IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

MONDAY, THE 14TH DAY OF JULY 2025 / 23RD ASHADHA, 1947

MAT.APPEAL NO. 864 OF 2015

AGAINST THE JUDGMENT DATED 24.12.2014 IN OP NO.1052 OF 2014 OF FAMILY COURT,ERNAKULAM

APPELLANT/PETITIONER:

BEATRICE
AGED 46 YEARS
W/O BABU LOUIS, TC 34/747,
TABOR VILLA, NEAR CHILDREN'S PARK,
SHANMUGHAM, BEACH POST,
KADAKAMPALLY VILLAGE,
THIRUVANANTHAPURAM,
PRESENTLY RESIDING AT WIND HAVEN RESORT,
RAMAKKAL MEDU,IDUKKI DISTRICT.

BY ADVS.
SRI.TOM JOSE
SMT.GEETHA JOB(OZHUKAYIL)

RESPONDENT/RESPONDENT:

BABU LOUIS @ DONALDSON LOUIS
AGED 54 YEARS
S/O.DAMIEN LOUIS,
SACRED HEART HOUSE,

CHOUVARA P.O.,
AMBALATHUMOOLA,
BALARAMAPURAM,
THIRUVANANTHAPURAM,695501.

BY ADVS.
SHRI.ARUN V.G. (K/795/2004)
SRI.R.RAM MOHAN

THIS MATRIMONIAL APPEAL HAVING COME UP FOR HEARING ON 26.06.2025, ALONG WITH MAT.APPEAL.No.421/2015, 484/2015, THE COURT ON 14.07.2025 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

MONDAY, THE 14TH DAY OF JULY 2025 / 23RD ASHADHA, 1947

MAT.APPEAL NO. 421 OF 2015

AGAINST THE JUDGMENT DATED 24.12.2014 IN OP NO.1052 OF 2014 OF FAMILY COURT,ERNAKULAM

APPELLANT/RESPONDENT:

BABU LOIUS @ DONALDSON LOUIS
AGED 54 YEARS
S/O DAMIEN LOUIS, SACRED HEART HOUSE,
CHOUVARA P.O., AMBALATHUMOOLA,
THIRUVANANTHAPURAM

BY ADVS.
SRI.R.RAM MOHAN
SRI.ANOOP BHASKAR

RESPONDENT/PETITIONER:

BEATRICE
AGED 46 YEARS
W/O.BABU LOUIS, TABOR VILLA,
NEAR CHILDREN'S PARK,
SHANGUMUGHAM, BEACH POST,
KADAKAMPALLY VILLAGE,
THIRUVANANTHAPURAM,

PRESENTLY RESIDING AT WIND HAVEN RESORT, RAMAKKAL MEDU, IDUKKI DISTRICT.

BY ADVS.
SMT.GEETHA JOB(OZHUKAYIL)
SRI.TOM JOSE

THIS MATRIMONIAL APPEAL HAVING COME UP FOR HEARING ON 26.06.2025, ALONG WITH MAT.APPEAL.NO.864/2015 AND 484/2015, THE COURT ON 14.07.2025 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

MONDAY, THE 14TH DAY OF JULY 2025 / 23RD ASHADHA, 1947

MAT.APPEAL NO. 484 OF 2015

AGAINST THE JUDGMENT DATED 24.12.2014 IN OP NO.1051 OF 2014 OF FAMILY COURT,ERNAKULAM

APPELLANT/RESPONDENT:

BABU LOUIS @ DONALDSON LOUIS
AGED 54 YEARS
S/O.DAMIEN LOUIS, SACRED HEARD HOUSE,
CHOUVARA PO,AMBALATHUMOOLA,
THIRUVANANTHAPURAM

BY ADVS.
SRI.R.RAM MOHAN
SRI.ANOOP BHASKAR

RESPONDENT/PETITIONER:

BEATRICE
AGED 46 YEARS
W/O BABULOUIS, TABOR VILLA,
NEAR CHILDREN'S PARK,
SHANGUMUGHAM,
BEACH POST, KADAKAMPALLY VILLAGE
THIRUVANANTHAPURAM,

PRESENTLY RESIDING AT WIND HAVEN RESORT, RAMAKKAL MEDU, IDUKKI DISTRICT.

BY ADVS.
SRI.TOM JOSE OZHUKAYIL
SMT.GEETHA JOB(OZHUKAYIL)

THIS MATRIMONIAL APPEAL HAVING COME UP FOR HEARING ON 26.06.2025, ALONG WITH MAT.APPEAL.864/2015 AND 421/2015, THE COURT ON 14.07.2025 DELIVERED THE FOLLOWING:

CR

SATHISH NINAN & P. KRISHNA KUMAR, JJ.

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Mat.Appeal No.864/2015, 421/2015 & 484/2015

= =

Dated this the 14th day of July, 2025

JUDGMENT

P.Krishna Kumar, J.

The wife filed a petition for recovery of money and maintenance from the husband. She also filed an application under Section 10(1)(x) of the Divorce Act for a decree of dissolution of marriage. She also claimed maintenance for herself and three minor children, under Section 125 of the Code of Criminal Procedure, from the husband. By the impugned common judgment, the trial court partly allowed the petition for recovery of money, gold ornaments and maintenance. A decree for divorce was also granted on the ground of cruelty. The claim for maintenance for the children was rejected, finding that they were being looked after by him. The above appeals are preferred by both sides, challenging the respective adverse findings against them.

2. The factual contentions of the wife, which are relevant in the appeals, can be summarised as follows: The marriage was solemnised on 14th September 1993 as per Christian rites and customs, and three children were born to them in their wedlock. At the time of marriage, her parents gave her 50 sovereigns of gold ornaments. Further, Rs.2,00,000/- was given to the husband as pocket money by her parents at the time of marriage. While they were living together in the parental house of the husband, she was subjected to physical and mental cruelty. The mother-in-law also subjected her to severe harassment, demanding more dowry. The husband and wife shifted their residence to a rented house and continued there for 10 years. The husband went on to torment her, and as a result, the wife suffered immense mental agony and stress. She was

compelled to dispose of all her gold ornaments for the husband. Using the amount received from the sale of gold ornaments, together with the pocket money, a residential building was purchased in the name of the respondent. Both of them resided together in the said building after purchasing it, but the husband kept ill-treating her. On certain occasions, the wife was forced to take shelter in the houses of her relatives, fearing harassment at the hands of the husband. Pursuant to the intervention of her brother, both of them reunited on 03/05/2006. But when the brutal behaviour of the husband persisted, she was compelled to resort to legal recourse. A criminal case was registered at Valiyathura Police Station against the husband and his mother under Section 498A read with Section 34 of the Indian Penal Code.

3. The husband resisted the petition by contending that the wife possessed only 35 sovereigns of gold ornaments, and that he never took them from her. He admitted of having received Rs.2,00,000/- at the time of

the marriage. He also denied the allegations regarding ill-treatment and the related incidents. According to him, he is employed as a worker in a ration shop run by his father and brother, and earns only a meagre salary of Rs.1,500/- per month. He further contended that the property was purchased using his own hard-earned money. The wife is employed in a resort run by her brother and draws a salary of Rs.50,000/-, he urged.

4. We have heard Adv. Smt. Geetha Job, the learned counsel appearing for the wife, and Adv. Sri. V.G. Arun, the learned counsel appearing for the husband.

5. The learned counsel appearing for the wife submitted that the Family Court erred in limiting the wife’s claim to Rs.7,00,000/-, as the present value of the gold ornaments is much higher than the said amount. The learned counsel further submitted that the husband has not paid any amount towards past or future maintenance till date, and therefore, his defence is liable to be struck

off. The learned counsel further placed reliance on the following decisions to support her contentions: ***Rajnesh v. Neha and Another*** (2020(6)KHC 1), ***Bani v. Parkash Singh*** (1996 KHC 2551), ***Santosh Sehgal v. Murari Lal Sehgal*** (2007 KHC 7147), ***Ghasiram Das v. Srimati Arundhati Das and Another*** (1994 KHC 1956), ***Prema S. v. Sureshkumar P.*** (MANU/KE/2533/2019).

6. Sri. V.G. Arun, the learned counsel appearing for the husband, on the other hand, contended that the wife has not maintained a consistent case regarding the gold ornaments and the money allegedly given to the husband. Referring to paragraph 5 of the petition and Exts. A4, A5, B2 and B3, the learned counsel pointed out that the wife had taken entirely inconsistent stands in those proceedings, and hence, the Family Judge was not justified in awarding any amount.

7. Referring to a previous proceeding instituted by the wife, which was dismissed for default, it is contended

that the present proceeding is barred by the provisions of Rule 9 of Order IX and Rule 2 of Order II of the Code of Civil Procedure (C.P.C.). He also relied on ***Prema S. v. P. Sureshkumar*** (2019 (3) KHC 17) to argue that, after the dismissal of the earlier petition, the wife cannot re-agitate the dispute based on the same cause of action. Sri. V.G. Arun further argued that, although these objections were specifically raised in the written statement, the trial court failed to frame an issue on the point and did not address it properly.

8. It is also submitted that, once the wife had filed a petition alleging breach of trust, the limitation period for the recovery of property vested in trust began to run from that time, and therefore, if the subsequent proceeding is instituted after 3 years therefrom, it would be barred by limitation. In such a case, Section 10 of the Limitation Act would not assist her, in view of the provisions in Section 9 of the said Act, it is urged. Referring to ***Mary v. Cherchi and Others*** (1980 KLT 353), the

learned counsel contended that the limitation period applicable to cases concerning the recovery of gold ornaments by the spouse is three years.

9. As contended by Smt.Geetha Job, referring to the aforementioned precedents, the defence raised by the husband can be struck off in certain cases where he fails to pay any amount towards maintenance, contrary to the directions of the court. However, given the nature of the contentions raised in the present case, we deem it appropriate to adjudicate the matter on merit rather than resorting to the aforementioned option.

10. Let us first consider whether the petition is barred by the provisions cited above. Relevant part of Rule 9 of Order 9 C.P.C. reads as follows:

> "**9. Decree against plaintiff by default bars fresh suit.**
>
> (1)Where a suit is wholly or partly dismissed under Rule 8, the plaintiff shall be precluded from

> bringing a fresh suit in respect of the same cause of action.
>
> xx xx xx xx

It is thus clear that what is precluded is bringing a fresh proceeding in respect of the same cause of action. Let us now consider whether the said provision has any application in the factual situation of the case. It is evident from Ext. B4 judgment dated 20.02.2007 of the Family Court, Thiruvananthapuram, that the original petition filed by the wife was dismissed due to her non-appearance, though she contended that it was withdrawn. However, the wife has a definite case that she did not prosecute the earlier case because both parties had worked out a solution in the best interest of their minor children, and she resumed her residence with the husband at their Shangumughom residence from 03.05.2006. In O.P No.1052/2014, the wife pleaded in paragraph 13 as follows:

> “The petitioner’s brother, Capt.Noble Pereira who works abroad came to Kerala in the meantime and worked out a solution for the couple in the best interest of the minor children who were the

> innocent spectators and victims of the strained relationship between the counter petitioner and the petitioner. As per the agreement the petition before the Honourable Family Court, Thiruvananthapuram was withdrawn and the petitioner and children returned to live in the house at Shangumughom since 3 May 2006.”

11. In the present original petition (O.P. No.1052/2014), her cause of action includes not only the events that occurred on the dates mentioned in the previous petition, but also the subsequent events that transpired including that on 15.01.2010, the date when she was brutally manhandled and verbally abused by the husband. She further clarified this while she was cross-examined, as follows:

> “ എന്നെയും കുഞ്ഞുങ്ങളെയും നന്നായി നോക്കി കൊള്ളാം എന്ന് എന്റെ ഭർത്താവ് എന്നോട് പറഞ്ഞപ്പോൾ ഈ കോടതിയിൽ ഹാജരാകണ്ട എന്ന് എന്റെ വക്കീലും ഭർത്താവും പറഞ്ഞു . കുഞ്ഞുങ്ങളുടെ ഭാവിക്ക് വേണ്ടി ഞാൻ ഒരുമിച്ച് പോകാൻ തയ്യാറായി അതിനാൽ ഞാൻ കോടതിയിൽ ഹാജരായില്ല. “

Thus, it is evident that the present petition is based on a fresh cause of action and hence it is not barred under Rule 9 of Order IX.

12. Termination of a previous round of litigation by non-prosecution cannot be set up as a bar under Rule 9 of Order IX if the subsequent proceeding is based on a fresh cause of action. While appreciating the question of ‘cause of action’ for a subsequent matrimonial proceedings, the court must give due consideration to reconciliation efforts made during the litigation, including any instances of reunion that failed to achieve a lasting resolution, leading to the next round of litigation. Thus, we are unable to accept the contention advanced by Sri. V.G. Arun that the subsequent petition is barred under Rule 9 of Order IX of the Code of Civil Procedure.

13. Similarly, we are not impressed by the contention that the present petition is barred under the provisions of Rule 2 of Order II C.P.C. Rule 2 reads as follows:

> “**2. Suit to include the whole claim -** (1)Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

> (2) Relinquishment of part of claim - Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.
>
> (3) Omission to sue for one of several reliefs - A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs; but if he omits, except with the leave of the Court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted."

Sub-rule (3) of Rule 2 states that a person entitled to more than one relief in respect of the *same cause of action* may sue for all or any of such reliefs, and that if he omits any, he shall not subsequently sue for the relief so omitted. The object of the above provision is to safeguard the defendant/respondent from being vexed twice, for the same cause of action. However, if the subsequent proceeding is based on a different cause of action, the bar under sub-rule (3) of Rule 2 is not attracted.

14. It is true that sub-rule (2) of Rule 2, Order II bars a suit or other proceeding in respect of any portion of a claim that was intentionally relinquished in earlier litigation. Since the wife had expressly limited her claim

to Rs. 10 lakhs in her previous petition for recovery of money and gold, thereby relinquishing Rs. 5 lakhs from the total claim of Rs. 15 lakhs made in the present proceeding, the argument of the learned counsel Shri. V.G. Arun would have normally deserved consideration. However, since the amount awarded by the trial court is only Rs. 7,00,000/-, and for the reasons stated below, we do not intend to enhance it, this aspect presently holds no substantial relevance.

15. Although the trial court did not frame any specific issue based on these contentions, this omission did not cause any prejudice to the husband, as he had produced all relevant materials to substantiate his case during the trial. When the parties have actively participated in the trial, fully aware of the disputed material propositions and having had the opportunity to adduce sufficient evidence to establish their case, the non-framing of specific issues on such matters is inconsequential.

16. Relying on the decision in ***Mary v. Cherchi*** (supra), the learned counsel for the husband contended that, in a suit for recovery of money or gold ornaments, the limitation period should be reckoned as three years. In that decision, the application of Section 10 of the Limitation Act, 1963, was not considered. Further, what is held in that decision was that the period of limitation will start only from the date when the property was demanded back and it was denied. Subsequently, a Full Bench of this Court in ***Sheela K.K. v. Suresh N.G.*** (ILR 2020 (4) Ker 486) examined the applicability of Section 10 in such matters. Affirming various earlier decisions of this Court, which held that there is no limitation for recovering valuables entrusted by one of the spouses to the other as part of the marital relationship, the Full Bench held as follows:

> "6. It is settled law and as laid down in the judgments aforesaid, when the wife entrusts with the husband any property belonging to her, a trust is created and the husband is bound to return the same to his wife. If the same is not returned, the wife has a right to demand the same by filing a suit or as in the

present case, file an application before the Family Court or take other necessary steps under the relevant statutes in force. When S. 10 of the Limitation Act indicates that there is no limitation for initiating any such action, in the absence of any other statute providing for a limitation, the trustee cannot take a contention that he shall not return the trust property on account of any period of limitation. The question posed is, when the relationship between the parties gets deranged and results in divorce, whether the trust gets extinguished and the divorced wife would be entitled to invoke S. 10 of the Limitation Act and file a suit at her will and pleasure at any point in time. In such an event, the questions to be considered are (i) whether a trust had been created at any point of time, (ii) if a trust has been created and the husband remains in the position of a trustee, whether it gets extinguished on the dissolution of marriage or under any other circumstances."

The Full Bench held that, even when the relationship between the parties becomes estranged and results in divorce, the trust does not get extinguished, unless one of the conditions mentioned in Section 77 of the Indian Trusts Act, 1882 is attracted. Paragraph 7 & 8 of the judgment reads thus;

"7.Under S.77 of the Indian Trusts Act, 1882, a trust gets extinguished only under certain circumstances. S.77 reads as under:

"77. Trust how extinguished. -A trust is extinguished -

(a) when its purpose is completely fulfilled; or

(b) when its purpose becomes unlawful; or

(c) when the fulfilment of its purpose becomes impossible by destruction of the trust - property or otherwise; or

(d) when the trust, being revocable, is expressly revoked."

8. Therefore, unless any of the eventualities as mentioned under S.77 takes place, which of course is a question of fact to be decided on a case to case basis and <u>once a trust is created, it continues to operate, even though there is a dissolution of marriage</u>. However, in an instance where there is an agreement between the parties settling the obligations arising from the trust, it gets fulfilled in terms of S.77(a). We do not think that we should narrate various circumstances which may come under S.77 of the Indian Trusts Act as it has to be decided on a case to case basis. Therefore, a trust does not get extinguished unless any such eventuality in terms of S.77 arises."

(emphasis added)

In short, even when the marriage was dissolved by a decree of divorce, it does not result in the extinguishment of the trust. Hence, the contention that the present claim is barred by limitation is also liable to be rejected.

17. We also find no merit in the argument that the provisions contained in Section 9 of the Limitation Act override the provisions of Section 10. Section 10 clearly begins with a *non-obstante* clause and states that, notwithstanding anything contained in the foregoing provisions of the Act, no suit against a person in whom property has become vested in trust for any specific purpose shall be barred by any length of time, for the purpose of following the trust property or its proceeds. The overriding nature of the *non-obstante* clause in Section 10 clearly prevails over Section 9.

18. It is next contended by the learned counsel for the appellant that, when going by the case of the wife, the gold ornaments have been converted into immovable property, her remedy is only to proceed against the property so converted. We are unable to agree with the contention. Section 63 of the Trust Act deals with, tracing the trust property into which it has been converted. As held by the Apex Court in **L. Janakirama Iyer**

v. P. M. Nilakanta Iyer (AIR 1962 SC 633, Section 63 is not exhaustive. The Apex Court held :-

> "S.63 no doubt provides for the two remedies which are available to the beneficiary, but, in our opinion, S.63 cannot be treated as exhaustive on the subject and so it cannot be urged that a claim for constructive possession like the one made in the present suit is prohibited by S.63. Prima facie S.10 of the Limitation Act seems to contemplate an action by a beneficiary under a trust to which S.10 applies and provides that in such an action the beneficiary may follow the property and ask for a proper order as to the delivery of the said property to the new trustee. If that be so, the provisions of S.10 would suggest that the remedies prescribed by S.63 are not exhaustive."

Section 23 of the Trust Act provides for liability for breach of trust. In terms of the Section, in the case of the breach of trust, the trustee is liable to make good the loss sustained by the beneficiary unless the breach was induced by the fraud of the beneficiary or if the beneficiary had concurred in the breach without coercion or undue influence upon him. It has to be borne in mind that there would be instances where the converted property is of lesser value. It cannot be said that the beneficiary will have to be satisfied with the same. In the light of the above, we negative the appellant’s contention and hold that the present claim is maintainable.

19. Let us now consider the factual contentions advanced by both sides. To address the argument that the wife has no consistent case concerning the gold ornaments and the money allegedly given to the husband, we meticulously examined the various statements made by the wife in Exts. A4, A5, B2, and B3. A careful consideration of all these pleadings compels us to conclude that there is no significant incongruity in her case regarding the gold ornaments allegedly misappropriated by the husband. In essence, her statements across these proceedings are the same. She maintains that she received 50 sovereigns of gold ornaments at the time of marriage, and that the husband caused her to sell them to purchase a residential property in his name. It is the gravamen of the pleadings in Exts. A4, A5, B2, and B3, though expressed in different words.

20. Indeed, in one of her petitions (Ext. B3), she had contended that the gold was pledged at a Co-operative Bank, whereas in the other pleadings, she stated that it was sold at the instance of the husband. However, she clarified in her sworn deposition that:

> "പണയം വെച്ച സ്വർണ്ണങ്ങൾ എന്നെ കൊണ്ട് എടുപ്പിച്ച് എന്റെ ഭർത്താവ് തന്നെ അതെല്ലാം വിറ്റിട്ടുണ്ട്."

Thus, her case remains substantially the same across all those proceedings.

21. It is true that in the present petition, she stated that her parents gave Rs.2,00,000/- to the husband at the time of marriage. However, in the FIR (Ext. A5) and in the complaint submitted before the Women's Commission (Ext. A4), she mentioned that by lending the said amount of Rs.2,00,000/- on interest, she earned Rs.3.5 lakhs—implying that the amount was at her own disposal. However, the husband has admitted in his pleading that he received the said amount at the time of marriage, through a crossed

cheque. He also pleaded that a part of it was returned to the brother of the wife (Rs.50,000/-), but the same was not accepted by the trial court for want of evidence. He has no case that he returned Rs.2,00,000/- to the wife. When the husband admits receipt of Rs.2,00,000/- and does not raise a contention that it was returned to the wife, we fail to understand the relevance of the previous statement of the wife in that regard. Nevertheless, the trial court has considered the above contention in detail. The Family Court held:

> "The petitioner and respondent were living together from the very inception of their married life, till they got separated after the alleged incident on 23/02/2006. According to the version of Pw1, during this entire period, she was subjected to cruelty for one reason or other. Such being the situation, there is no meaning in contending that amount was utilized by Pw1 exclusively for doing money lending business. The evidence and circumstances brought out in the case reveal that the respondent cannot be expected to be a person, who will entrust the money with the petitioner exclusively for dealing with the same. He might have allowed the petitioner to do money lending business under his supervision and management as is spoken to by Pw1 before the court. Therefore the inference that can be drawn is that amount entrusted to him was retained by he himself."

When the trial court, having had the advantage of observing the demeanour of the witnesses, arrived at such a conclusion after analysing all the materials placed before it, we are not persuaded to disbelieve the wife solely on account of the perceived inconsistency.

22. Upon analysing the oral and documentary evidence on record, we find no reason to interfere with the trial court's finding that the wife is entitled to recover the money claimed towards value of the gold ornaments. The wife has consistently maintained that she was ill-treated and compelled to part with her gold ornaments, and that he sold them and used the proceeds to purchase their residential building. We find no reason to disbelieve the sworn testimony of the wife in this regard.

23. Though the husband contended that he purchased the property for Rs.7,00,000/- using his hard-earned money, we find no credibility in that claim. According to him, he earns only a meagre income from working at a ration shop.

He has not produced any evidence to show how he arranged the funds for the purchase. The property was acquired in 2002, that is, 9 years after the marriage. Thus, all surrounding circumstances support the trial court's conclusion that the husband utilised the proceeds from the gold ornaments entrusted to him by the wife.

24. Although it was vehemently argued by the learned counsel for the wife that the amount awarded by the trial court towards recovery of the gold ornaments and money is grossly inadequate taking into account the present market value of the gold ornaments and also because it did not allow to recover the amount given to the husband by her father and brother, we find no reason to interfere with the trial court's finding on those grounds. The learned Family Judge has meticulously appreciated the evidence on record and rightly concluded that the husband is liable to pay only Rs. 7,00,000/- with interest at the rate of 6% per annum from the date of the petition. The court found that there is no evidence to accept the claim for the

additional amount allegedly given to the husband. Significantly, the relief sought is one for recovery of money. There is no prayer for recovery of gold or its value (Relief A in the petition). She claimed Rs. 5 lakhs as the value of the gold ornaments, and the same is awarded by the Family Court. Considering the peculiar facts and circumstances of this case, as discussed above, we find no reason to enhance the awarded amount.

25. Regarding the decree of divorce granted in favour of the wife, the evidence on record fully supports the finding of the trial court. When the wife deposed as PW1, she gave a clear and detailed account of the ill-treatment she had endured. She was subjected to rigorous cross-examination, yet her version concerning the cruelty inflicted upon her by the husband remained unshaken. The wife had also initiated a criminal case against the husband, alleging matrimonial cruelty, as evidenced by Ext. A5. Her contentions on this aspect are corroborated, to some extent, by the testimony of PW2—her brother—as

well as other witnesses. Upon a thorough analysis of the entire evidence, we are also of the considered view that the wife is entitled to a decree of divorce on the ground of cruelty. The contention that the trial court did not consider whether the alleged acts of cruelty were condoned by the wife, is also liable to be rejected, as the evidence on record clearly establishes a pattern of continuing harassment, even after the reunion.

26. Similarly, the evidence on record fully supports the trial court’s finding that the husband is liable to pay maintenance—both past and future—as directed in the impugned judgment. The quantum fixed by the trial court is quite reasonable. Although the husband claimed that the wife was employed as a Manager at a resort owned by her brother, there is no credible evidence to substantiate that assertion. On the other hand, the wife has convincingly proved that she was neglected by the husband and that he has sufficient income and capacity to maintain them.

27. In view of the above discussion, we find no reason to interfere with the impugned judgment.

Accordingly, the appeals are dismissed.

Sd/-

SATHISH NINAN, JUDGE

Sd/-

sv

P. KRISHNA KUMAR, JUDGE