

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CRIMINAL REVISIONAL JURISDICTION)**

Present:

Mr. Justice Md. Bashir Ullah

Criminal Revision No. 1082 of 2008

In the matter of:

An application under Section 439 of the
Code of Criminal Procedure

-And-

In the matter of:

Dhirendra Kumar Shingha

... **Convict-Petitioner**

-Versus-

Krishna Rani Singha and another

... **Complainant- Opposite Parties**

Mr. Shyam Sundor Sinha, Advocate

... For the Convict-Petitioner

None appears

... For the Complainant-opposite party No. 1.

Mr. Md. Shafiquil Islam, D.A.G with

Ms. Farhana Abedin, A.A.G with

Mr. Hemayth Uddin, A.A.G and

Mr. K. M. Saiful Islam, A.A.G

... For the State

Heard on: 26.04.2026, 05.05.2026,

11.05.2026 and 13.05.2026

Judgment on 21.05.2026

This Rule was issued at the instance of the petitioner
calling upon the opposite parties to show cause as to why the
judgment and order dated 17.07.2008 passed by the learned

Sessions Judge, Moulvibazar in Criminal Appeal No. 48 of 2008 dismissing the appeal and reducing the sentence of imprisonment from 04(four) years to 01 (one) year, affirming the judgment and order dated 09.06.2008 passed by the learned Additional Chief Judicial Magistrate, Moulvibazar in C.R. Case No. 489 of 2007 (Kamol) convicting the petitioner under Section 4 of the Dowry Prohibition Act, 1980 and sentencing him to suffer rigorous imprisonment for 04(four) years and to pay a fine of Taka 5,000/- in default to suffer simple imprisonment for 02(two) months more, should not be set aside and/or such other or further order or orders be passed as to this court may seem fit and proper.

The facts relevant for disposal of the Rule, in brief, are that, the complainant filed a petition of complaint on 04.10.2007 before the learned Magistrate, 1st Class, Cognizance Court No. 2, Moulvibazar against 3 accused-persons including the present petitioner alleging *inter alia* that she was married to the petitioner on 06.05.2007. It was alleged that due to an illicit relationship between her husband and the accused No. 2, namely the wife of his elder brother disputes arose in the matrimonial home. The complainant

protested against such conduct and informed her mother-in-law with a view to bring her husband to the right path, however, instead of taking any remedial measure, accused No. 3, the mother-in-law of the complainant, demanded Taka 1,00,000/- (one lac) as dowry. Upon her refusal to comply with the said demand accused No. 1 allegedly assaulted her. Upon being informed, her brother came to rescue her and subsequently filed Petition Case No. 1139 of 2007 under Sections 98/100 of the Code of Criminal Procedure, pursuant to which, the police rescued her on 14.09.2007. Thereafter she instituted C.R. Case No. 489 of 2007 under Section 4 of the Dowry Prohibition Act, 1980.

The charge was framed against accused No.1-petitioner (husband), under Section 4 of the Dowry Prohibition Act, 1980, to which he pleaded not guilty and claimed to be tried when the charge was read over and explained to him on 10.03.2008.

In course of trial, the prosecution examined 04(four) witnesses. After taking evidence, the accused-persons were examined under Section 342 of the Code of Criminal Procedure wherein the accused-persons repeated innocence.

Upon conclusion of the trial and hearing the parties, the learned Additional Chief Judicial Magistrate, Moulvibazar convicted accused No. 1, under Section 4 of the Dowry Prohibition Act, 1980 and sentenced him to suffer rigorous imprisonment for 04(four) years and to pay a fine of Taka 5,000/- in default to suffer simple imprisonment for 02(two) months while acquitting others from the charge leveled against them by judgment and order dated 09.06.2008.

Challenging the conviction and sentence, the petitioner filed Criminal Appeal No. 48 of 2008 before the learned Sessions Judge, Moulvibazar, who upon hearing dismissed the same by judgment and order dated 17.07.2008 affirming the judgment and order of conviction and reducing the substantive sentence of imprisonment from 04(four) years to 01(one) year.

Being aggrieved by and dissatisfied with the judgment and order dated 17.07.2008, the convict-petitioner preferred this instant Criminal Revision and obtained the Rule. The petitioner was enlarged on bail by this Court on 27.07.2008.

Mr. Shyam Sundor Sinha, the learned Advocate appearing on behalf of the petitioner submits that the complainant and the accused belong to the Bishnupriya Manipuri community which possesses a unique, distinct and deep-rooted cultural tradition whereby, upon marriage, the groom's family bears all expenses relating to all household appliances, the bride's ornaments, other basic necessities for the new couple. As such the concept of 'dowry' is alien to the customs and traditions of the said community. He therefore, contends that the allegation of demand for dowry has been falsely and maliciously brought against the petitioner solely to harass and humiliate the petitioner and his family members.

He further contends that the allegation made in the complaint regarding demand for dowry and physical assaults are wholly false and fabricated. He contends that when the complainant refused to return to the matrimonial home, the petitioner filed Family suit No. 39 of 2007 before the Family Court, Kamalgonj, Moulvibazar seeking restitution of conjugal rights impleading the complainant, her brother and mother as defendants. The complainant entered appearance

therein and ultimately, the suit was decreed by judgment and order dated 12.11.2008 directing the complainant to resume conjugal life with her husband within 40 days. Therefore, according to the learned Advocate the allegation that the petitioner refused to take the complainant back to the matrimonial home is *ex facie* false and inconsistent with the record.

He next contends that no such occurrence ever took place and the petitioner has been falsely implicated the case. He submits that after about 04(four) months of marriage, the complainant voluntarily left the matrimonial home for her paternal house and never returned and after that the complainant filed another case on identical allegation on 04.10.2007, wherein the learned Magistrate upon judicial inquiry found no prima-facie case against the petitioner. He next contends that the complainant has subsequently contracted a second marriage and is presently leading her conjugal life with her second husband and all the prosecution witnesses are hearsay witnesses whose evidence suffers from material contradictions and inconsistencies. As such, the

impugned judgments and orders of conviction and sentence are liable to be set aside.

He next argues that the complainant also filed Nari-O-Shishu Petition Case No. 157 of 2008 under Section 11(Ga) of Nari-O-Shishu Nirjatan Damman Ain, 2000. Upon inquiry, the competent Magistrate submitted a report concluding that the allegations brought against the accused-petitioner were baseless and unsupported by credible evidence and that the complainant was not residing with the accused petitioner at the relevant time. Despite such report, the tribunal framed charge without assigning any reason. Being aggrieved, the petitioner preferred Criminal Appeal before this Court, upon hearing the parties, this Court allowed the appeal and set aside the order of framing charge dated 29.07.2009 passed by the learned Nari-O-Shishu Nirjatan Daman Tribunal, Moulvibazar in Nari-O-Shishu case No. 76 of 2009. He finally prays for making the Rule absolute.

Per contra, Mr. Md. Shafiquil Islam, the learned Deputy Attorney General appearing on behalf of the state submits that there is no illegality, impropriety or infirmity in

the impugned judgment and order. The Courts below rightly convicted and sentenced the petitioner and as such the Rule is liable to be discharged.

I have heard the learned Advocates for the respective parties, perused the impugned judgments and orders and the materials on record.

It appears from the testimony of PW1 that although she stated the accused-persons demanded dowry, she failed to specifically state that accused No. 1, the petitioner himself demanded dowry. On the contrary, in the complaint petition it has specifically been alleged that accused No. 3, namely, the mother-in-law demanded dowry. PW2 also deposed that the accused-persons demanded dowry but she likewise failed to state specifically implicate accused No.1 in making such demand. She also failed to disclose the date, time and place of the alleged occurrence. PW3, deposed that the accused-persons demanded dowry from him, however, his testimony is vague and lacking in material particulars. PW4 in his deposition failed to mention the date and time of the alleged demand of dowry.

Upon careful scrutiny of the evidence on record, I find that the prosecution evidence suffers from material inconsistencies and contradictions. The prosecution has failed to prove beyond reasonable doubt that the present petitioner demanded dowry within the meaning of Section 4 of the Dowry Prohibition Act, 1980.

The complaint petition itself attributes the alleged demand primarily to the mother-in-law of the complainant. Witnesses failed to specifically state when, where, in what manner and by whom the demand was made. Such vagueness and inconsistency strike at the root of the case and creates reasonable doubt.

It further transpires from the record that the accused instituted Family Suit No. 39 of 2007 before the Family Court, Kamolganj, Moulvibazar seeking restitution of conjugal rights and the suit was decreed on 12.11.2008 directing the complainant to return to matrimonial home but the complainant did not comply with the said decree. It also appears that the complainant married to another person, namely Tarini Mohon Sinha on 27.03.2019.

It further appears that the complainant filed another case being Nari-O-Shishu Case No. 76 of 2009 on similar allegation wherein charge was framed against the accused-petitioner. Being aggrieved thereby the accused preferred Criminal Appeal No. 6401 of 2009 before this Court. Upon hearing the parties, this Court allowed the appeal and set aside the impugned order of framing of charge and dismissed the complaint petition on 06.06.2017. Thus, the complainant failed to prove the Nari Shishu Case and C.R. Case No. 489 of 2007 filed under Section 4 of the Dowry Prohibition Act, 1980.

In view of the absence of any specific attribution of dowry demand to the petitioner, contradictions and vagueness in prosecution evidence, lack of corroborative evidence, prosecution's failure to prove ingredients of Section 4 beyond reasonable doubt, I am of the considered opinion that the prosecution has failed to establish the charge against the petitioner beyond reasonable doubt. The Courts below failed to properly appreciate the evidence and materials on record in their true perspective, thereby occasioning a failure of justice.

Accordingly, the Rule is made absolute.

The judgment and order dated 17.07.2008 passed by the learned Sessions Judge, Moulvibazar in Criminal Appeal No. 48 of 2008 and the judgment and order dated 09.06.2008 passed by the learned Additional Chief Judicial Magistrate, Moulvibazar in C.R. Case No. 489 of 2007 (Kamol) are hereby set aside.

The accused-petitioner is acquitted of the charge leveled against him.

The convict-petitioner is discharged from his bail bond.

Let a copy of this Judgment along with the lower Court's records (LCR) be communicated to the Court concerned forthwith.

(Md. Bashir Ullah, J)

Assistant Bench Officer