

Present:
Mr. Justice Md. Iqbal Kabir
And
Mr. Justice Md. Riaz Uddin Khan

Civil Revision No. 2919 of 1993

Wahab Miah
....Petitioner

Versus
Champa Bibi
....Opposite Party

No one appears
....For both the parties

Judgment on 24.07.2025.

Md. Iqbal Kabir, J:

On an application under Section 115(1) of the Code of Civil Procedure, the instant Rule was issued in the following terms:

“Let the records be called for and a Rule issue calling upon the opposite party to show cause as to why the judgment and decree passed in F.C. Appeal No. 1 of 1992 by the learned Additional District Judge, Gazipur shall not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.”

The petitioner's case, in short, is that the petitioner married the opposite party, and no kabin nama was registered Tk. 2000/- (Tk. Two thousand) was fixed as dower money. From said Tk. 2000/- (Tk. Two thousand), Tk. 1000/- (Tk. One thousand) was paid by the petitioner to the opposite party after the immediate solemnization of marriage. The opposite party was disobedient to the petitioner. Finding no other alternative, the petitioner divorced her in the year 1972 in the presence of a witness and paid her rest dower money amounting to Tk. 1000/- (Tk. One thousand). Thereafter, the opposite party married another person. The petitioner wanted to take the son into his care and custody for his maintenance. The opposite party did not agree with it. She said that she would not take any amount from the petitioner for the maintenance of

the alleged son up to the age of the son. The petitioner consented to it, and the son remained with the opposite party.

The opposite party-plaintiff's case, in short, is that the petitioner-defendant married the opposite party-plaintiff in the year 1963 as his Second Wife. They had a male child in the year 1972; the opposite party-plaintiff was kept in her father's house, and she was not provided maintenance there. The opposite party-plaintiff filed a Petition Case No. 414/78 in the learned Court of Magistrate, First Class, Gazipur under Section 488 of the Code of Criminal Procedure. In that case order was passed maintainable in favour of the opposite party. Against the said order, the petitioner filed a Revision Case in the Court of the learned Sessions Judge, Dhaka.

The case was tried in the learned Court of Assistant Judge, Gazipur. The opposite party examined four witnesses, and the petitioner examined four witnesses in the Court below. The case was decreed in favour of the petitioner. Thereafter, the opposite party/ plaintiff filed F.C. Appeal No. 1 of 1992, which was transferred to the learned Court of Additional District Judge, Gazipur, for disposal. The learned Additional District Judge, Gazipur, passed the judgment dated 23.05.1993 and decreed the suit against the petitioner, setting aside the judgment dated 30.06.1988.

Feeling aggrieved, against the impugned judgment and order passed by the learned Additional District Judge, Gazipur, the petitioner preferred the instant application and obtained the present Rule.

No one appears to press the Rule.

However, the question calls for consideration of whether the Court of Appeal below committed any error of law resulting in an error in the decision occasioning failure of justice in passing the impugned order.

We have gone through the judgment and the document as placed lower Court record.

It appears that, based on the Exhibit-Kha trial Court dismissed the suit. Though the appellate Court, upon examination of the alleged Exhibit, found that

the marriage was subsisting, the appellate Court found that the contention of the trial Court was not correct. Therefore, the appellate Court reversed the judgment and thereby decreed the suit.

In the above context, on our examination, we find that based on the materials on record appellate Court found and ascertained the reason, and those are correct and reasonable.

Having regard to the facts and present position of the law, and the ground taken by the learned Advocate in this application appears to have no force.

Having considered the above circumstances, the impugned order does not suffer from any error or illegality nor has it failed justice. Therefore, we do not find any merit in this Rule.

In the result, the Rule is discharged without any order as to cost.

The order of stay granted at the time of issuance of the Rule is hereby called and vacated.

Communicate the judgment and order along with the lower court record at once.

Md. Riaz Uddin Khan, J:
I agree.