

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-I,
KOZHIKODE**

**Present : Smt.Alshari.A
Judicial First Class Magistrate -I, Kozhikode**

Dated this the 21st day of August, 2025

C.C No. 349/2021

Complainant	:		State of Kerala Represented by Sub Inspector of Police, Chevayur Police Station in Crime No.388/2021. (By Sujaya Sudhakaran, APP, Sr.Gr.)
Accused person	:	1.	Shabu T, aged 34/21, S/o Bhaskaran, Marakkatuthazham (H), Kammilithazham, Makkada residing at Nambidiparambath Gate Bazar, Kuruvatoor, Kozhikode. (By Adv. Shyju.K)
Offences	:		U/Ss.406, 498(A) of I.P.C.
Plea	:		Not Guilty
Finding	:		Not Guilty
Sentence/order	:		Accused is acquitted U/S.248(1) Cr.P.C.

Description of the accused

Sl No	Name	Father's name	Calling	Residence	Age
1.	Shabu T	Bhaskaran	-	Kuruvatoor	34/21

Dates of

Occurrence	Complainant	Apprehension	Release on bail	Commencement of trial	Close of trial	Sentence /Order	Explanation of delay
02.10.19	28.06.21	NA	NA	22.06.24	12.08.25	21.08.25	Nil

This case having been finally heard on 12.08.2025 and this Court on 21.08.2025 delivered the following:-

JUDGMENT

The above case arose on a Final Report filed by the Sub Inspector of Police, Chevayur Police Station in Crime No.388/2021 alleging offences punishable U/Ss. 406, 498(A) of I.P.C.

2. The gist of prosecution case is as follows:-

PW1 and accused are legally wedded spouses. Their marriage was solemnized on 10.02.2019 as per the religious rites and customs prevailed in their community. After marriage, PW1 resided along with accused in the house of the accused situated in Palath, Gate Bazar as husband and wife, the accused with requisite intention, mentally and physically harassed PW1. Further, the accused also misappropriated 5 sovereigns gold ornaments belonging to CW1, given to her at the time of marriage. Thus the accused committed offences punishable U/Ss.406, 498-A of I.P.C.

3. On receipt of final report, cognizance has taken for offences punishable under Sections 406, 498(A) of I.P.C and issued summons to accused. On appearance, accused person was served with copies of the prosecution records and released on bail with sufficient sureties. On considering the records, hearing prosecution and accused, as there was ground for presuming that accused person had committed the offences alleged, charge was framed for offences punishable under Sections 406, 498(A) of I.P.C, read over and explained to him to which he pleaded not guilty and claimed to be tried on the said charge.

4. The prosecution examined PW1 and marked Ext.P1 FIS. Remaining witnesses were given up by learned APP and hence prosecution evidence closed. Examination of accused person under Section 313(1)(b), Cr.P.C dispensed with as no incriminating circumstances appeared in evidence against them. Thereafter accused was called upon to enter on their defence. No defence evidence was adduced.

5. Heard both sides.

6. Now the points that arise for consideration are:

- 1) Has the prosecution proved that accused who was the legally wedded husband of PW1 with requisite intention mentally and physically harassed PW1 on several occasions after marriage which amounts to matrimonial cruelty and thereby committed offence punishable u/S.498-A of Indian Penal Code as alleged by prosecution?
- 2) Has the prosecution proved that accused misappropriated 5 sovereigns of gold ornaments belonging to PW1 which amounts to criminal breach of trust and thereby committed offence punishable u/S.406 of Indian Penal Code as alleged by prosecution?
- 3) If found guilty, what is the proper sentence ?

7. Point No.1 and 2: -

For the sake of convenience and brevity, these points are considered together for discussions. One witness was examined and one exhibit marked

from the side of prosecution to prove the alleged occurrence and the guilt of the accused. Before analyzing as to whether the prosecution succeeded in proving the ingredients of offences alleged against the accused person, it would be helpful to conduct a brief survey of the evidence presented before the Court.

8. The defacto complainant in the case, CW1 was examined as PW1. Prosecution case is based on First Information Statement given by PW1. The said FI statement was marked through PW1 as Ext.P1. She gave evidence that the accused is her husband. PW1 deposed that on 10.02.2019, she married the accused and thereafter lived at the house of accused. She gave complaint to Chevayur Police alleging that accused harassed her physically and mentally after marriage. PW1 further deposed that due to misunderstanding, she had lodged Ext.P1 with the above allegations and the matters stated therein are not true. She denied giving any statement to Police to the contrary. Upon request, permission was granted to learned Asst.Public Prosecutor to put leading questions to her u/s.154, Evidence Act. PW1 totally denied the suggestions put to her by learned Asst.Public Prosecutor based on her previous statement to Police. She deposed that she has amicably settled matters in the case and has no grievance in the matter. PW1 further stated that she is not deposing falsehood before Court in order to help the accused on the basis of the compromise arrived at.

9. On a consideration of evidence on record, it is seen that the primary prosecution witness who is the defacto complainant/informant examined as PW1 turned hostile and deposed against the prosecution case in toto. In effect

there is no scope for examining the remaining witnesses for the prosecution when the alleged victim herself failed to support the case projected by prosecution in toto. It will not improve the fate of prosecution case at all. Having considered this aspect, the learned APP has given up the other witnesses cited by the prosecution which is justified. Being so, I am also satisfied that examination of other witnesses cited by the prosecution will not serve any purpose nor salvage the sinking prosecution case. It will only result in loss of precious time of the Court as chances of a successful prosecution are hopelessly bleak. Hence prosecution evidence closed.

10. From the available evidence as presented before Court, there is no material to connect the accused with the alleged occurrence. No witness deposed to any overt acts or mental or physical harassment or breach of trust allegedly committed by accused against PW1. No witness deposed to the involvement of accused in the commission of offences alleged. PW1 disowned her own version in Ext.P1 while in the box. The ingredients of the offences alleged are not proved by the prosecution. The prosecution failed to prove the guilt of accused by cogent and convincing evidence beyond reasonable doubt. It is the duty of the prosecution to prove its case beyond reasonable doubt by evidence which inspires confidence of the Court which has not been done. Criminal liability cannot be fastened upon the accused in such a situation. From the above discussion, it is quite apparent that prosecution has failed to bring home any evidence to link accused with the offences in any manner. Hence accused is entitled for an acquittal. Hence these points are answered against the prosecution.

Point No.3:-

11. In the light of my findings in above points, this point does not arise for consideration as the prosecution failed to prove the guilt of accused beyond reasonable doubt and there is no question of awarding any sentence.

12. **In the result**, accused is found not guilty of the offences punishable U/Ss.406, 498-A of I.P.C and he is acquitted of those offences U/S.248(1),Cr.P.C. His bail bond stands cancelled and he is set at liberty.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open Court on this the 21st day of August, 2025)

JUDICIAL FIRST CLASS MAGISTRATE - I
KOZHIKODE

APPENDIX**Witness for prosecution:**

PW1 (CW1)- shanthini K C, D/o Ganesh Kumar K C

Exhibits for prosecution:

P1 - FIS dated 28.06.2021 marked through PW1.

WITNESSES EXAMINED AND EXHIBITS MARKED BY THE DEFENCE:

NIL

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