



Mat.A No.773 of 2020

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2025:KER:49786

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

WEDNESDAY, THE 2ND DAY OF JULY 2025 / 11TH ASHADHA, 1947

MAT.APPEAL NO. 773 OF 2020

AGAINST THE JUDGMENT IN OP NO.669 OF 2015 OF FAMILY
COURT, TIRUR

APPELLANTS/RESPONDENTS:

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BY ADVS.
SRI.P.VENUGOPAL
SMT.T.J.MARIA GORETTI
SMT.FERHA AZEEZ

RESPONDENT/PETITIONER:

BY ADVS.
SRI.T.KRISHNANUNNI (SR.)
SMT.MEENA.A.
SRI.VINOD RAVINDRANATH
SMT.M.R.MINI
SRI.ASHWIN SATHYANATH
SRI.K.C.KIRAN
SRI.M.DEVESH
SHRI.ANISH ANTONY ANATHAZHATH
SHRI.THAREEQ ANVER

THIS MATRIMONIAL APPEAL HAVING COME UP FOR HEARING ON
18.6.2025, THE COURT ON 02.07.2025 DELIVERED THE FOLLOWING:

**CR****DEVAN RAMACHANDRAN & M.B.SNEHALATHA, JJ.****Mat.Appeal No.773 of 2020****Dated this the 2nd July, 2025****JUDGMENT****M.B.Snehalatha, J**

Appellants are the respondents in O.P.No.669/2015 on the file of Family Court, Tirur. The said Original Petition was filed by the petitioner for return of her gold ornaments. By the impugned judgment and decree, the Family Court directed the appellants to return 53 sovereigns of gold ornaments to the respondent/petitioner in O.P.

2. Parties shall be referred to by their rank in the Original Petition.

3. The marriage between the petitioner and Pradeep, who is the son of 2nd respondent and brother of 1st respondent, was solemnized on 25.4.2012. During the time of marriage, petitioner's husband Pradeep was employed abroad. On her wedding day, petitioner was adorned with 81 sovereigns of gold ornaments, including 6 sovereigns of gold ornaments gifted on the date of fixation of marriage by her husband Pradeep. After the marriage,



petitioner's husband Pradeep returned to his workplace abroad. The 1st respondent is the brother of Pradeep. 2nd respondent is his mother. Respondents 1 and 2 obtained the entire gold ornaments of the petitioner under the guise of safekeeping. While residing in the matrimonial home, respondents subjected the petitioner to cruelty, demanding more gold and cash and tortured her. On 16.1.2013, petitioner's husband, Pradeep committed suicide at his workplace abroad. After the death of her husband, petitioner continued in the matrimonial home for 15 days. Thereafter, owing to the pressure from her in-laws, she had to leave the matrimonial home. In spite of repeated demands, respondents have not returned the gold ornaments weighing 81 sovereigns entrusted to them and therefore the Original Petition was filed for return of 81 sovereigns of gold ornaments or its value.

4. Respondents filed counter denying the entrustment of 81 sovereigns of gold ornaments to them and its misappropriation. They denied the case of the petitioner that she had 81 sovereigns of gold ornaments at the time of marriage. Further, they contended that the entire gold ornaments of the petitioner were with herself. They also contended that in connection with the marriage, they had given 13.5 sovereigns of gold ornaments to the petitioner; that the said gold ornaments are retained by the petitioner. They denied the



allegations of cruelty made against them and denied their liability to return any gold ornaments.

5. The evidence consists of the oral testimonies of PW1, PW2 and RW1 and documents marked as Exts.P1 to P3.

6. At the outset we may state that the observation made by the learned Family Court Judge in paragraph 12 of the impugned judgment that 1st and 2nd respondents have not entered into the witness box is a mistake. In fact, 1st respondent has entered into the witness box and he was examined as RW1.

7. After trial, the Family Court allowed the petition in part, directing the appellants herein/respondents in the O.P to return 53 sovereigns of gold ornaments to the petitioner.

8. Assailing the said judgment and decree, the appellants/respondents in O.P, have preferred this appeal contending that the Family Court has erred in appreciating the evidence in its correct perspective; that the father of the petitioner had no financial capacity to give 81 sovereigns of gold ornaments to the petitioner. Therefore, the Family Court went wrong in directing the respondents to return 53 sovereigns of gold ornaments. It was further contended that Ext.P2 series bills and Ext.P3 series photographs produced by the petitioner are neither acceptable nor legally admissible, and there is no acceptable and cogent evidence



regarding the entrustment of the gold by the petitioner to the respondents and its misappropriation by the respondents. Therefore, according to the appellants, the impugned judgment and decree are liable to be set aside by allowing the appeal.

9. Per contra, the learned counsel for the petitioner supported the findings of the learned Family Court and submitted that the Family Court has appreciated the evidence in its correct perspective and there are absolutely no grounds to interfere with the impugned judgment and decree of the Family Court.

10. The point for consideration is whether the impugned judgment and decree need any interference by this Court.

11. It is an admitted case that the marriage of the petitioner and Sri.Pradeep who is the son of 2nd respondent and brother of 1st respondent was solemnized on 25.4.2012 in accordance with the Hindu rites and ceremonies. Ext.P1 is the copy of the marriage certificate. It is also not in dispute that during the time of marriage, Sri.Pradeep was employed abroad and after the marriage, he returned to his workplace abroad. It is also an admitted fact that the petitioner's husband Pradeep died on 16.1.2013 at abroad.

12. The case of the petitioner is that on her wedding day, she was adorned with 81 sovereigns of gold ornaments, of which 53 sovereigns of gold ornaments were purchased by her parents from



'Malabar Gold and Diamonds, Tirur'; 21 sovereigns of gold ornaments were gifted by her relatives and 6 sovereigns of gold ornaments were gifted by her husband Pradeep on the day of their engagement. According to her, subsequent to the marriage, while she was residing at the matrimonial home, respondents obtained her entire gold ornaments under the guise of safekeeping. It is her case that while she was residing in the matrimonial home respondents subjected her to cruelty. She has further testified that after the death of her husband, she had to leave the matrimonial home since her in-laws, including the respondents, insisted that she, being a widow, should leave the matrimonial home. According to her in spite of her repeated demands, respondents have not returned the 81 sovereigns of gold ornaments belonging to her.

13. To substantiate petitioner's case that she was adorned with 81 sovereigns of gold ornaments on her wedding day, she has produced Ext.P3 series photographs and also Ext.P2 series bills issued from the jewellery named 'Malabar Gold and Diamonds, Tirur'. Ext.P2 series bills would show that 53 sovereigns of gold ornaments were purchased by the father of the petitioner on 24.4.2012. Her marriage was on 25.4.2012. Thus, Ext.P2 series bills fortify petitioner's version that 53 sovereigns of gold ornaments were purchased by her father from a jewellery named Malabar Gold



and Diamonds, Tirur. The version of PW1 regarding the purchase of 53 sovereigns of gold ornaments from the jewellery receives further corroboration from the version of PW2 and Ext.P2 series bills. The evidence on record would show that 53 sovereigns of gold ornaments were purchased by the father of the petitioner on 24.4.2012, that is on the previous day of the marriage of the petitioner. Ext.P3 series photographs would also show that the petitioner was wearing lot of gold ornaments on her wedding day. Respondents have no dispute over the fact that Ext.P3 series photographs are the wedding photos of the petitioner with Sri.Pradeep. According to the petitioner, apart from the 53 sovereigns of gold ornaments purchased by her parents, her relatives had gifted 21 sovereigns of gold ornaments. In addition to that, she had also worn 6 sovereigns of gold ornaments, which were gifted by her husband Pradeep, on their engagement day. Though the Petitioner would contend that her relatives had gifted 21 sovereigns of gold ornaments, she failed to adduce any reliable evidence to substantiate the said case as rightly held by the Family Court. Petitioner's case is that on the engagement day her husband had gifted 6 sovereigns of gold ornaments to her is not disputed by the respondents. According to the petitioner, apart from the 6 sovereigns gifted to her on the engagement day, a thali chain



weighing 7½ sovereigns was also gifted by her husband on the wedding day. Respondents have no dispute over the said case of the petitioner.

14. The specific case of the petitioner who was examined as PW1 is that while residing at the matrimonial home, she entrusted her entire gold ornaments except the thali chain with the respondents for safe keeping and the respondents misappropriated the same for their own use and in spite of her repeated demands, respondents failed to return it.

15. In most Indian households the entrustment of gold ornaments by a bride to her husband or in-laws occurs in a setting of familial trust within the four walls of the matrimonial home. A newly wedded woman would not be in a position to demand receipts or independent witnesses while handing over the jewellery to the husband or in-laws. Due to the domestic and informal nature of such transactions, she would not be in a position to produce documents or independent witnesses to prove entrustment. The woman being a family member, cannot be expected to anticipate a future legal dispute and create documentary evidence in a household where she is expected to conform, trust and remain silent, especially in the early stage of her marriage.



16. Therefore, if any dispute arises at a later stage, the woman is placed in a practically difficult position of proving the entrustment of her own valuables. In such circumstances, strict proof beyond a reasonable doubt as is required in criminal law would lead to injustice, and therefore the Court has to adopt a pragmatic approach and decide the issue of entrustment on the principle of preponderance of probabilities.

17. It is in evidence that just prior to her marriage, petitioner had joined for Airport Management Course at Calicut and after the marriage also, she continued the said course, and she was going to Calicut by residing in the matrimonial home. So, the version of the petitioner that she entrusted her entire gold ornaments except the thali chain to the in-laws is more probable and acceptable than the case of the respondents that she kept all her gold ornaments with herself.

18. Though the 2nd respondent would contend that the entire gold ornaments are with the petitioner herself, it is to be borne in mind that the 2nd respondent, who is the mother-in-law, has not entered into the witness box to speak her case on oath as contended by her. Though the respondents have raised a contention that the father of the petitioner pledged the gold ornaments of the petitioner, there is absolutely no evidence to substantiate the said



contention. Ext.X1 would reveal that on 30.2.2014, petitioner's father had pledged one bangle weighing 24 grams with South Indian Bank, Thirunavaya Branch. Though the respondents caused production of Ext.X1 to substantiate their contention that the father of the petitioner had availed gold loan of ₹42,000/- in 2014 by pledging her gold ornaments, a perusal of Ext.X1 would show that the description of the gold ornament shown in Ext.X1 does not match with any of the items of gold ornaments scheduled in the Original Petition. Therefore, the contention put forward by the respondents that the father of the petitioner pledged the gold ornaments of the petitioner in the year 2014 and therefore, a presumption is to be drawn that petitioner herself is in possession of her gold ornaments, is untenable. It is to be borne in mind that petitioner's husband was working abroad and soon after the marriage he had returned to his work place abroad. In the said circumstances, there is no reason to disbelieve the case of the petitioner that while residing in the matrimonial home, she entrusted her gold ornaments with the 2nd respondent/mother-in-law for safe keeping.

19. The learned counsel for the appellants/ respondents in the O.P contended that 1st respondent in the Original Petition was residing in a separate house of his own away from his tharawad



house and therefore, the case of the petitioner that she entrusted the gold ornaments to the 1st respondent cannot be believed.

20. In the counter statement, 1st respondent has raised a contention that he is residing in another house and petitioner has not entrusted any gold ornaments with him. In the affidavit filed in lieu of chief examination also, the 1st respondent, who was examined as RW1, has stated that he is residing in another residential house of his own which is away from his tharavad house, namely the matrimonial residence of the petitioner. The said version of RW1 remains unchallenged in cross-examination.

21. The evidence on record would show that petitioner entrusted her 53 sovereigns of gold ornaments with the 2nd respondent for safe keeping. The 2nd respondent, namely, the mother-in-law has no plausible and acceptable explanation as to what happened to the 53 sovereigns gold ornaments of the petitioner, which she later had brought to the matrimonial home. Therefore, petitioner is entitled to get 53 sovereigns of gold ornaments from the 2nd respondent.

22. Accordingly, appeal is allowed in part.

a) The judgment and decree in O.P.No.669/2015 of the Family Court, Tirur against 1st appellant/1st respondent stands set aside.



b) 2nd appellant/2nd respondent shall return 53
sovereigns of gold to the petitioner.

c) 2nd respondent is liable to pay the cost also.

Sd/-

**DEVAN RAMACHANDRAN
JUDGE**

Sd/-

**M.B.SNEHALATHA
JUDGE**

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