

Present
Mr. Justice Sheikh Abdul Awal
Criminal Revision No. 2711 of 2016
and
Criminal Revision No. 2712 of 2016

Kamal Mia

.....Convict-Petitioner.

-Versus-

The State

.....Opposite party.

Mr. Md. Shah Paran Chowdhury,
Advocate

.....For the Petitioner.

Ms. Shahida Khaton, D.A.G with
Ms. Sabina Perven, A.A.G with
Ms. Kohenoor Akter, A.A.G.

.... For the State-Opposite party No.1.
Mr. Mohammad Abdul Jalil, Advocate

.... For the complainant.

Heard on 27.05.2024 and

Judgment on 02.06.2024

Sheikh Abdul Awal, J:

Common question of law and facts are involved in
these two Rules are between the same parties and as such

they were heard together and are being disposed of by this common judgment.

In **Criminal Revision No. 2711 of 2016**, the Rule was issued calling upon the opposite party to show cause as to why the impugned judgment and order dated 09.08.2016 passed by the learned Sessions Judge, Brahmanbaria in Criminal Appeal No. 130 of 2016 dismissing the appeal and affirming the judgment and order of conviction and sentence dated 11.05.2016 passed by the learned Senior Judicial Magistrate, Brahmanbaria in C.R Case No. 305 of 2015 convicting the petitioner under section 4 of the Dowry Prohibition Act, 1980 and sentencing him thereunder to suffer rigorous imprisonment for a period of 1(one) year should not be set-aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

In **Criminal Revision No. 2712 of 2016** the Rule was issued calling upon the opposite party to show cause as to why the impugned judgment and order dated 30.10.2016 passed by the learned Sessions Judge, Brahmanbaria in Criminal Appeal No. 71 of 2016 dismissing the appeal and affirming the judgment and order of conviction and sentence dated 24.02.2016 passed by the learned Senior Judicial Magistrate, Brahmanbaria in C.R Case No. 353 of 2015 convicting the petitioner under section 6(5) of the Muslim Family Ordinance and sentencing him thereunder to suffer rigorous imprisonment for a period of 6(six) months

should not be set-aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

Today while the matter was taken up for pronouncement of judgment, the learned Advocates for both the parties filed separate “aposhnama” under their joint signature in both the Criminal Revisions stating in the following language:

আপোষের শর্ত

১। বাদীনি পারিবারিক মামলার ডিক্রী ও আদেশ অনুযায়ী যাবতীয় পাওনা (কাবিনের টাকা+ভরণপোষণ) বুঝিয়া পাইয়াছেন। তার আর কোন দাবী-দাওয়া নাই।

২। আসামী ০৩ টি মামলা খালাস পাইতে বাদীনির কোন আপত্তি নাই।

Mr. Md. Shah Paran Chowdhury, the learned Advocate appearing for the convict-petitioner and Mr. Mohammad Abdul Jalil, the learned Advocate appearing for the complainant jointly submitted that section 4 of the Dowry Prohibition Act, 1980 and section 6(5) of the Muslim Family Ordinance are compoundable offence and during the pendency of the Rules, the subject matter of the cases has already been compromised in between the parties out of the Court and accordingly, they made an “aposhnama” and as such, the Rule may kindly be made absolute upon recording compromise.

Having heard the learned Advocates for both the sides, perused the deed of “aposhnama” and also perused the

application for acquitting the convict -petitioner filed by the learned Advocate for the petitioner and other materials on record.

By the way it may be mentioned that complainant, Argina is present in the Court along with her engaged lawyer Mr. Mohammad Abdul Jalil.

To cut short the matter at the very outset, I have gone through the relevant portion of the applications for accepting compromise and allow the revision filed under the joint signature of Mr. Md. Shah Paran Chowdhury, the learned Advocate for the convict-petitioner and Mr. Mohammad Abdul Jalil, the learned Advocate for the complainant annexing aposnama executed by both the parties, which reads as follows:

আমরা ১ম পক্ষ (সাবেক স্ত্রী) ও ২য় পক্ষ প্রতিজ্ঞা পূর্বক ঘোষণা করিতেছি যে, আমরা বাংলাদেশের স্থায়ী নাগরিক হলফকারী বটে। উভয় পক্ষদের মধ্যকার বিরোধ বিষয়ে উভয় পক্ষদের হিতৈষী বক্তিবর্গ ও এলাকার বিশিষ্ট সর্দার মাতাব্বগন এক স্থানীয় সালিশের মাধ্যমে আপোষ নিষ্পত্তি হইয়াছেন। উভয় পক্ষগন সালিশকারকগনের সিদ্ধান্ত মানিয়া নিয়াছেন। আমি ১ম পক্ষ (সাবেক স্ত্রী) আমার যাবতীয় পাওনীয় দেনমোহর, খুরপোষ ও ভরনপোষন বাবদ সালিশকারকগনের নিকট হইতে বুঝিয়া পাইয়া ২য় পক্ষ (সাবেক স্বামী) কে আমার প্রতি দায়-দায়িত্ব কর্তব্য সকল পাওনীয় থেকে মুক্তি প্রদান করিলাম। আমরা হলফকারীদ্বয় বর্তমানে অন্যত্র বিবাহ বন্ধনে আবদ্ধ হইয়া সুন্দরভাবে জীবন যাবন করছি। নিম্নে উল্লেখিত ১ম পক্ষের দাখিলীয় সকল মামলা হইতে খালাস পাইতে আমার কোন আপত্তি নাই।

On going through the materials on record together with the Aposnama , it appears that the subject matter of the

cases has been compromised in between the parties out of the Court and the convict-petitioner has already paid the entire dower money to complainant and she prays acquittal of the convict-petitioner.

Having regard to the submission made by the learned Advocates for both the parties, I am of the view that there is no reason not to accept the compromise entered into between the parties.

Section 4 of the Dowry Prohibition Act, 1980 and section 6(5) of the Muslim Family Ordinance are compoundable offence. Therefore, I am of the view that the dispute between the parties has been resolved out of the Court by the parties on compromise and the same should be allowed by the Court at any stage of the proceeding even at the appellate or revisional stage

For the reasons stated above, I allow the prayer made on behalf of the contesting parties with the direction that compromise done by the parties is hereby accepted and dispose of the Rules on the basis of the said compromise.

In the result, the both the Rule are made absolute by holding that since the matter has been compromised between the parties and the amount in terms of the said compromise has been paid, the convict petitioner is to be acquitted.

The impugned judgment and order dated 09.08.2016 passed by the learned Sessions Judge, Brahmanbaria in Criminal Appeal No. 130 of 2016 dismissing the appeal and

affirming the judgment and order of conviction and sentence dated 11.05.2016 passed by the learned Senior Judicial Magistrate, Brahmanbaria in C.R Case No. 305 of 2015 convicting the petitioner under section 4 of the Dowry Prohibition Act, 1980 and sentencing him thereunder to suffer rigorous imprisonment for a period of 1(one) year and the impugned judgment and order dated 30.10.2016 passed by the learned Sessions Judge, Brahmanbaria in Criminal Appeal No. 71 of 2016 dismissing the appeal and affirming the judgment and order of conviction and sentence dated 24.02.2016 passed by the learned Senior Judicial Magistrate, Brahmanbaria in C.R Case No. 353 of 2015 convicting the petitioner under section 6(5) of the Muslim Family Ordinance and sentencing him thereunder to suffer rigorous imprisonment for a period of 6(six) months against the petitioner are set-aside and that the convict petitioner is acquitted of the charges levelled against him.

Convict petitioner, Kamal Miah is discharged from his bail bond in both the cases.

Send down the lower Court records at once.