

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

Present:

Mr. Justice Md. Bashir Ullah

Criminal Revision No. 2654 of 2025

In the matter of:

An application under Section 439 and read
with Section 435 of the Code of Criminal
Procedure

-And-

In the matter of:

Md. Rabiul Islam

... Convict-Petitioner

-Versus-

The State

...Opposite Party

Mr. Habibur Rahman, Advocate with
Ms. Towhida Akter, Advocate

... For the Convict-Petitioner

Mr. Md. Mizanur Rahman, D.A.G with
Mr. Md. Sirajul Karim (Rabi), A.A.G

... For the State-Opposite party

Heard on: 24.08.2026, 08.09.2026

09.09.2026 and 10.09.2026

Judgment on: 14.09.2026

This Rule was issued at the instance of the petitioner
calling upon the opposite party to show cause as to why the

judgment and order dated 08.11.2023 passed by the learned Sessions Judge, Chapainawabganj in Criminal Appeal No. 320 of 2023 dismissing the appeal and thereby affirming the judgment and order of conviction and sentence dated 31.05.2023 passed by the learned Senior Judicial Magistrate, 3rd Court, Chapainawabganj in C.R. Case No. 64 of 2022 (Gomostapur), convicting the petitioner under Section 3 of the Dowry Prohibition Act, 2018 and sentencing him to suffer rigorous imprisonment for 01(one) year and to pay a fine of Taka 5,000/-(five thousand), in default, to suffer simple imprisonment for 01(one) month with deduction of the custody period under Section 35A of the Code of Criminal Procedure 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 22.02.2022 before the learned Judicial Magistrate, Cognizance Court, Chapainawabganj against the accused persons including the present petitioner alleging *inter alia* that

the marriage between the complainant and the accused was solemnized on 30.06.2010 and two children were born during their conjugal life. At the time of marriage, the complainant's parents gifted Taka 4,00,000/-(four lac) only to the accused. A few days after the marriage, accused No. 1, the complainant's husband, demanded Taka 3,00,000/- (three lac) as dowry. Thereafter, the father of the complainant gave Taka 2,00,000/- (two lac) once again. Subsequently, accused No. 1 instituted a Criminal Case No. 10C of 2022 against the complainant and others on 06.01.2022. Thereafter, on 10.02.2022, accused No. 1 again demanded Taka 3,00,000/- (three lac) as dowry and upon her refusal to comply with the said demand accused No. 1 allegedly assaulted her and drove her out from home. Consequently, she instituted C.R. Case No. 64 of 2022 (Gomostapur) under Section 3 of the Dowry Prohibition Act, 2018 against 05(five) persons including the petitioner.

The learned Judicial Magistrate took cognizance of the offence against accused No. 1. Charge was framed against accused No.1-petitioner (husband), under Section 3 of the

Dowry Prohibition Act, 2018 on 05.06.2022, to which he pleaded not guilty and claimed to be tried when the charge was read over and explained to him.

In course of the trial, the prosecution examined 04(four) witnesses while the defence examined 01(one) witness. After taking evidence, the accused was examined under Section 342 of the Code of Criminal Procedure wherein the accused reiterated his innocence.

Upon conclusion of the trial and hearing the parties, the learned Senior Judicial Magistrate, 3rd Court, Chapainawabganj convicted accused No. 1, under Section 3 of the Dowry Prohibition Act, 2018 and sentenced him to suffer rigorous imprisonment for 01(one) year and to pay a fine of Taka 5,000/-(five thousand), in default, to suffer simple imprisonment for 01(one) month by judgment and order dated 31.05.2023.

Challenging the conviction and sentence, the petitioner filed Criminal Appeal No. 320 of 2023 before the learned Sessions Judge, Chapainawabganj, who upon hearing dismissed the same by judgment and order dated 08.11.2023.

Being aggrieved by and dissatisfied with the judgment and order dated 08.11.2023, the convict-petitioner preferred this instant revisional application and obtained the Rule. The petitioner was enlarged on bail by this Court on 25.06.2025.

Mr. Habibur Rahman, the learned Advocate appearing on behalf of the petitioner submits that prior to institution of the instant case the accused-petitioner had filed Criminal Case No. 10C of 2022 (Gomastapur) against the complainant and her father. Being aggrieved by it the complainant filed the case against the petitioner as a retaliatory measure and with a view to harass him.

He further contends that PW2 in his cross-examination admitted that after obtaining bail in the earlier case they filed the instant case.

He next contends that the prosecution evidence is materially inconsistent and falls short of the standard required for sustaining a conviction in a criminal case and the prosecution failed to prove the case beyond reasonable doubt. As such, the impugned judgment and order of conviction and sentence are liable to be set aside as they suffer from

misappreciation and non-consideration of material evidence on record.

He finally prays for making the Rule absolute.

Mr. Md. Mizanur Rahman, the learned Deputy Attorney General along with Mr. Md. Sirajul Karim, the learned Assistant Attorney General, appearing on behalf of the State submits that there is no illegality, impropriety or infirmity in the impugned judgments and orders. The Courts below rightly found the petitioner guilty and accordingly 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.

For a proper adjudication of the matter and analysis of the facts on record, the prosecution and the defence evidence are being examined as follows:

PW1, Mst. Firoza Parvin Sheuly, complainant deposed that the occurrence took place on 10.02.2022 at about 03:00 p.m. at the residence of her father. The accused, Rabiul Islam

is her husband. Her marriage was solemnized with the accused on 30.06.2010. On 03.02.2022, the accused demanded Taka 3,00,000/- (three lac) as dowry, upon refusal to pay the dowry, the accused assaulted and drove her out. On the date of occurrence, the accused again demanded Taka 3,00,000/- (three lac) as dowry and left her father's house. Hence, she instituted the case. She proved the petition of complaint as Exhibit 1.

In cross-examination, she admitted that the accused had instituted a Criminal Case prior to the institution of the instant case.

PW2, Md. Kaes Uddin, father of the complainant deposed that the accused demanded Taka 3,00,000/- (three lac) and refused to take the complainant back to his house.

In cross-examination, he stated that the accused filed a case against him and subsequently, the instant case was filed after obtaining bail.

PW3, Md. Monirul Islam, cousin of the complainant stated that the accused demanded Taka 3,00,000/-(three lac) and thereafter left the house of Kaes Uddin. He denied the

defence suggestion that the accused had not come to the house of the complainant's father on the date of occurrence.

PW4, Md. Sajjad deposed that the accused demanded Taka 3,00,000/- (three lac) and assaulted Md. Kaes Uddin. In cross-examination, he deposed that the accused had filed a case against the complainant first.

DW1, Biplab Rabi Das, deposed that the accused was serving as a Field Assistant in his office and that on the alleged date of occurrence that is 10.02.2022, the accused was present in the office. His presence was recorded in the attendance register.

Upon scrutiny of the evidence, it appears from the testimony of PW1, PW2 and PW4 that the accused filed Criminal Case No. 10C of 2022 prior to the institution of the instant case. PW2 also deposed that the instant case was instituted by the father of the complainant after obtaining bail in the earlier case.

PW4 in his deposition failed to mention the date and time of the alleged demand of dowry. He deposed that the accused assaulted Md. Kaes Uddin, the father of the

complainant. However, none of the other prosecution witnesses corroborated this particular allegation. Although the absence of corroboration, by itself, would not necessarily discredit the prosecution case, the said circumstances assume relevance when considered together with the other material inconsistencies appearing in the prosecution evidence.

DW1, the guard of the office of the accused deposed that on the date of occurrence, the accused was present the whole day in his office. His presence was recorded in the attendance register. The said evidence was not materially shaken in cross-examination. The defence version assumes relevance in view of the inconsistencies appearing in the prosecution witnesses account regarding the petitioner's presence at the alleged place of occurrence.

It appears from the evidence that in cross-examination PW1 stated that: “আসামীরা বিকাল আনুমানিক ০৩:০০ টার দিকে এসেছিল এবং বিকাল আনুমানিক ০৫:০০-০৬:০০ টার দিকে চলে গিয়েছিল।” Whereas PW2, the father of the complainant in his cross-examination stated that: “আসামী আমার বাড়িতে ১০-১৫ মিনিট ছিল।”

In view of the above-mentioned evidence, I find that the prosecution evidence suffers from material inconsistencies and contradictions regarding the presence and duration of the petitioner's stay at the residence of the complainant's father. The prosecution has failed to prove this pertinent fact beyond reasonable doubt. Such vagueness and inconsistency strike at the root of the case and create reasonable doubt.

Upon an overall assessment of the evidence, this Court finds that the prosecution has failed to present a consistent and sufficiently reliable account of the material circumstances surrounding the alleged dowry demand. The discrepancies concerning the time of the alleged demand and occurrence, coupled with the inconsistencies appearing in the testimony of the prosecution witnesses give rise to a reasonable doubt as to whether the petitioner made the dowry demand alleged in the complaint petition.

It is a settled principle of criminal jurisprudence that the prosecution must prove the charge beyond reasonable doubt and that any reasonable doubt arising from the evidence must enure to the benefit of the accused. In the present case, the

prosecution has failed to discharge that burden to the requisite standard.

The Courts below, in arriving at the finding of guilt, do not appear to have adequately addressed the aforesaid material discrepancies and the evidentiary significance of the defence case. Their findings, therefore, cannot be sustained without a proper and comprehensive consideration of the evidence on record.

It transpires that at the relevant time the complainant, the wife of the accused had been staying at her parental home. It has been alleged that the accused coming to his wife's paternal home demanded dowry. But is stands proved from unimpeached defence evidence that at the relevant time the accused had been staying at his work place. Prosecution could not shake it in any manner by cross-examining the D.W.1 and thus the alleged event of demanding dowry coming to wife's paternal home at the relevant time suffers from patent doubt.

Admittedly, the accused husband initiated a case prior to the instant case against the father of his wife. Presumably, hostility arose out of it prompted to initiate the allegation of

demanding dowry. It may be justifiably presumed too that circumstances unveiled have failed to build a narrative of harassment for the cause of alleged demanding dowry.

In view of the foregoing discussion, contradictions and vagueness in the prosecution evidence, and the prosecution's failure to prove the ingredients of Section 3 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 petitioner is, therefore entitled to the benefit of doubt.

Accordingly, the Rule is made absolute.

The judgment and order dated 08.11.2023 passed by the learned Sessions Judge, Chapainawabganj in Criminal Appeal No. 320 of 2023 and the judgment and order dated 31.05.2023 passed by the learned Senior Judicial Magistrate, 3rd Court, Chapainawabganj in C.R. Case No. 64 of 2022 (Gomostapur) 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 Record (LCR) be communicated to the Court concerned forthwith.

(Md. Bashir Ullah, J)

Md. Sabuj Akan
Assistant Bench Officer