

**IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE II,
MANANTHAVADY.**

Present:- Smt. Ambili.S,
(Judicial First Class Magistrate II)

Tuesday, this the 31st day of March 2026
(10th day of Chaithra, 1948)

CC. 313/2015

Complainant : State represented by the Sub Inspector of Police,
Mananthavady in Cr. No. 241/2015.

(By Smt. Sukanya.P, APP Gr II)

Accused : A1. Abdhul Kareem, S/o Muhammad,
Marikkappil (H), Varadimoola,
Mananthavady amsom.
A2. Shamsudheen, S/o Muhammad,
Marikappil(H), Varadimoola,
Mananthavady amsom.

(By Adv. Sri. George P.J)

Charge : U/s.s 341, 323, 354 and 498(A) r/w 34 of
IPC.

Plea : Not guilty.

Finding : Not guilty

Sentence or order : The accused are acquitted u/s 248 (1) of the
Cr.P.C for the offence punishable u/s.s 341, 323,
354 and 498(A) r/w 34 of IPC. Their bail
bonds shall stand cancelled and they are set at
liberty.

Statement under rule 132 of Criminal Rules of Practice

Serial Number : CC. 313/2015.
Complainant : The Sub Inspector of Police, Mananthavady in
Cr. No. 241/2015.

DESCRIPTION OF ACCUSED

SL. No.	Name of Accused	Father's name	Occupation	Residence	Age
A1	Abdhul Kareem	Muhammad	-	Marikkappil	
A2	Shamsudheen	“		“	

Date of							
Offence	Report or complaint	Apprehension of accused	Released on bail	Commencement of trial	Close of trial	Sentence or order	Explanation of delay and remarks
30.05.2010	16.05.2015	25.06.2015	25.06.2015	25.06.2015	26.03.2026	31.03.2026	-

J U D G M E N T

In this case, the final report has been filed by the Sub Inspector of Police, Mananthavady, in Crime No. 241/2015 of that police station for the offences punishable under Sections 341, 323, 354, and 498A read with Section 34 of the IPC.

2. **The prosecution case, in brief, is as follows:** The first accused married CW1 as per religious rites and ceremonies on 30.05.2010. After the marriage, they resided at Varadimoola in Mananthavady Amsom as husband and wife. The first accused subjected CW1 to physical and mental cruelty and harassment, demanding additional dowry. On 28.02.2015, the second accused, in the presence of the first accused, wrongfully restrained CW1 by catching hold of her hands. He also voluntarily caused hurt to CW1 by twisting her hands and pulling her against a wall, resulting in injury to her head. By committing the aforesaid acts, it is alleged that the accused have committed offences punishable under Sections 341, 323, 354, and 498A read with Section 34 of the IPC.

3. Upon taking cognizance, summons was issued to the accused. In response to the summons, the accused appeared and was defended by a counsel of his own choice. On appearance of the accused, copies of relevant prosecution records were furnished to the accused in compliance with section 207 of the Code of Criminal Procedure. After hearing the prosecution and the defence, charge framed for the offences punishable u/s 341, 323, 354 and 498(A) r/w 34 of IPC were read over and explained to the accused to which he pleaded not guilty. PW1 and PW5 were examined on the side of prosecution and Ext. P1 to P7 were marked. After the closing prosecution evidence, accused 1 and 2 were examined u/s 313(1)(b) of Cr.P.C. They denied all the incriminating circumstances appeared in evidence. Ext. D1 marked from the side of defence.

4. Heard both sides.

5. The points that arise for determination in this case are the following:-

- (i) Whether the accused, in furtherance of his common intention, subjected PW1 to cruelty demanding dowry from 30.05.2010 onwards at Vardimoola in Mananthavady amsom and thereby committed an offence punishable u/s 498 A r/w 34 of IPC ?
- (ii) Whether the accused, in furtherance of his common intention, wrongfully restrained PW1 on 28.02.2015 at Varadimoola in Mananthavady amsom and thereby committed an offence punishable u/s 341 r/w 34 of IPC ?
- (iii) Whether the accused, in furtherance of his common intention, voluntarily caused hurt to PW1 by twisting her hand and pushed her caused to hit her head against the wall at aforesaid time and place and thereby committed an offence punishable u/s 323 r/w 34 of IPC ?
- (iv) Whether the accused, in furtherance of his common intention assaulted or used criminal force on PW1 and thereby outraged the modesty of PW1 at aforesaid time and place and thereby committed an offence punishable u/s 354 r/w 34 of IPC ?
- (v) What is the appropriate order or punishment, if any, to be awarded ?

6. **Point No.(i) to (iv) :-** For the sake of convenience, all these points are considered together. The evidence in this case consists of the oral testimonies of PW1 to PW5, and documentary evidence marked as Ext. P1 to P7. PW1 deposed that her marriage with her husband was conducted on 30th May 2010 at Cheruvery Mahal in accordance with religious rites. She further stated that after the marriage, she and her husband resided at her husband's house at Varadimoola. PW1 stated that her husband used to come home intoxicated and, after consuming cannabis, would harass and abuse her and their children. She also deposed that her elder daughter was burned with a lit cigarette by her husband. PW1 further stated that her husband's mother and his elder brother used to assault and verbally abuse her, alleging that the gold and money given were insufficient. She also deposed that she and her children were driven out of the house. PW1 stated that the accused had taken away her gold ornaments on various pretexts. She further stated that her husband had an illicit relationship with a woman named Soujath, and when she questioned him about it, he assaulted her. PW1 deposed that on 28th February 2015, her husband's elder brother assaulted her, causing her head

to hit the wall and resulting in an injury to her forehead. She stated that she filed a private complaint before the court against the accused, which is marked as Ext. P1. PW2, deposed that on 20.02.2015, in the evening, while attempting to settle disputes between Shameema and Kareem, a verbal altercation occurred, and Kareem's elder brother assaulted Shameema. PW3 deposed that the complainant is his daughter and that the accused is her husband. He stated that his daughter lived in her husband's house after marriage. PW3 further stated that due to non-payment of dowry money, she was subjected to repeated physical assault, kicking, and being told to leave the house. He also deposed that the husband and his elder brother had demanded money from him, and the harassment began after he expressed his inability to pay. PW3 stated that he had witnessed Kareem slapping his daughter. PW5, deposed that while he was serving as the Station House Officer of Mananthavady Police Station, a complaint (CMP 911/15) forwarded by the court was registered as Crime No. 241/2015 of Mananthavady Police Station on 23.03.2015, and the said FIR is marked as Ext. P3

7. Insofar as the offence under Section 341 IPC is concerned, there is absolutely no specific allegation or evidence to show that the accused had wrongfully restrained PW1 at any point of time. None of the witnesses have deposed about any act of obstruction preventing PW1 from proceeding in a direction in which she had a right to proceed. The general allegations of physical assault would not satisfy the essential ingredients of wrongful restraint. Hence, the said charge is not made out.

8. With respect to the offence under Section 323 IPC, though PW1 has alleged instances of physical assault and PW2 and PW3 has also spoken about witnessing the accused assaulting PW1, their statements are found entirely contradictory. According to PW1, the second accused on 28/2/2025 caught hold of her hand and twisted the same. She further stated that she was pushed back by the second accused and thus she had sustained injury on her forehead by hitting her head on the wall due to the said pushing. Whereas the version of PW2 and PW3 were that the second accused had slapped PW1 on her face. They both had not mentioned anything about any such assault as stated by PW1. The prosecution has not produced any medical evidence to substantiate the alleged injuries. There is no wound certificate or medical testimony to corroborate the claim that PW1 sustained injuries as alleged. In the absence of reliable medical or

independent evidence, the allegation of voluntarily causing hurt remains unsubstantiated.

9. As regards Section 354 IPC, PW1 has no case that the accused had used criminal force against PW1 with the intention of outraging her modesty. There is no allegation of any act having sexual overtones or any conduct intended to insult the modesty of a woman. The evidence on record only discloses allegations of domestic disputes and physical assault, which by themselves do not attract the ingredients of Section 354 IPC. Therefore, the said charge also fails.

10. Coming to the offence under Section 498A IPC, though PW1 has alleged that she was subjected to cruelty and harassment in connection with demand for money and gold, the allegations are vague and general in nature. No specific instances, dates or particulars of such demand have been clearly brought out in evidence. The testimony of PW2 and PW3, being close relatives, remains interested and is not supported by any independent evidence. There is also no documentary evidence to prove the alleged demand for dowry or the entrustment and misappropriation of gold ornaments. The allegations regarding the husband's bad habits or alleged illicit relationship, even if assumed to be true, would not by themselves constitute "cruelty" within the meaning of Section 498A IPC unless the statutory requirements are strictly proved. In the absence of cogent and convincing evidence, the offence under Section 498A IPC is not established.

11. Further, there is no material to show that the accused had acted in furtherance of a common intention so as to attract Section 34 IPC. The evidence does not disclose any prior meeting of minds or concerted action between the accused. In the absence of proof of the substantive offences themselves, the question of invoking Section 34 IPC does not arise.

12. On a careful evaluation of the oral evidence of PW1, PW2, PW3 and PW5, this Court finds that the prosecution has failed to establish the offences alleged against A1 and A2 under Sections 341, 323, 354 and 498A read with Section 34 of the IPC. In the result, this Court finds that the prosecution has failed to prove the guilt of A1 and A2 under Sections 341, 323, 354 and 498A read with Section 34 IPC beyond reasonable doubt, and they are entitled to the benefit of doubt.

11. **Point No.(v)** – In view of my finding on point Nos. (i) to (iv), it is clear that the prosecution has failed to prove the offences levelled against the accused. If so, no punishment would be imposed on them.

In the result, the accused are found not guilty for the offences punishable under sections u/s.s 341, 323, 354 and 498(A) r/w 34 of IPC and they are acquitted under sections 248(1) of the Code of Criminal Procedure. Their bail bonds shall stand cancelled and they are set at liberty.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open court this the 31st day of March 2026)

JUDICIAL FIRST CLASS MAGISTRATE II
MANANTHAVADY

APPENDIX

Witness examined on the Side of Prosecution:-

PW1 : Shameema
PW2 : Ibrayi
PW3 : Azees
PW4 : Soopy
PW5 : N.M Jose, Sub Inspector of Police, Mananthavady Police Station.

Exhibits marked on the Side of Prosecution:-

P1 : F.I.Statement of PW1 dt. 11.02.2019.
P2 : Seizure mahazar
P3 : F.I.R
P4 : Scene mahazar
P5 : Report for deleting the accused
P6 : Report for deleting sections
P7 : Report for adding name and address of accused

Material Objects marked on the side of Prosecution NIL.

Witness examined on the side of Defence: NIL.

Exhibits marked on the Side of Defence:-

D1 : Relevant portion of 161 statement of PW1

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