Present:

Mr. Justice Md. Salim

CRIMINAL REVISION NO.3010 of 2022

Md. Sajib Miah
..... Petitioner.
-Versus-
The State and another
..... Opposite party.

No one appears
.....For the Petitioner.
No one appears
..... For the Opposite party No.2
Mr. Monzurul Alam Sujan, DAG with
Mr. Towhidul Islam, AAG
Mr. Syed Akhtarul Islam, AAG
..... For the State.

Heard on 03.02.2026 and 21.04.2026

Judgment on 20.05.2026

By this Rule, the opposite parties were called upon to show cause as to why the impugned Judgment and order dated 08.03.2022 passed by the learned Additional Sessions Judge, 2nd Court, Mymensingh in Criminal Appeal No.347 of 2018 dismissing the appeal and affirming the Judgment and order of conviction and sentence dated 30.01.2018 passed by the learned Senior Judicial Magistrate, 3rd Court, Mymensingh in C.R Case No.136 of 2012 (Trishal) convicting the accused-petitioner under Section 4 of the Dowry

Prohibition Act, 2018 and sentencing him to suffer rigorous imprisonment for 2(two) years.

Prosecution case, in short, is that P.W-1 Most. Nasima Khatun, being a complainant, filed a complaint before the learned Senior Judicial Magistrate, Cognizance Court No. 3, Mymensingh, against the convict-petitioner, contending, inter alia, that the complainant and the accused, Md. Sajib Miah was married 3 months ago according to Muslim Sharia. Their marriage was duly registered by a kabinnama, duly consummated, and they have been living together peacefully as husband and wife. At the time of the said marriage, the accused–petitioner took in cash to the tune of Tk.50,000/- from her father as dowry. Thereafter, on 25.05.2012, the convict-petitioner asked the complainant to fetch the amount of Tk.1,00,000/- from her father as dower, and the same being refused, tortured her mentally and physically, and sent her to her father's house. Thereafter, she told her father about the details of the demand for dower. Subsequently, on 30.05.2012, an arbitration was held at the house of the accused, and during that shalish, the accused-

petitioner demanded a dower of Tk.1,00,000/- from her father, and if the demand for dower was not fulfilled, the accused could not continue the marriage with the complainant. Hence, she was constrained to prefer the complainant.

The learned Senior Judicial Magistrate, Cognizance Court No. 3, Mymensingh, on perusal of the complaint, examined the complainant under Section 200 of the Code of Criminal Procedure, and took cognizance of the case against the accused-petitioner under Section 3/4 of the Dowry Prohibition Act, 2018.

The case being ready, the learned Magistrate, by an order dated 10.01.2016, framed the charge against the convict-petitioner under Sections 3/4 of the Dowry Prohibition Act, 2018, which was read over and explained to him when he pleaded not guilty and claimed to be tried.

During the trial, the prosecution examined three (3) witnesses, while the defense examined none.

After the evidence was closed, the Magistrate fixed a date for the examination of the accused petitioner

under section 342 of the Code of Criminal Procedure; however, it was not held due to his absence.

Subsequently, the learned Senior Judicial Magistrate, Court No. 3, Mymensingh, by the Judgment and order dated 30.01.2018, convicted the accused-petitioner under Section 4 of the Dowry Prohibition Act and sentenced him to suffer rigorous imprisonment for 2 (two) years.

Being aggrieved by and dissatisfied with the above Judgment and sentence, the convict-petitioner, as the appellant, preferred Criminal Appeal No. 347 of 2018 before the District Judge, Mymensingh.

Eventually, the learned Additional Sessions Judge, 2nd Court, Mymensingh, by the Judgment and order dated 08.03.2022, dismissed the appeal in affirming those passed by the trial Court below.

Being aggrieved by and dissatisfied with the above Judgment and order, the accused petitioner preferred the instant Criminal Revision before this court and obtained the instant Rule.

Despite the matter appearing in the daily cause list for consecutive dates with the name of the learned

counsel, no one inclined to appear on behalf of the petitioner. However, in the presence of Mr. Monzurul Alam Sujan, learned Deputy Attorney General for the state, we are going to dispose of the Rule on merit.

Be that as it may, in order to appreciate the submissions made in the revisional application by the convict petitioner and submission of the learned Deputy Attorney General, as well as for proper adjudication of the matter, we have gone through the impugned Judgment, evidence, and other materials on record. It appears that the prosecution side examined as many as 3(three) witnesses. Of them,

P.W.1- Nasima Khhatun, being a complainant in her examination in chief, stated that she and the accused, Md. Sajib Miah was married 3 years ago according to Muslim Sharia. Their marriage was duly registered by a kabinnama, duly consummated, and they have been living together peacefully as husband and wife. At the time of the said marriage, the accused–petitioner received cash to the tune of Tk.50,000/- from her father as dowry. Thereafter, on 25.05.2012, the convict-petitioner asked the complainant to fetch the

amount of Tk.1,00,000/- from her father as dower, and the same being refused, tortured her mentally and physically, and sent her to her father's house. Subsequently, on 30.05.2012, a shalish was held at the house of the accused-petitioner, and during that shalish, the accused-petitioner demanded dower of Tk. 1,00,000/- to her father, and if the demand for dowry was not fulfilled, he could not continue the marriage with the complainant. Hence, she was constrained to prefer the complainant.

The defense failed to cross-examine this witness due to absence of the accused petitioner.

P.W.2- Shams Uddin, in his examination-in-chief, stated that the complainant is his daughter. Accused Sojib is his son-in-law. He arranged his daughter's marriage to the accused before 5 years ago. One son was born during their wedlock. On 1st Jaistha, 1419, Bangla, the accused petitioner kicked the complainant out of his house and sent her to her parent's house. On 16th Joistho, 1419, Bangla at 3:00 pm, he, along with witnesses, namely, Siraj, Ruhul, Joynuddin, Babul, and Moktar, went to the accused's house. The accused then

said he would not keep his daughter without dowry. Therefore, he returned home because he was unable to pay the dowry of Tk.1,00,000/- .

The defense failed to cross-examine this witness due to his absence.

P.w.3- Joinuddin, in his deposition, stated that five years ago, on 1st Jaistha, the accused kicked the complainant out of his house for refusing to pay Tk. 1,00,000/- as dowry. On the 16th Joistho, in an arbitration, the accused-petitioner demanded Tk.1,00,000/- as dowry and refused to live with the complainant.

The defense failed to cross-examine this witness due to his absence.

Analyzing the above evidence, it appears that the complainant, the examined as P.W.1 who stated, in line with the petition of complaint, and that P.W.2 and P.W.3 corroborated the evidence of P.W.1. Thereafter, we are of the view that the alleged demand of dower is satisfied the definition of dowry as under the Act.

Regarding the scope of revision is concerned, It is well settled principle of law is that the revisional

jurisdiction is not as wide as the appellate jurisdiction and under the revisional jurisdiction, the High Court is required to exercise its powers where there is material irregularity or manifest error of law or procedure, or there is misconception or misreading of evidence or where the court below has failed to exercise jurisdiction vested in it or has exercised the jurisdiction wrongly and perversely or where the facts admitted or proved do not discloses any offence.

Interference of revisional court may be justified in cases (i) where the decision is grossly erroneous (ii) where there is no compliance with the provision of law (iii) where the finding of fact affecting the decision is not based on evidence on record (iv) where the material evidence of parties has not been considered (v) where the courts below has misread or mis-appreciated the evidence on record (vi) where the judicial discretion has been exercised arbitrarily or perversely.

The court may not reassess the evidence, and reappraisal of evidence is not permissible in the exercise of revisional jurisdiction. In this regard, in the case of

the State of Kerala Vs. Putthumana Illath Jathavedan Namboodiri, reported in AIR 1999 SC 981, laid---

> "The High Court, while hearing revision, does not work as an appellate court and will not re-appreciate the evidence, unless some glaring mistake is pointed out to show that injustice has been done".

In the case of Jagannath Chaudhary Vs. Ramayan Singh, reported in AIR 2002 S C 2229, laid---

> "Revisional jurisdiction is normally to be exercised only in exceptional cases where there is a glaring defect in the procedure, or there is a manifest error on a point of law resulting in miscarriage of justice".

Similarly, in the case of Munni Devi Vs. State of Rajasthan and others, reported in AIR 2002 S C 107, laid---

> "While exercising the revisional power, the High Court has no authority to re-appreciate

> the evidence in the manner as the trial court and appellate courts are required to do".

In another case of State of Karnataka Vs. Appa Balu Ingale and others, reported in AIR 1993 Supreme Court 1126, laid -----

> "Generally speaking, concurrent findings of fact arrived at by two courts below are not to be interfered with by the High Court in the absence of any special circumstances or unless there is any perversity."

Considering the limited scope of revisional jurisdiction, it is apparent that the evidence recorded by the trial court and reappreciated by the appellate court need not be reappreciated again because the appellate court has given its findings after a detailed discussion and has found no substance in the arguments of the accused-appellant. The findings of fact recorded by two courts below may not be interfered with in this revision.

However, in State of Orissa v. Nakula Sahu and Ors. (AIR 1979 SC 663) laid down that--

The High Court should not have interfered with the concurrent findings recorded by the Trial Court and the Sessions Judge in the exercise of revisional jurisdiction when there was no error of fact or law arrived at by the Trial Court or the Sessions Judge.

In State of Kerala v. Puttamana Illath Jathayedan Namboodiri (1999(2) SCC 452), laid that--

The revisional jurisdiction is a supervisory jurisdiction exercised by the High Court to correct a miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate Court, nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to the gross miscarriage of justice.

In view of the above facts and circumstances it appears that the trial Court exhaustively discussed the evidence, both oral and documentary, and arrived at the

finding of guilt against the accused. The trial Court independently considered the evidence and rightly passed Judgment and issued the order of conviction and sentence. On the contrary, the appellate court has given its findings after considering the evidence in detail, and the Judgment of the trial court below has found no substance in the arguments of the convict-petitioner. Thus, the instant Rule has no substance.

However, the petitioner's previous criminal record appears clean, and the petitioner faced a prolonged trial in the trial Court, then in the appellate court, and this Division. Thus, it appears that the ends of justice would be best served if the sentence awarded upon the petitioner is reduced and modified to the effect that the petitioner is sentenced to suffer rigorous imprisonment for 1 (one) year, which is treated as served out instead of rigorous imprisonment for 02 (two) years.

Resultantly, the Rule is discharged with a modification of the sentence to the effect that the petitioner is sentenced to suffer rigorous imprisonment for 1 (one) year, which is treated as served out instead of rigorous imprisonment for 02 (two) years.

The impugned Judgment and order so far relate to the sentence of the accused-petitioner, Md. Sajib Miah as imposed by the Judgment and order dated 08.03.2022 passed by the learned Additional Sessions Judge, 2nd Court, Mymensingh in Criminal Appeal No.347 of 2018, dismissing the appeal and affirming the Judgment and order of conviction and sentence dated 30.01.2018 passed by the learned Senior Judicial Magistrate, 3rd Court, Mymensingh in C.R Case No.136 of 2012, is affirmed and maintained with modification of sentence.

Let the petitioner be released from the bail bond furnished by the petitioner before the courts below.

Send down the lower court records with a copy of this Judgment.

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(Md. Salim, J).

Rakib/ABO