

IN THE FAMILY COURT, ALAPPUZHA
Present. Sri. Sajikumar. S, Judge
Saturday the 7th day of March 2026/16th Phalgunam 1947

OP 1169/2023
(Filed on 28.10.2023)

Petitioner:- XXXX

By Adv.K.Chandrababu

Respondent:- XXXX

By Adv.N.V.Sanu (Exparte)

This petition having been finally heard on 06.03.2026 and the court on 07.03.2026 delivered the following:-

JUDGMENT

This is a case instituted on the basis of a petition filed u/s.13(1) (ia) of the Hindu Marriage Act r/w S.7 of the Family Courts Act.

2. The gist of the allegations in the petition is as follows; that the parties to the present petition are Hindus and that the marriage between the petitioner and the respondent was solemnized on 30-11-2021 at the Guruvyoor Temple as per Hindu religious rites; they lived together as husband and wife in the house of the respondent; a child was born to them; the petitioner had received 20 sovereigns of gold ornaments from her parents in connection with the marriage and she had entrusted the said gold ornaments to the respondent as a trustee; they had gone on several trips after the

marriage; but the respondent had slapped her at the time when the mobile phone fell off and fall apart stating that it had occurred on account of the marriage between him and the petitioner; her parents had brought several home appliances to the house of the respondent at his instance; the respondent who had got a job at the Lourdes Hospital Ernakulam had gone to Ernakulam and he had not to let her go to work ; whileso, on another occasion, the respondent, who was infuriated by the information regarding the arrangements made by her father for securing a job for her slapped her on the face stating that he would not allow her to wander about; she had informed her paternal aunt about the same; the said paternal aunt had consoled her stating that the said attitude of the respondent would change after the birth of a child; but after the birth of the child, the respondent did not change his attitude; he continued to harass and ill treat the petitioner; ; the respondent who was bad tempered had smashed up the phones given to her by her relatives; lastly, on **30-06-2023**, the respondent who had constantly tormented her had caused hurt on several parts of her body; and she shrieked for help in pain; went out of the matrimonial house and contacted her parents over phone from the nearby house; her parents came to the matrimonial house and rescued her from the clutches of the respondent; the petitioner is unemployed and the respondent had refused to maintain her and her child; several attempts were made for reconciliation and

reunion; but it had not yielded any result; the marital tie had irretrievably broken down. It was prayed that she be given a decree of divorce. It was further prayed that he be given Rs.5 lakhs towards compensation for the emotional distress and mental agony caused to her and that the respondent be directed to pay Rs.5 Lakhs, the expenses incurred by her parents in connection with the solemnization of the marriage.

3. This court issued notice to the respondent ; he did not appear; hence, he was set ex parte; the petitioner appeared as PW1 and produced Exts.A1 to A6.

4. I have heard the learned counsel for the petitioner.

5. The points that arise for consideration are:

1. Whether the prayer for a decree of divorce is allowable?
2. Whether the prayer for compensation is allowable?if so, what should be the quantum of compensation ?
3. Whether the petitioner is entitled to recover Rs.5 Lakhs towards marriage expenses as prayed for in the petition?
4. Regarding Reliefs and costs?

Points 1 to 4:-

6. Concededly, the petitioner has set up her case on the basis of the allegation that the respondent had subjected her to cruelty on several

occasions; As I pointed out herein before, the respondent has not contested the petition. Evidently, there is no dispute regarding the marriage between PW1 and the respondent. Hence, the un-controverted version given by PW1 appears to be genuine, bonafide and believable. Consequently, the version given by PW1 regarding the aforesaid aspects is accepted as evidence of the grounds of divorce alleged in the present petition. It has come out in evidence that the respondent has treated her with such cruelty as to cause a reasonable apprehension in the mind of PW1 that it would be harmful and injurious for PW1 to live with the respondent. From the foregoing discussion, it can be deduced that PW1 is entitled to get a decree of divorce on the ground mentioned in S.13(1) (ia) of Hindu Marriage Act.

7. Then the next question to be considered is with regard to the claim for recovery of marriage expenses; concededly, the petitioner has not produced any documents to prove the same; it is significant to note that the averments in the petition are totally silent regarding the expenses incurred by her parents regarding the marriage; likewise, even as per the prayer made in the petition, the entire marriage expenses were borne by her family members; it is not known as to who had actually spent the said amount; PW1 has no case that she was employed and she had spent Rs.5 lakhs in connection with the marriage; thus, in the absence of any pleadings and proof regarding the same, it cannot be stated that PW1 is

entitled to recover Rs.5 lakhs towards marriage expenses from the respondent

8 Yet another aspect to be noted is that even though PW1 had alleged that she had entrusted the 20 sovereigns of gold ornaments belonging to her to the respondent, she has not made any prayer for return of the same.

9. Now I shall deal with the question regarding the claim for compensation; the contention of the petitioner is that the ill treatment and harassment meted out to her at the hands of her husband had caused emotional distress and mental agony to her and that she is entitled to compensation for the same. It has come out in evidence that PW1 had suffered injuries in the incident which took place on 15-03-2024; in the above context, it is significant to have a glance at the decision of the Hon'ble High Court of Kerala reported in **2021(4) KHC 242 Rajesh P.P and another vs Deepthi P.R** ; in the said decision the Hon'ble High Court of Kerala held that one spouse can sue the other for his actions and that marital torts are actionable; it has been further held that when the case of cruelty was set up by wife was satisfactorily proved and divorce was granted and when wife sustained physical and as well as mental injury as a result of conduct of husband, the wife is entitled to damages; hence, considering the aforesaid aspects this court

finds that the petitioner is entitled to get at least Rs.35,000/- towards compensation for the emotional distress and mental agony caused to her on account of the ill treatment and harassment meted out to her at the hands of her husband. Point nos. 1 & 2 are found in favour of the petitioner and point No.3 is found against the petitioner.

Resultantly, the petition is allowed in part and a decree is passed in the following terms:-

(1) the marriage(mentioned in Ext.A1 certificate of Marriage) between the petitioner and respondent is dissolved by a decree of divorce under section u/s.13(1)(ia) of the Hindu Marriage Act with effect from the date of this judgment

(2) the petitioner is awarded Rs.35,000/-(Rupees thirty five thousand only) towards compensation for the mental agony and emotional distress caused to her on account of the harassment and ill treatment meted out to her at the hands of her husband.

(3) The claim for marriage expenses is rejected;

(4) Considering the facts of the case, the parties are directed to bear

their respective costs.

(Dictated to the Confidential Assistant, transcribed and typed by

her, corrected and pronounced by me in the open Court on this the **07th day of March, 2026**)

Sd/-
SAJIKUMAR.S
JUDGE

Appendix:-

Exhibits for the petitioner:-

A1	30.11.2021	Copy of extract of Marriage Register issued from Kanichukulangara SNDP Yogam Union
A2	15.03.2024	Copy of FIR in Crime No 378/24 of Alappuzha North PS of CJM Court Alappuzha.
A3	15.03.2024	Copy of FIS in Crime No 378/24 CJM Court, Alappuzha
A4	15.03.2024	Copy of Final Report in Crime No.378/24 of Alappuzha North PS
A5	16.03.2024	Copy of Scene Mahazer in Crime No.378/24 of Alappuzha North PS
A6	15.03.2024	Copy of wound certificate of General Hospital, Alappuzha

Witness for the petitioner:-

PW1	18.07.2025	Athira
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Id/-
JUDGE