Said Maneesh Kumar is the younger son of the 2nd respondent who is also not ready to take care of his mother . There is collusion even between him and the petitioner and 1st respondent. Petition is liable to be dismissed with costs.

5. All efforts to settle the dispute between the parties through counselling and mediation were in vain.

6. Petitioner was examined as PW1 and Exts.A1 to A4series were marked. 3rd respondent was examined as RW1 on the side of the contesting respondents.

7. Heard both sides. The points that arise for consideration are:

1. Whether the petitioner is entitled to recover 81 sovereigns of gold ornaments or in the alternative its market value from respondents2 and 3?
2. Whether the settlement deed No.872/2013 and 492/2021 are liable to be set aside ?
3. Reliefs and costs?

8. **Points Nos.1 to 3:-**

For the sake of convenience points 1 to 3 are discussed together. The case of the petitioner is that the marriage between herself and 1st respondent was solemnised on 18.11.1998 in accordance with Hindu religious rites and ceremonies. 2nd respondent is the mother of the 1st respondent whereas 3rd respondent is his brother. At the time of marriage petitioner was adorned with 101 sovereigns of gold ornaments. Out of which 81 sovereigns of gold ornaments were obtained by the 2nd respondent. When 1st respondent was out of station in connection with his employment as a soldier. 2nd respondent has sold or pledged 35 sovereigns of gold ornaments of the petitioner for discharging the debts incurred in connection with the purchase of vehicle and also for business purposes. When petitioner has enquired about the same 2nd respondent has uttered filthy abusive words. Remaining gold ornaments were also either sold or pledged by the respondent 2 and 3 for their purposes. 1st respondent was acting under the dictation of other respondents. The father of the petitioner was employed abroad. Respondents 2 and 3 had asked the petitioner to bring more money and they were in the habit of blackmailing the petitioner. She had to suffer severe mental cruelty on the part of the respondents even after child birth. In April 2001 petitioner and child were evicted from her matrimonial home. When 1st respondent questioned the aforesaid attitude of the other respondents, petitioner, 1st

respondent and their child were dispossessed by respondents 2 and 3 in December 2001. Despite repeated demands respondents 2 and 3 failed to return her gold ornaments. 3rd respondent went to the extent of assaulting the petitioner and her child. Respondents came forward with a settlement to settle the land of 2nd respondent in favour of the petitioner as a consideration for misappropriating her gold ornaments. But thereafter 3rd respondent has unscrupulously obtained the said properties in his favour by virtue of settlement deed No. 872/2013. Even in 2018 when the petitioner and 1st respondent made a visit to the 2nd respondent during her hospitalization she agreed to convey her land in favour of the petitioner as a consideration for her 81 sovereigns of gold. In July 2022, 2nd respondent became ill due to brain stroke. After the demise of the father of 1st respondent when petitioner and 1st respondent visited the said house in August, 2023 respondents 2 and 3 misbehaved with them. On 21.01.2024 petitioner came to know about the execution of settlement deed by 2nd respondent in favour of 3rd respondent in respect of remaining properties. Upon getting the said information when the petitioner demanded return of her gold ornaments she was ridiculed by the respondents 2 and 3 by uttering abusive words. Petitioner is entitled to recover the said gold ornaments or in the alternative its market value from respondents 2 and 3. But on 15.02.2024 petitioner has got reliable information from a person namely

Maneesh Kumar that the 3rd respondent is making hasty preparations to alienate the schedule property with a view to delay or defeat the decree that may be passed against him. So the crucial question to be determined is whether the petitioner has succeeded in proving her case for the recovery of 81 sovereigns of gold ornaments and whether the impugned settlement deeds are liable to be set aside.

9. In a claim for return of gold ornaments and patrimony, the wife has to prove that the gold ornaments were owned by her and that it was entrusted to the husband and he failed to return it to her. The standard of proof in such cases would be the same as in civil cases ie. the court has to decide the cases based on preponderance of probabilities. The court has to consider, evaluate and weigh the rival contentions and rival evidence and to see whether the burden cast on the claimant has been discharged or not. The party on whom the burden of proof lies has to show that his or her version of the event is more plausible or probable than the case of the opposite party. [Section 101](#) of Indian Evidence Act states that whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist. When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person. [Section 102](#) of the Indian Evidence Act provides that the burden of proof in a suit or proceeding lies on that person who would fail if no

evidence at all were given on either side. In view of [Sections 101](#) and [102](#) of the Indian Evidence Act, 1872 the burden is on the petitioner to establish the entrustment of the gold ornaments with the respondent. As held in ***Muneera v Mariyamma 2024:KER:94701*** proof of entrustment is the key element in a claim for return of gold ornaments and patrimony. The wife has to prove that the gold ornaments were owned by her and they were entrusted to the husband and they failed to return it. Entrustment refers to the act of placing the gold ornaments in the custody or possession of the in-laws with trust and confidence. The petitioner/wife must substantiate her claim by adducing evidence of entrustment, failing which her claim will fail. In a legal claim for return of gold ornaments by a wife against her in laws, the primary issue often revolves around proving entrustment namely the act of placing the ornaments in the custody or possession of husband. This requires a detailed analysis of the factual matrix, legal principles and evidentiary requirements. Proving entrustment in a claim for return of gold ornaments is a fact intensive process. The wife must present cogent evidence of ownership, entrustment and the failure by the respondent to return it. The success depends on the strength of evidence and the credibility of witnesses.

10. In a catena of decisions this Court has held that in order to grant a decree for return of gold ornaments and money, there should be

specific pleadings and evidence regarding the entrustment of gold ornaments to the husband and in-laws and in the absence of any proof regarding entrustment, the relief sought for return of gold and cash cannot be granted. It was so held in Abubakker Labba V. Shameena.K.B (2018(3) KHC 219), Binitha vs. Hareendran (2023 KHC OnLine 99), Mohandas v. Sunitha Mohandas (2024(7) KHC 273) and Binod v. Sophy (2019 KHC 5624). Mere assertions of the petitioner without any reliable evidence regarding entrustment are not sufficient to grant a decree for return of gold and money. In the case at hand, petitioner has failed to prove that she entrusted 04 sovereigns of gold ornaments to the respondent. In the light of the foregoing discussion it can be safely concluded that the petitioner failed to establish her claim for return of gold ornaments.

11. Here the case of the petitioner is that at the time of marriage she was adorned with 101 sovereigns of gold ornaments. On the date of marriage, a gold bangle having a weight of 1 sovereign was given to 2nd respondent. On the date of adukulakanal, a gold chain having a weight of 5 sovereigns was given to the 1st respondent. Out of the said 101 sovereigns, except 20 sovereigns, 81 sovereigns of gold ornaments were obtained by the 2nd respondent in the presence of 1st respondent. Soon after the marriage 1st respondent returned to his place of employment. Thereafter the petitioner was subjected to physical and mental cruelty

by demanding more gold ornaments and cash. 35 sovereigns of gold ornaments were pledged/sold by 2nd respondent to discharge the debts in connection with their business and also for discharging the debts incurred in connection with the purchase of vehicles. 46 sovereigns of gold ornaments of the petitioner were also sold/pledged for the construction of a pitching and also for the business purpose of respondents 2 and 3. So, the case of the petitioner is that she is entitled to get back 81 sovereigns of gold ornaments or in the alternative its market value from the respondents 2 and 3. Only evidence produced in support of her case of ownership of 101 sovereigns is Ext.A4 series wedding photos. Said photographs alone are not sufficient to prove the ownership of 101 sovereigns of gold ornaments by the petitioner in the absence of any substantive evidence. In her evidence, during cross-examination, the version of PW1 is that a few gold ornaments were brought by her father from Gulf. Rest of the gold ornaments were purchased from Surya Jewellery, Kotta and also from Palathumpattu Jewellery, Chengannur. According to her, 15 sovereigns were brought by her father from Gulf. 55.5 sovereigns were purchased from Palathumpattu Jewellery and 15 sovereigns were purchased in piecemeal from Surya Jewellers. No positive evidence whatsoever was adduced either by producing bills or by summoning the jewellers to prove the alleged purchase of gold. If the version of PW1 is that "അതേ 15

പവൻ കൊണ്ടുവന്നിരുന്നു. പാലത്തുപാട്ട് ജൂവലറിയിൽ നിന്നും ജൂവലറിയിൽ നിന്നും 55.5 പവൻ വാങ്ങി. സൂര്യയിൽ നിന്നും പലപ്പോഴായി 15 പവൻ വാങ്ങി.” is accepted, it can be seen that the total quantity comes to 85.5 sovereigns only. She failed to explain the purchase/source of 101 sovereigns of gold ornaments. The case of the petitioner is that all her gold ornaments except 20 sovereigns of gold ornaments were obtained by the 2nd respondent in the presence of 1st respondent. But the pleadings of the petitioner is silent as to the alleged date of entrustment. But in the affidavit in lieu of examination-in-chief, the case of the petitioner is that those ornaments were obtained by 2nd respondent on the date of marriage itself. It is pertinent to note that as per her pleadings, 20 sovereigns of gold ornaments retained by her are “5 പവൻ തൂക്കം വരുന്ന സ്വർണ്ണമാല, 1 പവൻ തൂക്കം വരുന്ന ഒരു ജോഡി കമ്മൽ, 4 ഗ്രാം തൂക്കം വരുന്ന ഒരു മാട്ടി, 1 ½ പവൻ തൂക്കം വരുന്ന 2 വളകൾ, ഓരോ പവൻ തൂക്കം വരുന്ന 4 വളകൾ, ½ പവൻ തൂക്കംവരുന്ന 6 മോതിരങ്ങൾ, 3 പവൻ തൂക്കംവരുന്ന പാദസരം. അരപ്പവൻ തൂക്കംവരുന്ന ഒരു ജോഡി മിഞ്ചി എന്നിവ ഉൾപ്പെടെ 20 പവൻ.”

But in the evidence during cross examination the version of PW1 is as follows:

“ 5 പവന്റെ മാല, 1 പവന്റെ കമ്മൽ, 4 ഗ്രാമിന്റെ മിഞ്ച്. ഒന്നര പവൻ വീതമുള്ള 2 വളകൾ. 1 പവൻ വീതം 4 വളകൾ, 3 പവൻ പാദസരം, അര പവന്റെ മിഞ്ചി, അരപ്പവന്റെ 6 മോതിരം എന്നിവയാണ് .“

Said version shows the total weight of ornaments as “23” sovereigns instead of “20” sovereigns. What is stated in the original petition is that the petitioner was adorned with 101 sovereigns of gold and out of which 81 sovereigns were obtained by the respondents. The claim of the

petitioner is return of 81 sovereigns of gold or its market value. It is averred in the petition that on the date of marriage a gold bangle having a weight of 1 sovereign was given to 2nd respondent. But in the relief portion recovery of the said bangle is not sought for. On a perusal of the list of 81 sovereigns of gold ornaments in the petition, it can be seen that one of the items is “വള 29 (ഒരു പവൻ വീതം)- 30 പവൻ”. Said description is erroneous and when PW1 was confronted with the same her explanation is that gold bangle given to 2nd respondent is also included. Said version of PW1 if accepted will make the entire case of the petitioner doubtful. Petitioner in her pleadings has no case that 81 sovereigns include one sovereign gold bangle allegedly given to 2nd respondent and the aforesaid explanation to cover up the factual mistake crept in the list of ornaments will cut at the root of the case of the petitioner. In her evidence during cross-examination, PW1 has deposed that there are photos evidencing the giving of bangle to 2nd respondent, but no such photograph was tendered in evidence. Withholding evidence on that point is also fatal to the case of the petitioner. In her evidence, during cross-examination, the version of PW1 is that 2nd and 3rd respondents asked her husband and with his permission her gold ornaments were pledged. She Further deposed that while 1st respondent was out of station in connection with the employment respondents 2 and the father of 1st respondent asked him and thereafter 35 sovereigns were pledged

by them with IOB, Kozhippalam. If the gold ornaments were in the possession of 2nd respondent as alleged by the petitioner, why the 2nd respondent and the father of 1st respondent asked 1st respondent to give gold ornaments for pledging is doubtful. The words used by PW1 in her evidence : "പണയം വെക്കുവാൻ ഭർത്താവിനോട് ആവശ്യപ്പെട്ടു. അദ്ദേഹത്തോട് അച്ഛനും അമ്മയും ഇപ്രകാരം ആണ് സ്വർണം പണയം വെക്കാൻ ഏൽപ്പിച്ചത്." Aforesaid version of PW1 is not in consonance with the case of entrustment of 81 sovereigns of gold ornaments. What is stated in the petition is that 35 sovereigns of gold ornaments were pledged by the 2nd respondent and her husband in their name. Remaining gold ornaments were also pledged by respondents 2 and 3 and the father of the 1st respondent (husband of the 2nd respondent.) Admittedly, no reliefs is sought for against the 1st respondent. No steps taken for sending notice to 1st respondent. He entered appearance and filed objection subsequent to the filing of objection by other respondents. In his pleadings, the case of the 1st respondent is as follows: "ഹർജികക്ഷിയുടെ സ്വർണ്ണാഭരണങ്ങൾ രണ്ടും മൂന്നും എതിർ കക്ഷികൾ പണയം വെച്ചും വിറ്റും ദുരുപയോഗം ചെയ്തിട്ടുള്ളതാണ്. അപ്രകാരം 1998 മുതൽ 2001 വരെയുള്ള കാലയളവുകളിലായി കോട്ടയ്ക്കം ഇടയാറാൻമുള ശ്രീകൃഷ്ണ ഫിനാൻസ്, ആറന്മുള, കോഴിപ്പാലം, ഇന്ത്യൻ ഓവർസീസ് ബാങ്ക് എന്നിവിടങ്ങളിലായി മാതാവിന്റെയും പിതാവിന്റെയും പേരിൽ പ്രത്യേകം പണയം വെച്ച് തുക കൈപറ്റിയിട്ടുള്ളതാണ്." Aforesaid version suggests that gold ornaments were pledged with Sree Krishna Finance, Kottakkakam, Edayaranmula and IOB, Kozhippalan during 1998 to 2001 in

the name of his parents. As part of petitioners' evidence, Manager of said two financial institutions were summoned. They were summoned to produce the pawn details of gold loan availed by 1st witness (PW1) during 1998 to 2001. Both witnesses appeared in court and submitted that 1st witness (petitioner) has not yet availed any gold loan from their institution. Those witnesses were given up by the petitioner. Why the witnesses were asked to bring the details of gold loans availed by the "petitioner" instead of gold loan if any, availed by the parents of the 1st respondent is uncertain. It also would throw doubt as to the deeds of the petitioner's case. Petitioner failed to plead and prove her case of entrustment of 81 sovereigns of gold ornaments with the 2nd respondent and its misappropriation by respondents 2 and 3. She failed to establish her case for return of 81 sovereigns of gold ornaments and its market value.

12. The case of the petitioner is that it was agreed to allot family share to the petitioner in consideration of her gold ornaments but it was only later that she came to know about the assignment of properties in favour of 3rd respondent. So her case is that the impugned settlement deeds, copies of which are produced as Exts.A1 and A2 are liable to be set aside as the same are the outcome of fraud and undue influence. As the petitioner failed to prove her case of entrustment of 81 sovereigns of gold and the agreement to return the same by allotting family property, it is not incumbent on this Court to examine the legality and propriety of the impugned settlement deeds and as to the existence of vitiating

circumstances. Even otherwise petitioner failed to adduce any substantive evidence suggestive of such vitiating circumstances. Above all the petitioner has no case the 2nd respondent is not sound in body and mind to make any such transfer. Petitioner failed to establish her case warranting the grant of any of the reliefs sought for in this petition. Points are answered accordingly.

In the result, this petition stands dismissed. No order as to costs.

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

**Sd/-
DONEY THOMAS VARGHESE,
JUDGE.**

APPENDIX:-

Exhibits marked for the Petitioner:-

A1	-	26.09.2023	-	Certified copy of Settlement Deed No. 879/2013
A2	-	26.09.2023	-	Certified copy of Settlement Deed No.492/2021
A3	-	15.07.2023	-	Certificate of Marriage
A4(a)	-		-	Photograph
Series				
A4(b)	-		-	Photograph
Series				

A4(c) - Photograph
Series

A4(d) - Photograph
Series

Exhibits marked for the Respondents:- NIL

Witness Examined for the Petitioner:-

PW1 - 12.02.2026 - Manju S

Witness Examined for the Respondents:-

RW1 - 17.03.2026 - Manoj Kumar M B

**Id/-
JUDGE**