



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

THURSDAY, THE 27<sup>TH</sup> DAY OF NOVEMBER 2025 / 6TH AGRAHAYANA,  
1947

CRL.REV.PET NO. 890 OF 2018

AGAINST THE JUDGMENT IN CrI.A NO.217 OF 2016 OF  
SESSIONS COURT, MANJERI ARISING OUT OF THE JUDGMENT IN CC  
NO.1 OF 2010 OF JUDICIAL MAGISTRATE OF FIRST CLASS-I,MANJERI  
REVISION PETITIONER/APPELLANT/ACCUSED:

TOMON  
AGED 49 YEARS  
S/O.THOMAS, VALLIKUNNAN HOUSE, KALKUNDU CHERI,  
KARUVARAKUNDU, MALAPPURAM DISTRICT.

BY ADV ANU KRISHNA T.U - AMICUS CURIAE

RESPONDENT/STATE/COMPLAINANT:

STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA,ERNAKULAM.

- BY SMT. MAYA M N -PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR  
HEARING ON 19.11.2025, THE COURT ON 27.11.2025 DELIVERED THE  
FOLLOWING:

**M.B.SNEHALATHA, J**

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**Crl.R.P. No.890 of 2018**  
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**Dated this the 27<sup>th</sup> November, 2025**

**JUDGMENT**

The revision petitioner/accused has filed this revision petition under Sections 397 and 401 of the Code of Criminal Procedure, 1973, challenging the conviction and sentence against him for the offence punishable under Section 498 A of the Indian Penal Code (for short, IPC).

2. In brief, the prosecution case is that, accused who is the husband of the defacto complainant subjected her to cruelty and continuously harassed her mentally and physically demanding dowry and thereby committed the offence punishable under Section 498A IPC.

3. The law was set in motion by the defacto complainant by lodging Ext.P1 complaint before the Judicial First Class Magistrate Court – I, Manjeri, which in turn was forwarded by the learned Magistrate to SHO, Karuvarakundu Police Station under Section 156(3) Cr.P.C, pursuant to which PW6 registered Crime 104/2009 against the accused for the offence punishable under Section 498A IPC. PW10, the then Sub Inspector of Police,



Karuvarakundu Police Station conducted the investigation. After completion of investigation he filed final report against the accused before the Judicial First Class Magistrate Court I, Manjeri for the offence punishable under Section 498A IPC.

4. Accused pleaded not guilty to the charge and faced trial.

5. To substantiate the prosecution case, prosecution examined PWs 1 to 10 and marked Exts.P1 to P5. After completion of the prosecution evidence, accused was examined under Section 313(1)(b) Cr.P.C. He maintained that he is innocent. No defence evidence was adduced by the accused. After trial, the learned Magistrate found the accused guilty under Section 498A IPC and he was convicted and sentenced to undergo simple imprisonment for one year and to pay a fine Rs.10,000/- with default custodial sentence of three months. Aggrieved by the said finding of conviction and sentence, though the accused preferred appeal as Crl.A No.217/2016 before the Sessions Court, Manjeri, the conviction against him for the offence under Section 498A IPC was confirmed but the sentence was modified. The substantive sentence of imprisonment was reduced to 6 months; the fine imposed by the trial court has been left undisturbed.



6. On account of the absence of the counsel who filed the revision petition, this Court appointed Advocate Anu Krishna T.U as amicus curiae to assist the court.

7. Both sides were heard.

8. Accused assails the judgment of conviction and sentence on the ground that the prosecution failed to establish the ingredients of the offence punishable under Section 498 A of IPC; that the trial court and the appellate court failed to take note of the inconsistencies in the versions of the prosecution witnesses and also failed to take note of the fact that though the case of the defacto complainant was that she was subjected to cruelty from 2003 onwards, no complaint was lodged by her till the year 2009 and she was residing with the accused/revision petitioner without lodging any complaints; and the said conduct casts serious doubt in the prosecution case.

9. Per contra, the learned Public Prosecutor submitted that there are no reasons to discard the credible and consistent versions of the prosecution witnesses regarding the ill-treatment, harassment and cruelty subjected by the accused to the victim; that the trial court and the appellate court have analyzed the



evidence in its proper perspective and there are no reasons to interfere with the findings of conviction and sentence.

10. The point for consideration in this revision is whether the impugned judgment of conviction and sentence against the revision petitioner/accused for the offence under Section 498A IPC warrants any interference by this Court.

11. Before advertng to the question as to whether the impugned judgment of conviction and sentence needs any interference by this Court, we have to bear in mind the scope of revision under Sections 397 and 401 of Cr.P.C. In a revisional jurisdiction exercised by the High Court under Section 397 and 401 IPC, it would not be appropriate for the High Court to re appreciate the evidence and come to its own conclusion on the same when it has already been appreciated by the Magistrate as well as the Sessions Judge in appeal unless it is shown that the finding is perverse or untenable in law or is grossly erroneous or where the decision is based on no materials or where the judicial discretion is exercised arbitrarily or where the material facts are wholly ignored.

12. The Hon'ble Supreme Court has time and again examined the scope of Sections 397 and 401 of the Code of Criminal



Procedure, 1973 and the ground for exercising revisional jurisdiction by the High Court.

13. In *State of Kerala v. Puttumana Illath Jathavedan Namboodiri* [1999 2 SCC 452], the Hon'ble Supreme Court held that the revisional jurisdiction under Sections 397 and 401 Cr.P.C is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re appreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice.

14. In *Sanjaysinh Ramrao Chavan v. Dattatray Gulabrao Phalke & Ors.* [(2015) 3 SCC 123] the Hon'ble Supreme Court held that unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non consideration of any relevant material or there is palpable



misreading of records, the revisional court is not justified in setting aside the order, merely because another view is possible. The revisional court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. Revisional power of the court under Sections 397 and 401 of Cr.PC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with the decision in exercise of their revisional jurisdiction.

15. Bearing in mind the above well-settled position let us analyse the evidence on record.

16. Admittedly, accused is the husband of PW1. Prosecution has examined PW9 and marked Ext.P5 marriage certificate issued from Karuvarakundu church to prove that the accused is the husband of the defacto complainant and their



marriage was solemnized on 15.5.2003.

17. PW1 – Merlin is the defacto complainant. She testified that her marriage with the accused was solemnized on 15.5.2003; that at the time of marriage, accused had demanded an amount of Rs.4,50,000/- from her parents as dowry; and her parents gave an amount of Rs.3 lakhs. Apart from that she was given 10 sovereigns of gold ornaments. After the marriage, while she was residing in the matrimonial home, accused continuously ill-treated her and physically assaulted her by alleging that the gold given to her at the time of her marriage was insufficient. Her version is that accused mentally harassed her and physically assaulted her demanding more dowry and also complaining that she is not beautiful. She has categorically testified that accused used to manhandle her by pulling her by her hair, hitting her head against the wall, by kicking her and threatened to do away with her. She has further testified that he used to intimidate her by demanding her to bring more money and gold from her house. Her further version is that even during the time of her pregnancy, accused brutally manhandled her and therefore she had to leave the matrimonial home. Subsequently, pursuant to the mediation





talks she again started to reside with the accused. In 2009, accused again manhandled her at their residence at Kalkundcheri and she was admitted at Areekode Government hospital. It was subsequent to the said incident, she laid Ext.P1 complaint before the Judicial First Class Magistrate Court, Manjeri. She has further testified that in the year 2010 due to the attack of the accused she was admitted at District Hospital, Manjeri; that in October 2011 also, he attacked her by locking her in a room and due to the injuries sustained in the said incident she was admitted in a hospital.

18. PW2 who is the sister of PW1 has testified that she has direct knowledge regarding the acts of cruelty committed by the accused against PW1. According to PW2, while PW1 was six months pregnant, she had gone to the matrimonial home of PW1 and when she along with PW1 were chatting, accused came to them and manhandled PW1 by saying "ഞാൻ അടിക്കുന്നത് നീ **live** ആയി കണ്ടെടു". The version of PW2 is that accused manhandled her sister demanding more dowry. She has further testified that at the time of marriage of PW1, gold ornaments weighing 10 sovereigns had been given to PW1 and there was an understanding to give



the balance 20 sovereigns of gold ornaments later. According to PW2, the balance gold ornaments were given to PW1 subsequent to the birth of the 1<sup>st</sup> child.

19. PW3 is the brother of PW1. His version is that his sister namely PW1 used to make phone calls to him complaining about the harassment of the accused demanding dowry and on many occasions he had stepped into hold mediation talks. Subsequently, on a day in 2009, accused had called him over phone and asked him to take PW1 back to her parental home or else accused would kill her by cutting her into pieces. His further version is that accused continuously harassed PW1 mentally and physically by alleging that the gold and cash given to her from her house at the time of marriage was insufficient. Further he has testified that on 16.10.2009, PW1 called him over phone and asked him to take her to the parental home. Shortly thereafter, he received a phone call from the Karuvarakundu Police Station asking him to reach there and accordingly, when he along with PW5 reached at the police station they could see PW1 and her children at the Police Station. Upon enquiry made to PW1, he could learn that accused manhandled her and threatened to kill



her and accordingly she escaped from his clutches and took shelter at the police station. PW3 has further testified that on that day, he took PW1 and the child to his home and thereafter on 18.9.2009, she was taken to the hospital.

20. PW5 George Joseph, who is an autorickshaw driver by profession testified that on a day in 2009, PW3 Augustine had hired his autorikshaw to Karuvarakundu police station; that on reaching the police station, he could see PW1 and her children there and on enquiry, he could learn that PW1 and her children took shelter at the police station on account of the harassment of her husband. He has further testified that on that day, PW1 and children returned to the house of PW3 in his autorickshaw.

21. PW8 was the doctor of Areekode Community Health Centre, who examined PW1 on 18.10.2009 at 6.30 P.M and issued Ext.P4 wound certificate. In Ext.P4 wound certificate of PW1, the doctor has noted heavy tenderness and swelling over left arm, around 10 cm diameter.

22. The evidence adduced by the prosecution would show that there were series of acts of cruelty by the accused. PW1 has categorically deposed that on several occasions accused physically



assaulted and mentally harassed her demanding dowry. Her version is further fortified by the evidence of her siblings who were examined as PW2 and PW3 who too testified that accused mentally and physically harassed PW1 demanding dowry. It has come out in evidence that he subjected PW1 to physical assault even during the delicate period of her pregnancy. Though PW1 to PW3 were cross examined in detail, accused could not make any dent in their version regarding the acts of cruelty by the accused spoken to by them. The version of PW1 that she was physically assaulted by the accused in October 2009 receive support from the medical evidence, namely the Ext.P4 - wound certificate and the version of doctor, who was examined as PW8.

23. The version of PW1 regarding the physical assault and mental harassment she was subjected to on account dowry demands is reliable, trustworthy and is corroborated by the versions of PW2, PW3 and PW5. The evidence of PW1 to PW3 mutually corroborates each other and there are no material contradictions or inherent improbabilities in their evidence regarding the acts of cruelty subjected by the accused to PW1. The version of PW5, the autorikshaw driver, in whose autorikshaw



PW3 had gone to the Karuvarakundu police station, upon receiving phone call from the said Police Station further corroborates the version of PW1 that on the said date, on account of the attack of the accused, she along with the children had to seek refuge in the police station and from there she was taken by her brother namely PW3 to his home. The versions of prosecution witnesses are consistent that the accused mentally and physically harassed PW1 demanding dowry.

24. At this juncture it is apposite here to extract Section 498A IPC, which reads as under:

**"498A. Husband or relative of husband of a woman subjecting her to cruelty.-**Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purposes of this section, "cruelty means"—

(a) anywilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

25. The explanation to Section 498A provides that



any wilful conduct that has the capacity to likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or the physical or mental health of the woman amounts to an act of cruelty. The second limb of the explanation to term cruelty provides that the act of harassing a woman with a view to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person or related to meet such demand also amounts to cruelty.

26. The argument put forward on behalf of the accused that there is no independent evidence regarding the alleged acts of cruelty and the evidence of PW2 and PW3 are not reliable as they are close relatives is untenable. The acts of cruelty which attract the offence under Section 498A IPC are offences committed within the privacy of matrimonial home. By its very nature, the offence is one that occurs behind closed doors away from public view and ordinarily without the presence of independent witnesses.

27. The law, therefore, has evolved a pragmatic and realistic approach by evaluating evidence in such cases.



Expectations of independent evidence, therefore, ignore the social realities of domestic violence. The testimony of a married woman regarding the physical assault, she was subjected to on account of dowry demand carries significant evidentiary value if her version is found to be cogent, credible and trustworthy. PW1, the victim has narrated a consistent account of the harassment which she had to meet at the hands of the accused. She has withstood the cross examination successfully and her evidence inspires confidence in the mind of the court. The law does not mandate mathematical corroboration nor it does treat independent evidence as a pre requisite for establishing guilt under Section 498A IPC. When we examine the evidence of PW1, coupled with the evidence tendered by her siblings namely PW2 and PW3, one can see that their versions mutually corroborates each other and there are no inconsistencies and no material contradictions in their evidence. The medical evidence and the Ext.P4 wound certificate and the evidence of doctor who was examined as PW8 fortifies the version of PW1 and PW3 regarding the incident which took place in October, 2009 which compelled her to lodge Ext.P1 complaint. The contention put forward by the accused that if there was



continuous harassment and ill treatment demanding dowry, she would have laid complaint before the police or any other authorities and the absence of any such complaint prior to Ext.P1 would indicate that there was no such cruelty as alleged by PW1 is untenable since one cannot adopt a stand that whenever there is an act of cruelty by the husband, the victim wife should rush to the police station or any other authorities to lay a complaint. The victim wife may wait with a hope that things may change, especially to safeguard her children born in the said wedlock. So the contention put forward by the accused that in spite of the cruelty allegedly suffered by her from 2003 onwards she laid complaint only in the year 2009 and the delay in lodging complaint shows the falsity of her case, is unsustainable. The trial court and the appellate court was right in its finding that accused has committed the offence under Section 498A IPC and I find no reason to interfere with the said finding. Accordingly, the conviction of the accused under Section 498 A IPC stands confirmed.

28. Now the question is whether the sentence awarded to the accused for the offence under Section 498A IPC





needs any interference by this Court.

29. The practice of dowry is a social evil and it stands as a regressive and harmful custom. It perpetuates gender inequality, financial exploitation and domestic violence. This social evil of dowry has to be curbed through both moral and legal imperatives to ensure the creation of a just and dignified society. The practice of dowry undermines the dignity and equality of women. The deeper concern is the link between the dowry and domestic violence. Though Dowry Prohibition Act, 1961 criminalises both giving and receiving dowry, it still continues and the dowry related violence also continues. Despite the legal framework under Sections 498A and 304B IPC now Sections 85 and 80 of the Bharatiya Nyaya Sanhita, 2023 to address the crimes arising from dowry related violence, such offences continues to persist. Many instances of cruelty and harassment both physical and mental and even dowry death stem from dissatisfaction with the dowry given at the time of marriage.

30. Assaulting the wife in connection with dowry demands is not a mere domestic dispute but a serious offence rooted in greed, coercion and gender based violence. When a



woman is physically harmed because she or her family cannot meet the unlawful dowry demands, it reflects the deliberate and oppressive misuse of power within the matrimonial home. Therefore, stringent punishment is required for the offenders.

31. The sentence awarded to the accused as modified by the Sessions Court is as follows:

"The accused/appellant is sentenced to undergo simple imprisonment for a period of 6 months and to pay of fine of Rs.10,000/-, in default simple imprisonment for 3 months u/s 498(A) IPC. If the fine amount is realized, it shall be given to PW1 by way of compensation under Section 357(1)(b) Cr.P.C."

32. The sentence awarded is commensurate with the offence committed by the accused and therefore, no interference is needed in the matter of sentence.

In the result revision petition stands dismissed.

The trial court shall take steps to execute the sentence.

Registry shall transmit the records to the trial court forthwith.

Sd/-  
**M.B.SNEHALATHA,**  
**JUDGE**

Mms/ab