

Bench:

Mr. Justice Bhishmadev Chakraborty

Civil Revision No.4530 of 2022

Md. Shahjalal Biplobpetitioner

-Versus-

Mst. Sajeda Khatun and another

.....opposite parties

No one appears for the petitioner

Mr. Rakibul Islam, Advocate

..... for opposite party 1

Judgment on 03.07.2025

This Rule was issued calling upon the opposite parties to show cause as to why the judgment and order of the District Judge, Nilphamari passed on 23.05.2022 in Family Appeal 23 of 2022 dismissing the appeal summarily being barred by limitation affirming the judgment decree of the Family Court, Sayedpur, Nilphamari passed on 14.12.2020 in Family Suit 59 of 2017 decreeing the suit for dower money and maintenance shall not be set aside and/or such other or further order or orders passed to this court may seem fit and proper.

At the time of issuing this Rule, operation of Family Execution Case 03 of 2021 pending in the Family Court, Sayedpur, Nilphamari was stayed for a limited period which was subsequently extended and still subsists.

The material facts for disposal of the Rule, in brief, are that opposite parties 1 and 2, wife and daughter respectively of the defenant-husband, instituted the aforesaid suit claiming dower money of plaintiff 1 and maintenance of both of them. It has been stated in

the plaintiff that in the *kabinnama* dower money was fixed at Taka 5,00,101/- out of which Taka 22,000/- was shown to have been paid and balance amount of Taka 4,78,101/- was deferred dower. After some days of marriage, the defendant claimed dowry of Taka 1,50,000/- to his wife to purchase a motorcycle. She refused to pay it and consequently the husband drove her away from his house on 20.01.2017. Since then she has been living at her parents' house with the child. She claimed dower money and maintenance of both of them but the defendant refused to pay, hence the suit.

The defendant contested the suit by filing written statement. He contended that he is a poor man and has been residing in *khas* land of the government. The plaintiff is an ambitious woman and refused to stay with him in his house. He sent a divorce notice to plaintiff 1 but she did not receive it. She filed a false case against him under section 4 of the Dowry Prohibition Act. The plaintiff received Taka 1,50,000/- from him as dower money and it remained Taka 3,28,101/- as unpaid. The suit has been filed on false statement and as such it would be dismissed.

On the pleadings the family Court framed 4 issues. In the trial, the plaintiff examined 1 witness and submitted the registered *kabinnama* exhibit-1. On the other hand, the defendant examined none.

However, the Family Court decreed the suit for Taka 3,28,101/- as dower money and unpaid maintenance of Taka 77,666/- and 58,250/- for plaintiff 1 and plaintiff 2 respectively (totally Taka 4,64,017/-) with fixed amount of maintenance to be paid to the plaintiffs in every month. Against the aforesaid judgment and decree defendant husband preferred appeal before the District Judge, Nilphamari with an application for condonation of delay 502 days. However, the District Judge was not satisfied with the explanation for delay and rejected the appeal summarily being barred by limitation.

No one appears for the petitioner, although the matter has been appearing in the daily cause list for a couple of days with the name of Md. Nasirujjaman Mondal, learned Advocate for the petitioner. Today the learned Advocate for the petitioner is also found absent on repeated calls. Therefore, it is taken up for disposal upon hearing the learned Advocate for opposite party 1.

Mr. Rakibul Islam, learned Advocate for opposite party 1 taking me through the materials on record submits that the suit was for dower money of the wife and maintenance of the wife and child. The family Court assessing the evidence of plaintiffs' witnesses and the registered *kabinnama* decreed the suit for the amount of unpaid dower money and maintenance of the wife and child as per the social status of the defendant. The defendant did not prefer any appeal within time. Moreover, the appellant failed to explain the cause of delay and

consequently the appellate Court dismissed the appeal being barred by limitation affirming the judgment and decree of the trial Court. There is nothing to interfere with the judgment and decree passed by the family Court. This Rule, therefore, having no merit would be discharged.

I have considered the submissions of the learned Advocate for opposite party 1, and gone through the materials on record. The suit was for dower money of the wife and maintenance of the wife and child to be paid to them by the defendant husband. The registered *kabinnama* exhibit-1 shows that dower money was fixed at Taka 5,00,101/- out of which Taka 22,000/- was shown to have been paid. It has come out in the evidence of plaintiff 1 and the written statement of the defendant that in the meantime the defendant paid dower money of Taka 1,50,000/-. It is the settled law that a wife is entitled to the dower money from husband on demand. Since plaintiff has been residing at her father's house with the child and as such she is entitled to get the balance amount of dower money of Taka 4,78,101/- out of which Taka 1,50,000/- has been paid. So the husband has to pay Taka 3,28,101/- to plaintiff 1 as dower money. It further appears that the trial Court fixed maintenance of plaintiff 1 at Taka 2,000/- per month and Taka 1,500/- to plaintiff 2 per month. It appears that the amount has been fixed considering the status of the defendant-husband. Moreover, it is found in the judgment of the Family Court that Taka

77,666/- and 58,250/- of the maintenance of plaintiffs 1 and 2 remained unpaid which I find correct.

On perusal of the application filed under section 5 of the Limitation Act with the family appeal and the grounds taken therein, I find that the reason stated there that prevented the defendant from presenting the appeal within the stipulated period of limitation is not satisfactory. The statements made in the application prove that the defendant had prior knowledge about the judgment and decree passed against him by the family Court. The Court of appeal below correctly refused to accept the explanation for delay and rejected the appeal summarily being barred by limitation. On perusal of the judgment of the family Court, I do not find any error for which it may be interfered with in revision.

Therefore, I find no merit in this Rule. Accordingly, the Rule is discharged. No order as to costs. The judgments passed by the Courts below is hereby affirmed.

The order of stay of the execution case stands vacated.

The concerned family Court shall proceed with the family execution case in accordance with law.

Communicate this judgment and send down the lower Court records.