IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE SATHISH NINAN
&
THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN
WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947
MAT.APPEAL NO. 368 OF 2016
JUDGMENT DATED 15.12.2015 IN OP NO.414/2013 OF FAMILY COURT, PALA

APPELLANT/RESPONDENT:

DR.YAKOB MARTIN KOCHERIC, AGED 34 YEARS
S/O.MARTIN OBIE JACOB, AGED 34 YEARS,KOCHERY HOUSE, PARAKKULAM ROAD,IRINJALAKKUDA, THRISSUR

BY ADVS.
SRI.A.T.ANILKUMAR
SMT.V.SHYLAJA

RESPONDENT/COUNTER PETITIONER:

DR.LISA BABU JOSEPH, AGED 33 YEARS, D/O.BABU JOSEPH IRS, KIZHAKKETHOTTIYIL HOUSE, VATTUKULAM PO,KADAPOOOR KARA, KANAKKARI VILLAGE, MEENACHIL TALUK

BY ADVS.
SMT.ANU GEORGE
SRI.MOHAN JACOB GEORGE
SMT.P.V.PARVATHI
SMT.REENA THOMAS
SRI.SIBY CHENAPPADY

THIS MATRIMONIAL APPEAL HAVING COME UP FOR HEARING ON 07.03.2025, ALONG WITH MAT.APPEAL.262/2016, 492/2016, THE COURT ON 02.04.2025 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE SATHISH NINAN
&
THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN
WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947
MAT.APPEAL NO. 262 OF 2016
JUDGMENT DATED 15.12.2015 IN OP NO.413/2013 OF FAMILY COURT, PALA

APPELLANT/PETITIONER:

DR.LISA BABU JOSEPH
D/O.BABU JOSEPH, IRS, KIZHAKKETHOTTIYIL HOUSE, VATTUKULAM PO, KODAPOOR KARA, KANAKKARY VILLAGE, MEENACHIL TALUK, KOTTAYAM DISTRICT, PIN-686 596.

BY ADVS.
SRI.MOHAN JACOB GEORGE
SMT.ANU GEORGE
SMT.P.V.PARVATHI
SMT.REENA THOMAS
SRI.SIBY CHENAPPADY

RESPONDENTS/RESPONDENTS:

1 **DR.YAKOB MARTIN KOCHERIE**
AGED 37 YEARS
S/O.MARTIN OBIE JACOB, KOCHERY HOUSE, PARAKULAM ROAD, IRINJALAKUDA, THRISSUR-680 121.

2 **MARTIN OBIE JACOB**
AGED 66 YEARS
KOCHERY HOUSE, PARAKULAM ROAD, IRINJALAKUDA, THRISSUR-680 121.

3 **MARY MARTIN**
AGED ABOUT 60 YEARS, W/O.MARTIN OBIE JACOB, KOCHERY HOUSE, PARAKULAM ROAD, IRINJALAKUDA, THRISSUR-680 121.

BY ADV SRI.A.T.ANILKUMAR

THIS MATRIMONIAL APPEAL HAVING COME UP FOR HEARING ON 07.03.2025, ALONG WITH MAT.APPEAL.368/2016 AND CONNECTED CASE, THE COURT ON 02.04.2025 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE SATHISH NINAN
&
THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN
WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947
MAT.APPEAL NO. 492 OF 2016
JUDGMENT DATED 15.12.2015 IN OP NO.413/2013 OF FAMILY COURT, PALA

APPELLANTS/RESPONDENTS:

1 DR. YAKOB MARTIN KOCHERIE, AGED 34 YEARS
S/O.MARTIN OBIE JACOB, AGED 34 YEARS,KOCHERY HOUSE, PARAKKULAM ROAD,IRINJALAKKUDA, TRISSUR.

2 MARTIN OBIE JACOB, AGED 63 YEARS
KOCHERY HOUSE, PARAKKULAM ROAD,IRINJALAKKUDA, TRISSUR.

3 MARY MARTIN, AGED 58 YEARS
W/O.MARTIN OBIE JACOB, AGED 58 YEARS,KOCHERY HOUSE, PARAKKULAM ROAD,IRINJALAKKUDA, TRISSUR.

BY ADV SRI.A.T.ANILKUMAR

RESPONDENT/PETITIONER:

DR. LISA BABU JOSEPH, D/O BABU JOSEPH IRS, AGED 33 YEARS, KIZHAKKETHOTTIYIL HOUSE, VATTUKULAM P.O., KADAPOOR KARA, KANAKKARI VILLAGE, MEENACHIL TALUK

BY ADVS.
SMT.ANU GEORGE
SRI.MOHAN JACOB GEORGE
SMT.P.V.PARVATHI
SMT.REENA THOMAS
SRI.SIBY CHENAPPADY

THIS MATRIMONIAL APPEAL HAVING COME UP FOR HEARING ON 07.03.2025, ALONG WITH Mat.Appeal.368/2016 AND CONNECTED CASES, THE COURT ON 02.04.2025 DELIVERED THE FOLLOWING:

JUDGMENT

SHOBA ANNAMMA EAPEN, J.

These appeals arise from the judgment dated 15.12.2015 in O.P.Nos. 413 and 414 of 2013 on the files of the Family Court, Pala. Since the parties are the same and the issues are interrelated, the appeals were heard together and are being disposed of by this judgment. The parties are hereinafter referred to as, the “husband” and the “wife”.

2. Mat. Appeal No.262 of 2016 is filed by the wife challenging the dismissal of her claim in OP No.413 of 2013 for return of gold ornaments weighing 101 sovereigns, money and other valuables. Mat. Appeal No. 492 of 2016 is filed by the husband against the dismissal of his counter claim in OP No.413 of 2013 to recover the value of articles worth ₹13,90,000/-. Mat. Appeal No.368 of 2016 is filed by the husband, challenging the decree in OP No.414 of 2013, granting custody of the minor child to the wife.

3. The brief facts leading to the afore original petitions are as follows: The marriage between the parties was solemnized on 14.02.2004 and a male child was born in their wedlock. Both

husband and wife are doctors.

4. According to the wife, the husband and his family demanded ₹20,00,000/-, 101 sovereigns of gold ornaments and a car as dowry. Her father gave ₹20,00,000/- lakhs, in four instalments, as patrimony. She was also provided with 101 sovereigns of gold ornaments. It is alleged that out of the 101 sovereigns of gold ornaments given to her, 80 were sold by the husband and his family for their own needs. The wife claimed that the patrimony given was not sufficient enough for purchasing a car and hence, her father gave an additional amount of ₹2,00,000/- to the husband for utilising the said amount for purchasing a TATA Indica car. The wife claims that with the afore amount and by availing a car loan, the car was purchased and she had repaid the loan in 60 equal monthly instalments of ₹3,925/- from her professional income, totalling to an amount of ₹2,35,500/-. It is the claim of the wife that, as demanded by the parents-in-law, her parents gave a washing machine worth ₹22,000/- and household articles worth ₹50,000/-. She further claimed that for pursuing the husband’s postgraduate studies in Chennai, her father was forced to give ₹5,00,000/- and the balance amount was obtained by selling 80 sovereigns of gold

ornaments. She further alleged that, while the husband was studying in Chennai, an amount of ₹6,00,000/- was transferred during March, 2007 to August, 2010 for his personal expenses and an amount of ₹46,000/- was given on 20.06.2008 and ₹1,50,000/- during June, 2009. Further, a laptop worth ₹56,000/-, a camera worth ₹15,000/-, a mobile phone worth ₹24,000/-, and an amount of ₹25,000/- for repairing his car were given to him. According to the wife, due to the cruelty of the husband, she left the matrimonial home on 02.10.2010. Thereafter, the wife filed OP No.413 of 2013 for return of gold ornaments, money and other valuables.

5. The husband refuted all the allegations raised by the wife. He contended that the marriage was preceded by a five-year love affair. There was no demand from his family for money or gold ornaments. It was decided between the parties that the bride's side would provide gold, clothing, and other materials for the family members, and also bear the costs of the betrothal ceremony. It was also decided that the groom's side would bear the costs of the marriage. The husband further contended that the wife did not wear 101 sovereigns of gold ornaments and no money was paid to the husband or his family. He also denied the

allegation that money was given for the purchase of the car. He further contended that the wife neither brought any articles nor gave any amount for his studies in Chennai. According to him, the laptop, camara, mobile phone etc., were purchased with the funds provided by his father, who had returned from abroad and was quite wealthy. It was further contended that, when the husband and his family members were away from home, the wife took away all the articles therefrom worth ₹13,90,000/-; and thus, he filed a counter claim for ₹13,90,000/-.

6. The Family Court, on an elaborate consideration of the issue, dismissed the original petition filed by the wife for return of gold and other articles, and the counter claim filed by the husband. The original petition filed by the husband for custody of the minor child was also dismissed.

7. We have heard Sri.Siby Chennappady, learned counsel for the wife; and Sri.A.T.Anil Kumar, learned counsel for the husband.

Mat. Appeal No. 262 of 2016

8. In Mat. Appeal No.262 of 2016, the wife alleged that,

as demanded by the husband and his family members, 101 sovereigns of gold ornaments and an amount of ₹20,00,000/- was given by her father as patrimony in four instalments before the marriage, i.e., ₹7,00,000/- on 24.12.2003, ₹6,00,000/- on 18.01.2004, ₹4,50,000/- on 23.01.2004, ₹2,50,000/- on 07.02.2004. The engagement was in September, 2003, and the betrothal was on 07.02.2004. In order to prove entrustment of the amount, the wife relied on Exts.A5 to A7 and Ext.B68 series. In order to prove the quantity of ornaments, Ext.A8 photograph and Exts.A9 & A10 bills were relied on. Ext.A13 series was relied on to prove the sale of gold ornaments. According to the wife, an amount of ₹20,00,000/- was paid on different dates and Ext.B68 (fl), Ext.B68 (cz), Ext.B68 (cy) and Ext.B68 (cp) payslips reveal deposit of ₹1,50,000/- each, totalling to ₹6,00,000/-, by the husband's father on 19.01.2004 in the Irinjalakuda branch of different banks, viz., the South Indian Bank, Federal Bank, Lord Krishna Bank, and the Dhanalakshmi Bank. It is the case of the wife that an amount of ₹20,00,000/- was entrusted to the husband and his family, and their own documents prove its deposit in different banks. It is also her case that the gold ornaments kept in the locker were utilized towards his personal needs and an amount of

₹3,20,000/- was given to the husband on 23.01.2007 for his higher studies by selling 80 sovereigns of gold ornaments. To substantiate the above contention, she relied on Ext.B53, which reveals that the locker was operated on 22.01.2007 by the mother of the husband.

9. On the other hand, the husband denied the entrustment of gold ornaments and contended that he and his family had provided gold ornaments for the wife. The husband also contended that while he and his family members were away from their house on 02.10.2010, the wife's father came to their house and the wife left the matrimonial home taking all the gold ornaments and other articles therefrom, worth ₹13,90,000/-. The husband filed a counter claim in the original petition for recovering the afore amount. He denied all the allegations raised by the wife. According to him, even prior to the marriage, fixed deposits were made in the name of the wife, and his family was well off with sufficient fixed deposits even prior to the marriage. He further contended that his mother was having a locker facility and was operating the said locker from 2002 onwards. The husband produced Ext.B53 to prove that, even prior to the marriage, the locker was being operated by his mother in 2002, 2003 and 2004. Admittedly,

the parties were living separately from 02.10.2010. It is contended that even thereafter, the locker was being operated by his mother till 2012. He denied the wife's allegation that the locker was operated on 22.01.2007 to take her gold ornaments. The husband relied on his own deposition and Exts.B33 to B37 and B48 to B52 photos to prove that the ornaments were with the wife and she used to wear the same while attending functions, when they were leading a cordial life. In order to prove their financial capacity, the husband relied on Ext.B61 series of deposit confirmation/renewal advice of HDFC Bank and Ext.B69 series of gold purchase bills. According to the husband, no amount was spent by the wife towards his educational expenses and the amount transferred from the wife's account was the amount deposited by a rentee of his father, one Mr.Keller.

10. Firstly, we shall consider the claim for return of 101 sovereigns of gold ornaments. It is the claim of the wife that at the time of marriage, she was wearing 101 sovereigns of gold ornaments, out of which 80 were sold by the husband and his family for their own gain. She relied on Exts.A9, A10 and A13 purchase bills to prove purchase and sale of gold ornaments. According to the wife, her father was working as Additional

Commissioner of Income Tax and her mother was a Central Government employee and they were wealthy enough to give her 101 sovereigns of gold ornaments. While examined, the wife/PW1 deposed that the gold ornaments were purchased through three sources; (1) withdrawal of amounts from various banks, (2) sale of house at Ahmedabad and furniture therein, and (3) sale of rubber trees standing in the property of her father. It was also testified by the wife/PW1 as well as her father/PW2 that her elder sister was married giving 101 sovereigns of gold ornaments and also an amount of ₹15,00,000/-. The learned counsel for the wife relied on a catena of decisions namely, **Rajesh P.P. & Another** v. **Deepthi P.R.** [2021 (4) KHC 242], **Pankajakshan Nair** v. **Shylaja & another** [2017 (1) KHC 620], **Syamini S. Nair & others** v. **Sreekanth R.** [2022 (3) KHC 145] and **Binitha** v. **Hareendran** [2023 KHC 99], **Jubairiya M.K.** v. **Abusalih & Another** [2013 (2) KHC 304], **Bexy Michael** v. **A.J.Michael** [2010 (4) KHC 376], **Ajitha Kumari & Another** v. **K.D.Jayasekharan** [2016 (5) KHC 664], **Syamini S. Nair & Others** v. **Sreekanth R.** [2022 (3) KHC 145], in support of his contention that, when the bride comes to the matrimonial home after marriage, there is possibility of ornaments being entrusted to the elders and it is for the husband to prove that it was

taken back by the bride when she left the matrimonial home. The husband, on the other hand, contended that since they were having a love affair, no money or gold was demanded and the family of the husband had purchased gold ornaments for the wife.

11. A perusal of Exts.A9 and A10 gold purchase estimate reveals purchase of 80 sovereigns of gold ornaments. Further, Ext.A13 documents reveal that 40 sovereigns of gold ornaments were sold in 2007. It is the case of the wife that 80 sovereigns of gold ornaments belonging to the wife were sold and the husband went for higher studies utilising the said amount. It is admitted that the husband went for higher studies at the Raga's Dental College, Chennai, on 23.01.2007. Ext.B53 document also reveals that the locker was operated on 22.01.2007, which substantiates the case of the wife. The husband contended that his mother had been operating the locker since 2002 and the operation of the locker on 22.01.2007 was not for taking the wife's gold ornaments or for selling the same. The husband relied on the judgment of this Court in **Abubakkker Labba & Another** v. **Shameena K.B. and Another** [2018 (3) KHC 219) and argued that unless there is sufficient evidence from the wife to prove entrustment of gold ornaments with parents of the husband after marriage, they cannot

be held liable to return the same. The wife relied on Ext.13 series to prove the sale of 40 sovereigns of gold ornaments, which reveals sale of only 40 sovereigns. Other than the oral evidence adduced and the contentions raised, there is no evidence to prove the sale of remaining 40 sovereigns of gold ornaments. However, as regards the claim for sale of 40 sovereigns of gold ornaments belonging to the wife, we are convinced that the oral evidence and the documents produced by the wife prove beyond doubt that her gold ornaments were sold to utilize for the higher studies of the husband. As regards the claim of the remaining 40 sovereigns of gold ornaments alleged to have been appropriated by the husband, we are of the view that satisfactory evidence has not been adduced by the wife.

12. The value of gold ornaments in the year 2007 was around ₹8,000/-. It is the specific case of the wife that an amount of ₹3,20,000/- was given to the husband on 23.01.2007 for his higher studies in the afore college. PW2 has also deposed that the amount for purchasing gold was arranged by selling his house and furniture at Ahmedabad, by selling rubber trees standing in his property and also by withdrawal of amounts from various banks. However, a perusal of Exts.A28 and A30 reveals sale of the house

at Ahmedabad and the agreement for selling the furniture therein was on 18.03.200. As per Ext.A30 sale agreement, PW2 received an amount of ₹2,00,000/-. Exts.A32, A34 & A36 statements of accounts also reveal that the amounts were withdrawn from the accounts maintained by the parents of the wife. Moreover, Ext.A8 marriage photos show that a substantial quantity of gold ornaments were worn by the wife. As regards the family status of the wife, the depositions of the wife/PW1 as well as her father/PW2 cannot be disbelieved that they were not financially stable to give 101 sovereigns of gold ornaments. In **Rajesh P.P.** (*supra*) and **Pankajakshan Nair** (*supra*), this Court held that once it is proved that gold ornaments were entrusted to the husband, the burden is on the husband to prove as to how the same was dealt with and also that, if it is his case that it was taken by the wife when she left the matrimonial home, the burden is on him to prove the same. In the case on hand, no evidence has been adduced by the husband other than his own oral testimony to disprove the contentions of the wife. Hence, in the absence of such evidence, the husband is accountable for the quantity of gold ornaments misused by him. During cross-examination the wife has testified that she was in possession of 20 sovereigns of gold ornaments

when she left the matrimonial home. Therefore, on an appreciation of the oral evidence as well as the documents on board, we find that out of 80 sovereigns of gold ornaments, 40 sovereigns were utilized by the husband for his own needs. On the basis of the foregoing discussion and on an appreciation of the materials, we are unable to agree with the finding of the Family Court. Hence, we hold that the wife is entitled for return of 40 sovereigns of gold ornaments.

13. As regards the claim of entrustment of a sum of ₹20,00,000/-, it is the case of the wife that the amount was paid in four instalments, even before the betrothal. The engagement was in September, 2023, and the betrothal was on 07.02.2004. According to the wife, an amount of ₹7,00,000/- was paid on 24.12.2003; ₹6,00,000/- on 18.01.2004; ₹4,50,000/- on 23.01.2004; and ₹2,50,000/- on 07.02.2004, totalling to ₹20,00,000/-. On a perusal of Exts.A5, A5(a), A6 and A7, it is seen that a total amount of ₹15,00,000/- was deposited in the name of the wife, husband, father-in-law and in the name of four persons on 25.03.2004 and 29.03.2004. According to the wife, these deposits were made immediately after the marriage.

14. The husband denied the afore allegations and relied on Exts.B68 series to show that they were well off and they had several deposits even prior to the marriage. Exts.A5 & A5(a) passbook, Ext.A6 cash receipt and Ext.A7 bank statement reveal that the deposits were made after the marriage; and there is no evidence forthcoming to prove the source otherwise by the husband regarding the deposits made in the name of the wife, husband and his family members. The wife's father was the Additional Commissioner of Income Tax and her mother was a central government employee. Their elder daughter got married in 2002 by giving ₹15,00,000/- and 101 sovereigns of gold ornaments. It is the case of the husband that after the marriage of the elder daughter, the wife's family was not financially sound to give ₹20,00,000/- and 101 sovereigns of gold ornaments to the second daughter/wife. It is also contended by the husband that they had a car loan of ₹2,00,000/- and a housing loan of ₹8,50,000/-, however, that cannot be taken as a reason for finding that the wife's family was not financially well off. PW1/wife has deposed that her parents had arranged the funds for giving ₹20,00,000/- and for purchasing 101 sovereigns of gold ornaments by withdrawals from various banks, by sale of a house and furniture

therein and also by sale of rubber trees standing in the property of PW2/wife's father. PW2 also deposed in tune with PW1, testifying that he has arranged the fund by selling his house at Ahmedabad and furniture therein and also by selling rubber trees in his property and by withdrawals from various banks.

15. A perusal of Ext.A28 sale deed reveals that the house at Ahmedabad was sold for ₹5,00,000/- on 18.03.2003, i.e., after the marriage of the elder daughter. Ext.A30 agreement also reveals that the furniture in the above house was sold for ₹2,00,000/-. Exts.B38, B39 and B61 to B69 reveal that the husband and his family deposited amounts in the name of the wife as well, even long before the marriage. The husband contended that the deposits in Exts.A5 to A7 are the amounts renewed from earlier deposits. However, Ext.A6 cash receipt as well as Ext.A7 FD ledger extract does not reflect that the deposits were renewal deposits. Hence, the contention of the husband that the deposits made as per Exts.A5 to A7 were renewal deposits, cannot be accepted. The handing over of the afore amounts was proved through PW1, PW2 & PW3 (wife's mother). It is also relevant to note that as per Ext.B68 series, fixed deposits totalling to ₹6,00,000/- were made on 19.01.2004. It is the case of the wife that an amount of

₹6,00,000/- was entrusted to the husband’s family on 18.01.2004. It is discernible from Ext.B68 series that on the very next day, deposits totalling to ₹6,00,000/- were made by the husband’s family in different banks at Irinjalakuda. This justifies the wife’s case that the amounts were deposited utilizing the patrimony given by her father. The evidence adduced and the documents produced substantiate the claim of the wife. Hence, we are of the opinion that the Family Court was not correct in finding that there was no evidence to prove that the husband and his family had received ₹20,00,000/- prior to the marriage. The said finding is set aside. We hold that the wife is entitled to recover from the husband ₹20,00,000/- given as patrimony.

16. In addition to the wife's claim of ₹20,00,000/- given to the husband at the time of marriage, she made a further claim of ₹19,23,065/-, allegedly given to the husband after marriage. It is alleged that the said amount includes funds entrusted for purchasing a car, repayments made towards the car loan, capitation fee paid to the husband for higher studies, the amounts entrusted to the husband during the period from 2007-2010, value of articles such as washing machine, mobile phone etc. During cross-examination, the wife deposed that an amount of

₹5,00,000/- was paid to the husband on 20.12.2006 to secure admission for his higher studies, for which she relied on Ext.A44 sale deed dated 06.12.2006. According to her, an amount of ₹2,00,000/- was given by her father on 04.03.2004 for purchase of the car; a total amount of ₹2,35,500/- was repaid by the wife from her income in 60 instalments towards car loan; ₹5,00,000/- was paid towards capitation fee for MDS admission of the husband; a total sum of ₹6,00,000/- was transferred to the husband for his expenses in Chennai during 2007-2010; ₹46,000/- was paid on 20.06.2008 and ₹1,50,000/- was paid during June, 2009, and ₹25,000/- was paid in April, 2010, for car repair in Chennai. Further, it is alleged that a washing machine worth ₹22,000/-, household articles worth ₹50,000/-, a laptop worth ₹56,000/-, a camera worth ₹15,000/- and a mobile phone worth ₹24,000/- were given to the husband.

17. Regarding the claim of ₹2,00,000/- alleged to have been given by the parents of the wife to purchase the car, and the claim of ₹2,35,000/- alleged to have been made by the wife towards repayment of car loan, no documentary evidence has been adduced by the wife. A perusal of Exts.B24 and B25 reveals that the car loan was availed by the husband from ICICI Bank and the

amounts have been remitted in instalments by way of cheque as reflected in Ext.B24. Ext.B25 is the statement of accounts, which shows that multiple cheques were cleared towards the car loan. Since the wife failed to substantiate the above claims, we are inclined to disallow the same. Further, regarding the claim of the wife regarding washing machine, laptop, camera and the amount spent for repairing the car, purchase of movables and household articles, no satisfactory evidence has been adduced. Hence, we are not inclined to allow the said claim.

18. As regards the claim for ₹5,00,000/- allegedly paid for higher studies of the husband, the wife relied on Ext.A13 series vouchers evidencing sale of gold ornaments. Since we have already found that the wife is entitled for return of 40 sovereigns of gold ornaments from the husband, we are not inclined to allow the claim for return of ₹5,00,000/- alleged to have been spent towards the husband’s higher studies. To prove the claim of ₹6,00,000/- also, the wife failed to adduce any supporting evidence.

19. As regards the claim of the wife regarding the amount of ₹1,50,000/- paid to the husband by PW4, who is her father’s

brother, the husband admits receipt of ₹1,50,000/-. If at all there is any claim for ₹1,50,000/-, it ought to have been raised by PW4 from the husband. The said payment was in 2008, i.e., after four years of marriage. As regards the claim of ₹6,00,000/- alleged to have been spent by the wife for the husband's expenses in Chennai, the husband contended that a rentee of his father, one Mr.Keller, was depositing the rent in the account of the wife and that amount was transferred by the wife to the husband on several occasions, which is evidenced by Ext.A14. Relying on the judgment in **Royson Mathew** v. **Minimol K. & Others** [2020 (3) KHC 307], the husband argued that there may be several transactions between spouses during the time when marriage was subsisting and such amount cannot be sought to be recovered by either of them, unless there are sufficient pleadings and evidence to show that such entrustment was not gratuitous or was under threat, coercion etc. There has to be pleadings and evidence to suggest that entrustment was for a specific purpose or under trust, to make out a case to recover the amount. Here, the wife failed to adduce any evidence to show that such payments, if at all made, were from her own savings or made under threat, coercion etc. and hence, we are not inclined to allow the said claim as well.

Mat. Appeal No.492 of 2016

20. In Mat. Appeal No. 492 of 2016, the husband challenges the dismissal of his counter claim in OP No.413 of 2013 to recover the value of articles worth ₹13,90,000/-. As regards the counter claim for ₹13,90,000/- put forward by the husband, it includes the value of ornaments and articles alleged to have been taken by the wife from the house of the husband. The husband alleged that while leaving the matrimonial home, the wife took away various ornaments and articles. The details of the counter claim for ₹13,90,000/- are as follows:

a)	Various gold ornaments such as chains, necklaces, bangles, rings etc. of the respondents weighing about 75 sovereigns	₹11,25,000/-
b)	Diamond necklace with pendant	₹72,000/-
c)	A pair of diamond earrings	₹29,000/-
d)	Expensive sarees	₹78,000/-
e)	Cash lost from almirah	₹76,000/-
f)	Compensation for taking away the lock and key	₹10,000/-
	Total	₹13,90,000/-

21. Though such claims are raised, no evidence other than his own oral evidence as DW1 has been adduced by the husband to prove that all those items were taken by the wife when she left the matrimonial home. Hence, we are of the opinion that the

Family Court was right in dismissing the counter claim put forward by the husband; and therefore, we decline interference.

Mat. Appeal No. 368 of 2016

22. When the appeals were taken up for hearing, the learned counsel on either side submitted that both the husband and the wife have remarried. Further, the learned counsel for the husband submitted that the relief sought for in Mat. Appeal No. 368 of 2016 has become infructuous since the minor child, viz., Neil Yakob Kocherie, born on 28.03.2005 in their wedlock, has attained majority, and hence, Mat. Appeal No.368 of 2016 can be dismissed as infructuous.

Accordingly, the appeals are disposed of, as follows:

a) Mat.Appeal No.262 of 2016 is partly allowed. The husband is directed to return to the wife 40 sovereigns of gold ornaments or its present market value and an amount of ₹20,00,000/- within one month from today, in default of which, the wife will be entitled to realize the same with interest @6% per annum from the date of filing of original petition till realisation, from the husband personally and

from his assets, both movable and immovable. The decree and judgment of the Family Court are modified to the above extent. No costs.

b) Mat. Appeal No. 492 of 2016 is dismissed. No costs.

c) Mat. Appeal No. 368 of 2016 is dismissed as infructuous. No costs.

SD/-
SATHISH NINAN
JUDGE

SD/-
SHOBA ANNAMMA EAPEN
JUDGE

bka/-