

IN THE FAMILY COURT, KALPETTA

Present: Sri.Sunilkumar K.R., Judge, Family Court, Kalpetta

Saturday, the 30th day of May, 2026
9th day of Jyaishta, 1948

ORIGINAL PETITION No.454/2024

Noushiba K.A, aged 26 years,
W/o Sabad C.P, Chombalan House,
Kottathara P.O, Kottathara Village,
Vythiri Taluk, Wayanad District.
Pin: 673121 Now residing at :
Kalathumpadiyil House, Irattakulangara Road,
Pachalam, Vaduthala Post, Ernakulam Taluk,
Ernakulam District. Pin: 682 023

} Petitioner

Sabad C.P, aged 36 years,
S/o Pocker C.M, Chombalan House,
Kottathara P.O, Kottathara Village,
Vythiri Taluk, Wayanad District. Pin: 673 121

} Respondent

This Original Petition filed U/s.7 Expln. (1)(c) of of Family Court Act, and Sec. 26 Order 7 Rule 1 of CPC, coming on this day for hearing before me in the presence of Sri.Jacob Thomas, Advocate for the petitioner and respondent called absent set exparte upon perusing the petition, the Court passed the following:

JUDGMENT

This is a petition filed U/s. 26 Order VII Rule (1) of CPC r/w. Section 7 (1) (c) of the Family Court Act, 1984.

2. The averments contained in the petition, in brief, are as follows: The petitioner and the respondent belong to the Muslim religion. The marriage between the petitioner and the respondent was solemnized on 15.05.2016 at Ansarul Islam Sangham, Kottakunnu, Sulthan Bathery, Wayanad, in accordance with Islamic religious rites and ceremonies. Thereafter, they resided together as husband and wife. Two children were born in the said wedlock. At the time of marriage, the petitioner was given 20 sovereigns of gold ornaments and

₹3,75,000/- by her mother. The petitioner's mother also gifted three sovereigns of gold ornaments to the first child and one sovereign to the second child. According to the petitioner, the respondent appropriated all the gold ornaments and money entrusted to him. The respondent is working as a Sales Supervisor in Oman. The respondent's sister and her son are also residing in the matrimonial home of the petitioner. The respondent's father discriminated against her children and used to remark that the petitioner had not brought sufficient dowry and compelled the petitioner to vacate the house. The respondent compelled her to bring more gold and money from her parental home and threatened that he would marry another woman. The respondent used to suspect the petitioner without any reason and accused her of having illicit and extramarital relationships with another man. The respondent physically assaulted the petitioner on several occasions and beat her on the chest in front of the children. On 30.12.2022, without any provocation, the respondent assaulted her with a wooden stool, and only due to the timely intervention of the petitioner's mother was she saved from serious harm. On the same day, the respondent deserted the petitioner and the children. At present, the petitioner is residing at Ernakulam along with the children and is dependent upon her family members for her livelihood. The petitioner has no independent job or income. According to her, there are several expenses towards food, medicine, accommodation, clothing, and the education of the children. Hence, the petitioner seeks a direction to the respondent to return 20 sovereigns of gold ornaments or, in the alternative, to pay its market value, quantified at ₹10,74,400/-.

3. In this case, Summons to respondent served by affixture, So, he was called absent and since there was no representation he was set exparte. The petitioner was examined as PW1 Exts. A1 and A2 series were marked. One

witness from the side of the petitioner is examined as PW2.

4. The points that arise for consideration are:-

1. Whether the respondent is liable to return the 20 sovereign of gold ornaments or the market rate of ₹10,74,400/- to the petitioner.?
2. Relief and costs ?

5. **Point No. 1:-** The unchallenged oral testimony of PW1, the pleadings, and Ext.A1 marriage certificate establish that the marriage between the petitioner and the respondent was solemnized on 15.05.2016 at Ansarul Islam Sangham, Kottakunnu, Sulthan Bathery, Wayanad, in accordance with Islamic religious rites and ceremonies. Thereafter, they resided together as husband and wife, and two children were born in the said wedlock. Her evidence further shows that at the time of marriage, she was given 20 sovereigns of gold ornaments and an amount of ₹3,75,000/- by her mother. PW1 has also stated that her mother gifted three sovereigns of gold ornaments to the first child and one sovereign to the second child. The evidence of PW1 further establishes that the respondent had collected her gold ornaments for his personal needs.

6. The petitioner has produced Ext.A2 series photographs of the marriage, in which it can clearly be seen that she was wearing gold ornaments at the time of marriage. From the oral testimony of PW1 and Ext.A2 series, it is evident that she possessed and wore gold ornaments at the time of marriage. Her testimony further shows that she continued to wear all the gold ornaments when she was taken to the matrimonial home and that, later, the entire gold ornaments were collected by the respondent. PW1 has further deposed that she was subsequently subjected to harassment by the respondent and was ultimately constrained to leave the matrimonial home. The evidence of PW2, the mother of the petitioner, is in tune

with the testimony of PW1 and lends further credence to the petitioner's case. There is nothing on record to disbelieve the evidence of PW1. In the absence of any rebuttal evidence, her testimony remains unchallenged, reliable, and credible.

7. The evidence on record further shows that the amount of ₹3,75,000/- was utilised for purchasing property in the joint names of the petitioner and the respondent. Therefore, it cannot be said that the respondent had misappropriated or retained the said cash amount. However, the evidence sufficiently establishes that the respondent had taken custody of the petitioner's 20 sovereigns of gold ornaments and failed to return the same. Accordingly, the respondent is liable to return 20 sovereigns of gold ornaments, or its equivalent market value, to the petitioner. Hence, this point is found in favour of the petitioner.

8. **Point No.2** :- In the light of findings in point Nos. 1, the respondent is hereby directed to return the 20 sovereign of gold ornaments or its present market value in favour of the petitioner within one month from the date of order.

In the result, this petition is allowed with costs.

(Dictated to the Con. Asst., transcribed and typed by her, corrected and pronounced by me in open Court, this the 30th day of May, 2026).

JUDGE

APPENDIX:-**Petitioner's Witnesses :**

PW1 - 13-05-2026 Noushiba

Pw2 19-05-2026 Nasreena

Petitioner's Exhibits : -

A1 - 14-05-2024 Marriage Certificate

A2 Marriage photo

JUDGE

Typed by : Abhilash Devassy

Compared by : Sheeba.P.

FAIR JUDGMENT IN OP 454/2024
DATED :30-05-2026