

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

Present:

Mr. Justice Md. Bashir Ullah

Civil Revision No. 5927 of 2022

IN THE MATTER OF:

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

And

IN THE MATTER OF:

Md. Mahmudul Hasan Mahmud

... Defendant-Appellant-Petitioner.

-Versus-

Most. Reshma Aktar

... Plaintiff-Respondent-Opposite party.

No one appears

...For the petitioner.

Mr. Md. Abdul Aziz Sardar, Advocate

... For the Opposite Party.

Heard on 03.12.2025, 04.12.2025 and 07.12.2025
Judgment on: 08.12.2025

Md. Bashir Ullah, J.

At the instance of the defendant in Family Suit No. 153 of
2016, this Rule was issued calling upon the opposite party to show

cause as to why the judgment and decree dated 08.05.2022 passed by the learned Additional District Judge, 2nd Court, Rajshahi in Family Appeal No. 60 of 2020, dismissing the appeal and affirming the judgment and decree dated 08.03.2018 passed by the learned Senior Assistant Judge, Family Court, Sadar, Rajshahi in Family Suit No. 153 of 2016, 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 08.05.2022 passed in Family Appeal No. 60 of 2020 was stayed for a period of 06(six) months subject to payment of Taka 66,000/- to the trial Court through chalan within 03(three) months failing which the Rule was to stand discharged. The period of stay was thereafter extended on 18.06.2023 for a further period of 01(one) year. No subsequent step was taken to extend the stay thereafter.

The facts, relevant for disposal of the Rule, in brief, are that the opposite party as plaintiff instituted Family Suit No. 153 of 2016 before the Senior Assistant Judge, Family Court, Sadar, Rajshahi seeking for realization of unpaid dower and maintenance from the defendant. The plaintiff's case, in short, is that the marriage between the parties was solemnized on 04.02.2013 and

duly registered. During their conjugal life the defendant allegedly subjected her to cruelty for dowry. The plaintiff thereafter lodged Criminal Case No. 401(Cr) of 2014 on such allegations. Following the defendant's acquittal in the said case, he allegedly abandoned the plaintiff and refrained from maintaining her. The parents of the plaintiff requested the defendant to resume the conjugal life. On 11.06.2015 at 10.00 am the defendant visited the house of the plaintiff and again demanded dowry of Taka 1,00,000/- from the parents of the plaintiff and threatened discontinuation of conjugal relations. Upon refusal of the parents of the plaintiff to meet the demand the defendant declined to continue conjugal life. Subsequently, the plaintiff demanded payment of her dower of Taka 1,30,000/- and arrear maintenance of Taka 5,000/- per month for 12 months amounting to Taka 60,000/-, total amounting to Taka 1,90,000/- which was refused. Hence, the suit.

The defendant contested the suit by filing a written statement denying the material allegations and asserting *inter alia*, that the plaintiff had married him deceitfully, that no conjugal life ever took place between the parties. The plaintiff by herself divorced the defendant on 01.07.2013. Subsequently the plaintiff, by false statement filed a Criminal Case No. 401(Cr) of 2014. But the plaintiff failed to prove that case, hence the defendant was acquitted

from that case. He asserted that upon dissolution of marriage no marital tie subsisted between them, hence the plaintiff was not entitled to maintenance and sought dismissal of the suit.

Upon hearing the parties, the learned Senior Assistant Judge, Family Court, Sadar, Rajshahi decreed the suit by judgment and decree dated 20.02.2020 directing the defendant to pay Taka 1,30,000/- as unpaid dower and Taka 1,36,000/- as maintenance for the past 68 months totaling Taka 2,66,000/= within a period of 30 days.

Challenging the said judgment and decree the defendant as appellant preferred Family Appeal No. 60 of 2020 before the learned Senior District Judge, Rajshahi. Subsequently, the appeal was transferred to the learned Additional District Judge, 2nd Court, Rajshahi. The learned Additional District Judge, 2nd Court, Rajshahi upon hearing both parties dismissed the appeal on 08.05.2022.

Being aggrieved by and dissatisfied with the Judgment and decree dated 08.05.2022 passed by the learned Additional District Judge, 2nd Court, Rajshahi the petitioner preferred this revisional application and obtained the Rule along with an order of stay.

Meanwhile, the plaintiff filed Decree Execution Case No. 37 of 2020 to execute the decree of the trial Court.

It is contended that, the defendant did not willingly marry the plaintiff and no conjugal life ever took place between the defendant and the plaintiff. But the Appellate Court below did not consider such facts. The plaintiff behaved disrespectfully and mentally tortured the defendant. The plaintiff herself served a divorce notice and executed a notarized document of divorce on 01.07.2013.

It is further stated that the trial Court decreed to pay dower of Taka 1,30,000/-and monthly maintenance for 68 months at the rate of Tk. 2000 /- is unlawful as the parties did not live together as husband and wife even for a single day, thus the plaintiff would be entitled only to half of the dower.

No one appears on behalf of the petitioner to press the Rule, though the matter has been appearing in the daily cause list for several times with the name of the learned Advocate for the petitioner.

Mr. Md. Abdul Aziz Sardar, learned Advocate appearing on behalf of the opposite party submits that there is no illegality or infirmity in the concurrent findings of 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 and perused the judgments and decrees and the materials on record.

It appears from exhibit-1 that the marriage between the parties was solemnized on 04.02.2013 with dower fixed at Taka 1,30,000/=. The defendant failed to pay the unpaid dower. A husband is legally bound to pay dower to his wife under Muslim Law.

It appears that the plaintiff demanded her dower but the defendant refused to pay the same compelling her 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."

From the affidavit of compliance dated 23.02.2023, it appears that the petitioner has already paid Taka 1,07,000/- as dower, so, he must therefore pay the balance of decretal amount. There is no lawful basis for waiving the remaining dower or maintenance.

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 granted 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