

Present:

Mr. Justice Md. Khasruzzaman

Criminal Revision No. 3517 of 2023

Md. Jamir Hossain Sarder

...convict-petitioner

-Versus-

The State and another

..opposite parties.

Mr. G.M. Nazrul Islam, Advocate

...For the convict petitioner

Mr. Mohammad Abdul Karim, D.A.G. with

Mr. Md. Azgarul Islam, AAG and

Ms. Mahfuza Akhter, A.A.G.

....For the opposite party No. 1

Mr. S.M. Neoaz Morshed, advocate

.....For the opposite party No. 02.

Judgment on 05.03.2025

This Rule at the instance of the convict-petitioner was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 27.03.2023 passed by the learned Sessions Judge, Khulna in Criminal Appeal No. 354 of 2022 dismissing the appeal and thereby affirming the judgment and order of conviction and sentence dated 25.09.2022 passed by the learned Senior

Judicial Magistrate, Paikgacha, Khulna in Complaint Register (C.R.) Case No. 541 of 2021 (Paikgacha) convicting the petitioner under section 3 of the Dowry Prohibition Act and sentencing him to suffer rigorous imprisonment for 01(one) year and 06(six) months and also to pay a fine of TK.5,000.00 in default to suffer simple imprisonment for 01(one) month more should not be set aside.

The prosecution case, in short, are that the case was initiated upon a complaint filed by the complainant-opposite party No. 2 stating *inter alia* that on 08.07.2010 marriage was solemnized between the complainant and the convict-petitioner by fixing Taka 45,000.00 as the dower money. The parents of the complainant gave gift hampers of different kinds to the convict petitioner. They started their conjugal life and they were blessed with two children during their wedlock. It is alleged that the convict petitioner and his family members are very greedy for dowry. The convict petitioner was a drug addicted person and he sold

all gifts given by the parents of the complainant. He was also given an auto van which was subsequently sold out for taking drug. Thereafter, the convict petitioner created pressure for dowry. At one stage, the convict petitioner physically torched her claiming dower of Taka 50,000.00 and she was forced to leave her husband's house. Thereafter, the complainant tried her level best to return back to her husband's house but failed. A *salish* was also held but they did not obey the *salishnama*. At last, on 16.08.2021 at about 10.00 a.m. the complainant along with her children went to her husband's house but the petitioner refused her for not getting dowry money from his wife. Thus, the complainant stating the above facts filed the complaint petition.

On receipt of the complaint, the learned Magistrate examined the complainant under section 200 of the Code of Criminal Procedure and took cognizance under section 3 of the Dowry Prohibition Act, 1980 and issued process against the convict-petitioner. The convict-petitioner in compliance

with the process surrendered before the learned Magistrate and obtained bail.

In due course the case was taken up for trial in the Court of Senior Judicial Magistrate, Paikgacha, Khulna. Charge was framed against the petitioner under section 3 of the Dowry Prohibition Act, 1980. In order to prove charge, prosecution examined 3 (three) witnesses but the defence examined none.

PW-1, complainant, in her examination-in-chief stated that the accused is her husband. At the time of marriage, her father gave him many gifts. They have two children in their wedlock. The accused physically tortured her. At one stage her father bought a auto van for the accused. Even then the accused claimed dowry from her. Thereafter, demanding dowry of Taka 50,000.00, the accused forced her to leave the house. Subsequently, she tried her level best to return the house of the accused but failed. Hence she has filed the case. She was not cross examined as the accused was absconded.

PW-2, Alal Gazi, in his examination-in-chief stated that he knows the complainant and the accused. The accused demanded dowry of Taka 50,000.00 and he sent the complainant to her father's house. Thereafter, the complainant made complaint to the Union Parishad and a *salish* was held. A negotiation meeting was held in the house of the accused on 16.08.2021 wherein the accused told that he would not continue their conjugal life with the complainant unless the dowry money of Taka 50,000.00 is paid. This witness has not been cross examined since the accused was absconded.

PW-3, Shahbuddin Mollah, in his examination-in-chief stated that he knows the accused. He also supported the allegation of dowry of Taka 50,000/- against the accused and as such he sent the complainant along with her children to her father's house. Thereafter, the complainant made complaint to the Union Parishad but the accused did not come in the Union Parishad. At last on 16.08.2021 when the complainant went to the house of the accused she

was told that without dowry of Taka 50,000.00, he would not accept the complainant in his house. This witness has not been cross examined since the accused was absconded.

The convict petitioner was absconded and as such he was not examined under section 342 of the Code of Criminal Procedure. However, after recording the evidence and on perusal of the materials on record the learned Senior Judicial Magistrate, Paikgacha, Khulna convicted the petitioner under section 3 of the Dowry Prohibition Act and sentenced him to suffer rigorous imprisonment for a period of 1 (one) year and 6 (six) months on 25.09.2022.

Against the judgment and order of conviction and sentence, the convict petitioner preferred Criminal Appeal No. 354 of 2022 in the Court of Sessions Judge, Khulna. The learned Sessions Judge, Khulna vide his judgment and order dated 27.03.2023 dismissed the appeal and thereby affirmed the judgment and order of conviction and sentence passed by the trial Court.

Being aggrieved by and dissatisfied with the judgment and order dated 27.03.2023 passed by the learned Sessions Judge, Khulna in Criminal Appeal No. 354 of 2022, the convict-petitioner filed this criminal revision and obtained the Rule.

Mr. G.M. Nazrul Islam, the learned Advocate appearing on behalf of the convict-petitioner submits that the allegation under section 3 of the Dowry Prohibition Act, 1980 has not been proved by any corroborative evidence. All the PWs are highly interested witnesses and their evidences have not been corroborated by any independent witness and as such the trial Court most erroneously found the convict petitioner guilty under section 3 of the Dowry Prohibition Act and thereby convicted and sentenced him under the said section of Act. The Court of appeal also failed to appreciate the evidences on record in dismissing the appeal and thereby affirming the judgment and order of conviction and sentence passed by the trial Court.

Accordingly, the learned Advocate submits that the Rule may kindly be made absolute.

Mr. S.M. Neoaz Murshed, the learned Advocate appearing on behalf of the complainant opposite party submits that the trial Court upon recording the evidences of the prosecution and on perusal of the materials on record passed the judgment and order of conviction and sentence against the convict-petitioner. The Court of appeal upon proper assessment of the evidence adduced by the prosecution affirmed the judgment and order of conviction and sentence and as such, there being no illegality in the judgment and order the same may kindly be affirmed by discharging the Rule. The learned Advocate has relied on the case of **Jharu and another Vs. State, 69 DLR (AD) 362** and further submits that if a single testimony is convincing and found to be full complete and self-contained, whether corroborated by other witness or not, is sufficient to bring home the charge and as such, there being no illegality in convicting the convict petitioner. Referring

to the case of **Rezaul Karim alias Mohammad Rezaul Karim Vs. Mosammat Taslima Begum and another, 40 DLR 360**, the learned Advocate also submits that demand made by the convict petitioner as a condition of her being taken to his house is dowry which has been proved by the prosecution in their evidences and as such, there was no illegality in convicting the petitioner by the impugned judgement and order of conviction and sentence. He also relied on the cases of **Abul Bashar Howlader Vs. the State and another, 14 BLD (AD) 185** and **Abdul Hai Sikder and another Vs. The State, 43 DLR (AD) 95**.

I have considered the submissions of both the parties and perused the judgments of both the Courts below, revisional application and other papers annexed therewith.

The sum and substance of the submissions of the learned Advocate for the convict petitioner is that the impugned judgment and order of conviction and sentence is against the law and the evidences on record.

Let us examine as to whether the conviction against the petitioner is against the law and the evidences of the prosecution witnesses.

The allegation made against the convict petitioner is that the petitioner demanded dowry of Tk. 50,000.00 from the complainant. Being refused, the petitioner ousted the complainant from his house saying that if the demand of dowry was not fulfilled, he would not allow the complainant in his house. Thereafter, the complainant tried her level best in the negotiation and even a *salish* was held in the Union Parishad but it was failed. Ultimately, she had to file the case under section 3 of the Dowry Prohibition Act, 1980.

Marriage gives validity to the husband and wife for living together in a peaceful manner. As per the law of the land, after marriage, a wife is entitled to get all maintenance from her husband. If it is seen that after the marriage, the husband demanded money or property of any kind with condition of her being taken to his house if the demanded

money is fulfilled, then the same would be a dowry. This view finds support in the case of **Rezaul Karim alias Mohammad Rezaul Karim Vs. Mosammat Taslima Begum and another, 40 DLR 360**, wherein it has been held (paragraph-6):

“According to the learned Advocate this is not a demand of dowry though it may be a demand of money. We are unable to accept this contention because what was demanded was Tk.10,000/- and it was demanded as a condition of her being taken to the husband’s house and for being looked after and maintained by the husband as a wife to which she was entitled to without any payment of TK.10,000/-”

Whether demand of dowry is an offence punishable under section 3 of the Dowry Prohibition Act, 1980. In section 3 of the Act it has been provided that *if any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be*

punishable with imprisonment which may extend to five years and shall not be less than one year, or with fine or with both.

So, it is clear that demands of dowry shall be punishable with imprisonment which may extend to five years and shall not be less than one year, or with fine or with both. Now, whether the allegation of demanding dowry made against the petitioner has been proved by the prosecution. The prosecution in order to prove the charge, adduced 03 PWs. On perusal of the evidences of the prosecution, it appears that the prosecution witnesses in their evidence supported the case against the convict petitioner. It appears that the convict petitioner after getting summons of the case surrendered and obtained bail and thereafter during the course of trial he was absconded and as such the trial was held in his absent. Since the convict petitioner was absconded, the witnesses were not cross examined. The Appellate Division in the case of **Jharu and another Vs. State, 69 DLR (AD) 362, held:**

“... .. A single testimony if convincing and found to be full complete and self contained, whether corroborated by other witness or not, is sufficient to bring home the charge and as such, there will be no illegality in convicting an accused on the basis of such single evidence... ..”

So, an accused may be convicted and sentenced on the basis of a single testimony without being corroborated if the same is found to be convincing and complete and self contained. In the present case, all the prosecution witnesses in their respective evidence stated that the accused demanded dowry from his wife (the present complainant) as a condition of her being taken to his house. So, the allegation falls within the mischief of section 3 of the Dowry Prohibition Act, 1980.

In view of the forgoing discussions on the basis of the evidences on record and the law, I am of the view that the both the Courts below did not commit any illegality in law in passing the judgment and order of conviction and

sentence against the convict petitioner. Accordingly, I do not find any merit in the Rule.

In the result, the Rule is discharged.

Send down the records.

Communicate the judgment.

(Md. Khasruzzaman, J.)