

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

Present:

Mr. Justice Md. Bashir Ullah

Civil Revision No. 4196 of 2022

IN THE MATTER OF:

An application under Section 115(1) of the Code
of the Civil Procedure.

And

IN THE MATTER OF:

Hafez Md. Abdul Halim

... Defendant-Appellant-Petitioner.

-Versus-

Most. Rupali Khatun

... Plaintiff-Respondent-Opposite party.

Mr. Md. Shager Hossen, Advocate

...For the petitioner.

Mr. Fockrul Bahar Shaki with

Ms. Sohana Sharmin, Advocates

... For the Opposite Party.

Heard on 07.12.2025 and 08.12.2025

Judgment on: 10.12.2025

Md. Bashir Ullah, J.

At the instance of the defendant in Family Suit No. 305 of
2018, this Rule was issued calling upon the opposite party to show

cause as to why the judgment and decree dated 15.10.2019 passed by the learned Joint District Judge, 3rd Court, Bogura in Family Appeal No. 60 of 2019, dismissing the appeal and affirming the judgment and decree dated 16.06.2019 passed by the learned Judge, Family Court, Bogura in Family Suit No. 305 of 2018, decreeing the suit 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.

At the time of issuance of the Rule, the operation of the judgment and decree dated 15.10.2019 passed by the learned Joint District Judge, 3rd Court, Bogura in Family Appeal No. 60 of 2019 was stayed for a period of 06(six) months subject to payment of 50% of the outstanding decretal amount to the trial Court through chalan within 03(three) months, failing which the Rule was to stand discharged. The period of stay was extended from time to time and lastly extended on 18.05.2025 for a further period of 01(one) year.

The facts, relevant for disposal of the Rule, in brief, are that the marriage between the parties was solemnized on 31.03.2016 by a registered *Nikahnama*. Thereafter, the defendant allegedly subjected the plaintiff to cruelty for dowry and ultimately drove her out of his residence on 03.02.2017. Subsequently, the plaintiff demanded her unpaid dower and maintenance, which was refused

by the defendant. Hence, the plaintiff instituted Family Suit No. 305 of 2018.

The defendant contested the suit by filing a written statement denying the material allegations and contending *inter alia* that after marriage the plaintiff voluntarily left his house without informing him and went to her father's residence. He further asserted that the plaintiff had withdrawn Taka 40,000/- on 29.09.2016, Taka 80,000/- on 31.10.2016 and Taka 40,000/- on 01.08.2017 totaling Taka 1,60,000/- from his bank account as dower and they were continuing their conjugal life and on those grounds, the defendant sought dismissal of the suit.

The learned Assistant Judge, Family Court, Bogura after hearing the parties decreed the suit on contest by judgment and decree dated 16.06.2019.

Challenging the said judgment and decree, the defendant as appellant preferred Family Appeal No. 60 of 2019 before the Court of the learned District Judge, Bogura. Upon due admission, the appeal was transferred to the Court of the learned Joint District Judge, 3rd Court, Bogura who after hearing the parties, dismissed the appeal by judgment and decree dated 15.10.2019.

Being aggrieved by and dissatisfied with the judgment and decree dated 15.10.2019 passed by the learned Joint District Judge,

3rd Court, Bogura the petitioner preferred this revisional application and obtained the Rule along with an order of stay.

Mr. Md. Shager Hossen, the learned Advocate appearing on behalf of the petitioner contends that, the petitioner had paid Taka 1,60,000/- as dower to the plaintiff through bank which was corroborated by DW1 in his deposition.

He further contends that the opposite party has since re-married and hence she is not entitled to maintenance.

Per contra, Mr. Fackrul Bahar Shaki, learned Advocate assisted by Ms. Sohana Sharmin, Advocate appearing on behalf of the opposite party, submits that there is no illegality or infirmity in the impugned judgments and decrees passed by the Courts below and as such the Rule is liable to be discharged.

He further contends that it is admitted and proved that the marriage having been consummated, the wife (opposite party No. 1) is entitled to immediate payment of the entire unpaid dower both prompt and deferred and is entitled to maintenance. The learned Advocate prays for discharging the Rule.

I have considered the submissions so advanced by the learned counsel at length, perused the judgments and decrees and other materials on record.

It appears from exhibit 1 that the marriage between the parties was solemnized on 31.03.2016 and the dower was fixed at Taka 1,65,000/-. A husband is legally bound to pay dower to his wife under Muslim Law.

It appears that the plaintiff claimed the dower but the defendant refused to pay the same compelling the plaintiff to institute the Family suit. The definition of 'dower' was defined in many cases earlier. In *Jesmin Sultana Vs. Md. Elias*, reported in 2BLC 233 'dower' is defined below:

"In Islamie glossary dower is called 'mahr which means bridal-money given by the husband to the wife on marrying. In order to constitute a valid marriage under the Islamic law there should always be mahr as consideration from the bridegroom in favour of the bride."

In this regard, the Dissolution of Muslim Marriage Act, 1939 has been enacted. Section 5 of the Dissolution of Muslim Marriage Act, 1939 provides:

"Rights to dower not be affected- Nothing contained in this Act shall affect any right which a married woman may have under

Muslim Law to her dower or any part thereof on the dissolution of marriage.”

In *A.M. Md. Ebrahim Vs. Ma Ma and others*, reported in AIR 1939 Rangoon 28 it has been held:

“If the marriage was consummated the wife is entitled to immediate payment of the whole of the unpaid dower, both prompt and deferred.”

It is admitted that a daughter was born during their conjugal life. The plaintiff prayed for Taka 5,000/- per month as maintenance for her minor daughter. However, the trial Court directed the defendant to pay Taka 2,000/- per month for the minor daughter and Taka 2,500/- per month for the plaintiff as maintenance with an annual increase of 10%, which appears to be just, reasonable and lawful.

From the affidavit of compliance dated 01.06.2023, it appears that the petitioner has already paid an amount of Taka 1,00,000/- (one lac) through the trial Court, so he must therefore pay the balance of decretal amount after adjustment of the amount already paid. There is no lawful basis for waiving the remaining decretal amount.

In view of the above discussions and considering the facts and circumstances of the case, I find no cogent reason to interfere with the judgment of the appellate Court affirming the judgment and decree of the trial Court. I, therefore find no merit in the Rule.

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

The order of stay passed at the time of the issuance of the Rule is hereby recalled and vacated.

Let a copy of this judgment along with the lower Courts' Records be transmitted to the Court concerned forthwith.

Md. Ariful Islam Khan
Bench Officer