[2025] 12 S.C.R. 273 : 2025 INSC 1375

Rousanara Begum
v.
S.K. Salahuddin @ SK Salauddin & Anr.

(Criminal Appeal No(s). 5164-5165 of 2025)

02 December 2025

[Sanjay Karol* and Nongmeikapam Kotiswar Singh, JJ.]

Issue for Consideration

Issue arose whether goods given to a daughter at the time of her marriage by her father, or to the bridegroom, can be by application of law, returned to the daughter-appellant given that their marriage had ended in divorce.

Headnotes†

Muslim Women (Protection of Rights on Divorce) Act, 1986 – s.3 – *Mahr* or other properties of Muslim woman to be given to her at the time of divorce – Goods given to a daughter at the time of her marriage by her father, or to the bridegroom, if by application of law, can be returned to the daughter-appellant given that their marriage had ended in divorce:

Held: s.3 deals with *mehr/dower* and/or other properties given to a woman at the time of her marriage clearing the way for the woman to set up a claim against her husband, or claim back from her husband properties given, as the case may be – Scope and object of 1986 Act is to secure dignity and financial protection of a Muslim women post her divorce which aligns with the rights of a women u/Art.21 – Construction of 1986 Act, thus, must keep at the forefront equality, dignity and autonomy and must be done where inherent patriarchal discrimination is still the order of the day – On facts, the primary basis for High Court not giving the amount and gold in question to the appellant-divorced muslim wife, was the apparent contradiction between the statement of the *Kazi*-marriage Registrar and the father of the appellant – High Court recorded that the latter statement regarding writing and overwriting in the entry in the marriage register is proved by him having produced the same before the Court – Mere allegation as to his conduct being suspicious on account of overwriting in the marriage register not

* Author

sufficient to discard his testimony – This Court under its plenary, Art.136 jurisdiction does not interfere with the findings of the High Court simply because there are two views possible, this case, does not fall under this exception for the High Court missed the purposive construction goalpost and instead proceeded to adjudicate the matter purely as a civil dispute – Constitution of India prescribes an aspiration for all, equality which is, obviously, yet to be achieved – Courts, in doing their bit to this end must ground their reasoning in social justice adjudication – Thus, the judgment and order passed by the High Court set aside – Respondent to remit the amount directly into the bank account of the appellant. [Paras 8-10]

Case Law Cited

Daniel Latifi v. Union of India **[2001] Supp. 3 SCR 419 : (2001) 7 SCC 740 – referred to.**

List of Acts

Code of Criminal Procedure, 1973; Penal Code, 1860; Muslim Women (Protection of Rights on Divorce) Act, 1986; Constitution of India; Dowry Prohibition Act, 1961.

List of Keywords

Mahr; Properties of Muslim woman; Goods given to daughter at the time of her marriage by her father, or to bridegroom; Divorce; Dignity and financial protection of Muslim women post her divorce; Inherent patriarchal discrimination; Statement of *Kazi*-marriage Registrar; Purposive construction; Social justice adjudication.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No(s). 5164-5165 of 2025

From the Judgment and Order dated 24.11.2022 and 31.01.2024 of the High Court at Calcutta in CRR No. 489 of 2019 and CRAN No. 9 of 2023, respectively.

Appearances for Parties

Advs. for the Appellant(s):
Syed Mehdi Imam, Mohd Parvez Dabas, Uzmi Jamil Husain, Tabrez Ahmad, Ms. Pooja Kumari.

Advs. for the Respondent(s):
Ms. Kumud Lata Das, Sukesh Ghosh, Ms. Sadhana Sandhu, Ms. Shikha Sandhu, Ms. Pooja Rathore, Ms. Hemangi Saikia, Kunal Mimani, Ms. Shraddha Chirania.

Judgment / Order of the Supreme Court

Judgment

Sanjay Karol, J.

Delay condoned.

Leave granted.

2. These appeals are directed against judgment and order dated 24th November 2022 passed in CRR No. 489 of 2019 and Order dated 31st January 2024 passed in application for modification bearing No. CRAN 9 of 2023 by the High Court at Calcutta, at the instance of the Appellant herein, Rousanara Begum, who is the former wife of the Respondent No.1 - S.K Salahuddin[1].

3. The short question which arises for consideration in these appeals are whether goods given to a daughter at the time of her marriage by her father, or to the bridegroom, can be by application of law, returned to the daughter, appellant herein, given that their marriage had ended in divorce.

4. The parties to the *lis* were married on 28th August 2005. Differences, however, arose shortly thereafter and the Appellant departed from her matrimonial home on 7th May 2009. Subsequently, she filed an application under Section 125 of the Code of Criminal Procedure, 1973[2] and initiated proceedings under Section 498-A, Indian Penal Code, 1860[3]. The marriage eventually ended in divorce on 13th December 2011. Thereafter, she approached the Court[4] under Section 3 of The Muslim Women (Protection of Rights on Divorce)

1 Hereinafter referred to as 'the Respondent'

2 Hereinafter referred to as 'CRPC'

3 Hereinafter referred to as 'IPC'

4 Misc. Case No. 149/2011 before Additional CJM, Bolpur District Birbhum

Act, 1986[5] seeking the return of total of Rs. 17,67,980/-. This amount was arrived at in the following terms:

> "*6.* The petitioner is entitled to receive a total amont of Rs.17,67,980/- from the opposite party, which includes the dower amount of Rs. 1,50,000/-, dowry of Rs.7,00,000/-, 30 (thirty) Bhori gold ornaments worth Rs.9,00,000/-, the value of the fridge and stabilizer Rs.10,700/-, Panasonic TV and other items worth Rs.18,140/-, showcase Rs.3,000/-, box bed Rs. 19,000/-, dressing table Rs.2,500/-, steel almirah Rs.5,500/-, steel mirror Rs.2,100/-, sofa set Rs.2,000/-, dining table Rs. 1,720/-, and bedding Rs.3,320/-, and she has claimed it."

It is these proceedings that, after multiple rounds, have travelled to this Court. Before proceeding to the merits of the matter, we must take note of this history.

4.1. The Learned CJM vide order dated 26th June 2014 allowed the application and granted a total of Rs.8.3 lacs as against the claim of Rs. 17.5 lacs.

4.2. Both parties preferred revision petitions before the learned Session Judge who remanded the matter for afresh consideration allowing the evidence of marriage registrar to be entered.

4.3. On remand, the learned Additional Judicial Magistrate by order dated 23rd February 2015 once again decreed the matter in favour of the appellant granting a total of Rs.8 lacs along with 30 *bhories* of gold ornaments.

4.4. Aggrieved thereby the respondent preferred the revision petition and the learned Additional Sessions Judge by order dated 21st July 2015 allowed the same and once again remanded the matter for additional evidence and fresh trial.

4.5. The Additional Chief Judicial Magistrate, Bolpur in terms of judgment dated 27th April 2017 framed three issues for consideration- issues 1 and 2 concerned the amount of Rs.8 lacs along with 30 *bhories* as previously awarded and issue 3 pertained to the articles that were given to the bridegroom

5 Hereinafter referred to as '1986 Act'

and whether any right to recover the same existed. Issue no.1 which particularly dealt with Rs.1 lac as *mehr* was disposed of observing that the amount already stood paid by the respondent to the appellant and as such nothing survived for consideration. For issue no.2, reference was made to Exhibit 7 and Exhibit 8-two *qabilnamas* or entries in the marriage register. Exhibit 8 which is the original entry records that the father of the bride gave Rs.7 lacs and 30 *bhories* of gold to the son-in-law. Exhibit 7 on the other hand, records that the above said amounts were given but it does not state that the same were particularly given to the bridegroom. It has been noted that this discrepancy has been admitted by the Marriage Registrar, however, the Court, considering the overall circumstances found it apposite not to grant too much weight to the same. It was held that the proof of marriage, the original *qabilnama* and the inability of the opposite party to disprove the entry in question made the opposite party liable to return the 7 lacs and 30 *bhories* gold to the appellants. Finally, for issue no.3 it was observed that since there was no entry in the concerned documents regarding the furniture, there was no entitlement for the same to be returned.

4.6. The Respondent preferred Criminal Revision No.21/2017 which was dismissed by judgment dated 15th December 2018 by the Court of Sessions observing that there is no irregularity or impropriety in the order passed by the ACJM.

4.7. The Respondent was aggrieved and dissatisfied by the order of the Court of Sessions and as such went before the High Court under Article 227 of the Constitution of India.

5. The High Court found merit in the case made out by the respondent and as such allowed the petition. The reasoning is as follows:

5.1. The discrepancy between Exhibit 7 (marriage certificate given to the respondent) & 8 (marriage certificate given to appellant) as also the manner in which the learned ACJM dealt with the same was noticed but the findings were set aside given that the entry in Exhibit 8 tallied with the statement of the father of the appellant made in the proceedings under Section 498A IPC wherein he has categorically stated to have given the amount and gold in question to the respondent, that is Rs.7 lacs and 30 *bhories*.

5.2. Regarding the maintainability of a petition under Article 227 of the Constitution it was observed that the power of superintendence also extends to judicial matters and it confers ample powers on the Court to prevent abuse of process of law.

6. It is in the aforesaid backdrop that the appellant is before us.

7. At the outset, it is requisite to notice Section 3(1) of the 1986 Act, which reads as under:

> "3. Mahr or other properties of Muslim woman to be given to her at the time of divorce.—(1) Notwithstanding anything contained in any other law for the time being in force, a divorced woman shall be entitled to—
>
> (a) a reasonable and fair provision and maintenance to be made and paid to her within the iddat period by her former husband;
>
> (b) where she herself maintains the children born to her before or after her divorce, a reasonable and fair provision and maintenance to be made and paid by her former husband for a period of two years from the respective dates of birth of such children;
>
> (c) an amount equal to the sum of mahr or dower agreed to be paid to her at the time of her marriage or at any time thereafter according to Muslim law; and
>
> (d) all the properties given to her before or at the time of marriage or after her marriage by her relatives or friends or the husband or any relatives of the husband or his friends."
>
> (emphasis supplied)

The Section quoted above deals with *mehr/dower and/or* other properties given to a woman at the time of her marriage- clearing the way for the woman to set up a claim against her husband in the above situations, or claim back from her husband properties given, as the case may be. In ***Daniel Latifi v. Union of India***[6], the Constitution Bench of this Court discussed the object, purpose and ambit of the Act and the Section reproduced *supra* in the following terms:

6 (2001) 7 SCC 740

> "22. Sections 3 and 4 of the Act are the principal sections, which are under attack before us. Section 3 opens up with a non obstante clause overriding all other laws …
>
> 23. Where such reasonable and fair provision and maintenance or the amount of mahr or dower due has not been made and paid or the properties referred to in clause (d) of sub-section (1) have not been delivered to a divorced woman on her divorce, she or anyone duly authorised by her may, on her behalf, make an application to a Magistrate for an order for payment of such provision and maintenance, mahr or dower or the delivery of properties, as the case may be. Rest of the provisions of Section 3 of the Act may not be of much relevance, which are procedural in nature."
>
> (emphasis supplied)

8. It is difficult to agree with the reasoning of the High Court. The primary basis for not giving the amount and gold in question to the appellant, as it appears from the perusal of the judgment, was the apparent contradiction between the statement of the Kazi i.e. marriage Registrar and the father of the appellant. The former stated in evidence that the entry recording the amount and gold being given to the husband was erroneously done so and it should have been that the said amount(s) were only given without specifying, to whom, the father of the appellant on the other hand stated that he had given the amount(s) in question to the respondent. The High Court observed that since the father was directly responsible for giving the said amount(s), it would be prudent to accept his version of events. What, apparently, the High Court lost sight of is the end result of the proceedings in which the said statement of the father was given. Those proceedings were concerned with Section 498A-IPC and Section(s) 3/4 of the Dowry Prohibition Act, 1961, and despite such a direct statement by the father of the appellant the learned Trial Court seized of the matter acquitted the respondent, a conclusion which appears to have attained finality. Then, it cannot be said, in our view, that the evidentiary value of that statement is either equal to or greater than the statement of the marriage registrar. The High Court records that the latter statement regarding writing and overwriting in the entry in the marriage register is proved by him having produced the same before the Court. When that is the case, we are at a loss to understand why his statement in

entirety should not be accepted. Mere allegation as to his conduct being suspicious on account of overwriting in the marriage register is not sufficient to discard his testimony.

9. This case presents the possibility of two interpretations and whereas it is a settled rule that this Court under its plenary, Article 136 jurisdiction does not interfere with the findings of the High Court simply because there are two views possible, this case, in our considered view, does not fall under this exception for the High Court missed the purposive construction goalpost and instead proceeded to adjudicate the matter purely as a civil dispute. The Constitution of India prescribes an aspiration for all, i.e. equality which is, obviously, yet to be achieved. Courts, in doing their bit to this end must ground their reasoning in social justice adjudication. To put it in context, the scope and object of 1986 Act is concerned with securing the dignity and financial protection of a Muslim women post her divorce which aligns with the rights of a women under Article 21 of the Constitution of India. The construction of this Act, therefore, must keep at the forefront equality, dignity and autonomy and must be done in the light of lived experiences of women where particularly in smaller towns and rural areas, inherent patriarchal discrimination is still the order of the day.

10. The question framed above is answered accordingly. The Appeals are allowed as aforesaid. The judgment and order passed by the High Court of Calcutta with particulars as contained in paragraph 2, is set aside. Learned Counsel for the Appellant would supply the bank and other relevant details to the learned counsel for the respondent within three working days from the date of this judgment. The amount be directly remitted into the bank account of the Appellant. The Respondent is directed to file an affidavit of compliance with the Registry of this Court within six weeks thereafter. The said compliance certificate shall be placed on record. If the needful is not done, the respondent, would be liable to pay interest @9% per annum.

Pending application(s) if any shall stand disposed of.

Result of the case: Appeals allowed.

†*Headnotes prepared by:* Nidhi Jain