

Present:
Mr. Justice Md. Salim

CRIMINAL REVISION NO.6176 of 2024

Mahbuba Mohammad Babon
..... Petitioner.
-Versus-
The State and another
.....Respondents.

Mr. H.M. Shanjid Siddique, Advocate
.....For the Petitioner.

Mr. Muhammad Shah Newaj, Advocate
..... 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 07.06.2026, 08.06.2026, 14.06.2026.

Judgment on 15.06.2026.

By this Rule, the opposite parties were called upon to show cause as to why the impugned judgment and order dated 16.07.2024 passed by the learned Additional Sessions Judge, 4th Court, Gazipur in Criminal Appeal No.244 of 2023 dismissing the appeal and affirming the judgment and order dated 23.02.2022 passed by the learned Metropolitan Magistrate, Court No.4, Gazipur in T.R. Case No.83 of 2021 corresponding to C.R. No.273 of

2016 acquitting the accused opposite party No.2 from the charge should not be set aside.

In short, the prosecution case is that the petitioner herein, as complainant, filed a petition of complaint before the Chief Judicial Magistrate, Gazipur, against opposite party No.2, contending inter alia that on 05.11.2015 she was married to opposite party No.2 according to Muslim Shariah Law. Accordingly, the marriage was solemnized by registration of a kabinnama. On 18.04.2018 at night, while staying at the complainant's residence, the accused-husband allegedly assaulted her. On 18/04/2016 at about 4:00 p.m., the accused came to their house and demanded from her Tk. 1.50 crore in cash for purchasing a Prado vehicle, Tk. 2 crore in cash for constructing a multi-storied building on vacant land beside the accused's house, and Tk. 1 crore for doing business; in total, he demanded Tk.4,50,00,000/- as dowry. He further threatened to divorce the complainant if the demanded amount was not paid; thus, the complainant was constrained to institute the instant case against the accused, opposite party No. 2 (husband), under Section 4 of the Dowry Prohibition Act, 1980.

The learned Magistrate, after examining the complainant under Section 200 of the Code of Criminal Procedure, took cognizance of the case against the opposite party No. 2, and the case being ready, the learned Magistrate, by the order dated 14.07.2016, framed charge against the opposite party No.2 under Section 4 of the Dowry Prohibition Act, 1980, when he pleaded not guilty and claimed to be tried.

During the trial, the prosecution examined 4 (four) witnesses, while the defense examined one.

After recording the witnesses' evidence, the accused was examined under Section 342 of the Code of Criminal Procedure, to which he again pleaded his innocence.

After closure of the trial, the learned Metropolitan Magistrate, Court No.4, Gazipur, by judgment and order dated 23.02.2022, acquitted the accused opposite party No.2 from the charge.

Being aggrieved by and dissatisfied with the above judgment and order of acquittal, the complainant, as appellant, preferred Criminal Appeal No.244 of 2023 before the Metropolitan Sessions Judge, Gazipur.

Eventually, the learned Additional Metropolitan Sessions Judge, 4th Court, Gazipur, by judgment and order dated 23.02.2022, dismissed the appeal, affirming the judgment and order of the trial Court below.

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

Mr. H.M. Shanjid Siddique, the learned counsel appearing on behalf of the petitioner, submits that both the Courts below have erred in law having observed that the prosecution could not adduce any eyewitnesses in support of the allegation for demand of dowry, whereas by section 134 of the Evidence Act, 1872, no minimum of witnesses shall be required to prove any fact in issue. He then submits that C.W.1 is the complainant and C.W.3 and C.W.4 are independent witnesses, and the defense during cross-examination failed to adduce any evidence to distort their credibility or reliability, and as such the finding of the Courts below that the prosecution could not adduce independent witnesses is misconceived and demonstrates lack of application of judicial mind. He

finally submits that the prosecution has proved the elements of the offense under Section 4 of the Joutuk Protirodh Ain, 1980. Hence, the judgment and order of acquittal is liable to be set aside.

Mr. Muhammad Shah Newaj, the learned counsel appearing on behalf of the opposite party No.2, opposes the contentions of the learned Advocate for the petitioner and submits that the allegation brought against the opposite party No.2 in the petition of complain does not come within the purview of Section 4 of the Dowry Prohibition Act, 1980 because, admittedly, the opposite party No.2 did not demand dowry from the complainant moreover, the petitioner failed to prove the demand of dowry and as such both the Courts below rightly acquitting the opposite party No.2 and as such the Rule is liable to be discharged.

Be that as it may, in order to appreciate the submissions of learned counsel for the petitioner, the submissions of the learned Deputy Attorney General and the learned counsel for opposite party No. 2, 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 examined as many as 4 (four) witnesses. Of them-

CW-1, the complainant, Mahbuba Mohammad Baban, in her deposition stated that the first occurrence took place on 18/04/2016, Monday, at about 4:00 p.m. at her paternal home. The second occurrence took place on 28/05/2016, Friday, at about 11:00 a.m. at the house of the accused. The marriage had taken place on 05/11/2015. The marriage was solemnized by registration of the Kabin. After the ceremony, her husband took her to her paternal home, where they started their matrimonial life. Her in-laws never took her to their house. Despite repeated requests by her and her relatives for the accused to take her to her matrimonial home, the accused kept delaying the matter by saying, "not today, tomorrow." They told her they would not take her to their house without dowry. On 18/04/2016 at about 4:00 p.m., the accused came to their house and demanded from her Tk. 1.50 crore in cash for purchasing a Prado vehicle, Tk. 2 crore in cash for constructing a multi-storied building on vacant land beside the accused's house, and Tk. 1 crore for doing business. When she informed her guardians, her guardians expressed their inability and unwillingness to pay the dowry money. Thereafter, the accused stayed at their house and, while spending the night with her, physically assaulted her at

midnight over the said demand for money. He left her paternal home in the early morning and threatened that he would divorce her if the demanded money was not paid. The accused further threatened that they would never take her to their own house.

The second occurrence took place on 28/05/2016 at about 11:00 a.m. Her brother and witnesses Nos. 4, 5, and 7 went to the accused's house and requested the accused to take her to their house without dowry. The accused became agitated and said, "We are residents of Dhaka District; we are not afraid of anyone. Therefore, unless the aforesaid amount of dowry is paid, we will not give her a place in our family." Accused No. 3 directly made this statement. Accused No. 3 further stated that Accused No. 1 would be married elsewhere by taking a large amount of dowry, and, while threatening them in this manner, insulted her brother and witnesses Nos. 4, 5 and 7 and drove them out of the house. Since that occurrence, the accused have not maintained any communication with her. The accused have also not provided her with any maintenance since then. For furnishing the matrimonial household of Accused No. 1, her elder brother Mezbah Uddin Sarker Rubel, at the request and demand of Accused Nos. 2 and 3, gave Tk. 10 lakh in cash and 40 tolas of gold ornaments as gifts to Accused Nos. 1 to 3. They took

away the said ornaments and money from her by deception and secretly spent them. She seeks justice for these occurrences.

In cross-examination, CW-1 stated that Accused No. 1 did not leave the wedding ceremony and go to their house because of any disagreement regarding the kabin or dower. The accused's parents and relatives went to her paternal home for the wedding ceremony. She wore the ornaments referred to on her person. No ornaments were given to her by the accused's side. The complaint petition does not specify the date of any telephone call, so it is unclear whether the accused demanded dowry between 05/11/2015 and 18/04/2016.

In her deposition, she stated that she, her mother, and her brother requested that the accused take her to their house. Through Md. Emdadul Haque, Mohammad Omar Ali, Md. Zahid, Ibrahim Khalil, and many others requested the accused to take her to their house. She knows Liaquat Eman Uddin Sarker of Tongi. He is her grandfather. They did not meet at Hasan Uddin Sarker's house regarding the matter. They also did not meet regarding the matter at Azmat Ullah Khan's house. No notice was served upon the accused asking him to take her to his house. Before filing this case, she did not make any complaint at the police station regarding the

occurrence. She did not file any case for restoration of the matrimonial relationship. On 08/01/2017, she divorced the accused husband. After giving the divorce, she filed a case for realization of dower. In that case, she did not state that she did not want to live with the accused. Before marriage, she had no personal communication with the accused. Before marriage, she and the accused did not discuss his properties and assets, nor did they do so after marriage. It is mentioned in paragraph 6 of page 3 of the complaint petition that she had asked about the accused's properties. She does not know whether the accused and his family have several houses, including multi-storied houses, in Dhaka. She learned about the house beside the accused's house from her uncle. The accused had beaten her and caused swelling in her body. At the time when she was assaulted, her sister-in-law and mother came running. The complaint petition does not mention that her sister-in-law and mother came running.

On the date of the second occurrence, she did not go to her matrimonial home because the accused were unwilling to take her there without dowry. She heard from her brother and those who had gone there about the threat allegedly given to her brother and the others. After 28/02/2016, the accused did not come to their house. Even when she telephoned him, the accused did not answer. When she sent messages through

others, the accused said that he would not take her without dowry.

CW-2, Mezbah Uddin Sarker Rubel, in his deposition stated that the accused persons are Mahmudul Alam Sohag, Khurshid Alam Momtaz and Mahamuda Akter. The date of the first occurrence was 18/04/2016, Monday, at about 4:00 p.m. The second occurrence was on 28/05/2016, Friday, at about 11:00 a.m. The first occurrence took place at their own house. The complainant is his sister. The second occurrence took place at the accused's house in Kalachandpur, Gulshan. The complainant was married to Accused No. 1 on 02/11/2015. They solemnized their marriage at a community center. After the marriage ceremony, Accused No. 1 started living with his sister at their house. About 3 of Accused No. 1's relatives came to their house for the marriage ceremony, and on that day Accused No. 2 stayed at their house while his relatives left. After the marriage, the accused did not take his sister to their house to establish their matrimonial household. Accused No. 1 kept delaying the matter by saying "not today, tomorrow". Despite their repeated requests, they did not take his sister to their house.

On 18/04/2016 at about 4:00 p.m., Accused Nos. 1 and 2 came to their house and demanded a total of Tk. 4.50 crore as dowry from his sister: Tk. 1.50 crore for purchasing a

Prado vehicle, Tk. 2 crore for constructing a multi-storied building on vacant land beside their own house, and Tk. 1 crore for business purposes; They demanded that she pay the money by selling her property, if necessary. His father had died leaving money, and they demanded that money as dowry.

When they said they could not pay the demanded dowry, Accused No. 2 left their house, while Accused No. 1 remained there. During the night, while Accused No. 1 was staying with his sister, an altercation took place regarding the said dowry money, and Accused No. 1 physically assaulted his sister. He threatened his sister that if the dowry money was not paid, he would divorce her and further threatened that they would never take her into their household without the dowry money. Thereafter, Accused No. 1 left their house in the early morning and did not maintain further communication. His sister subsequently told him about the occurrence. He learned of the occurrence at 4:00 p.m. from her. At midnight, when his sister was being assaulted, they heard her screaming and went to her room. His mother, wife, and daughter also entered his sister's room and saw Accused No. 1 assaulting her. Upon seeing them, Accused No. 1 stated that if the said dowry money was not paid, he would divorce his sister and would never take her to their house. Thereafter,

he left in the early morning and did not maintain further communication.

They subsequently sent messages through others for settlement, but the accused paid no heed. Thereafter, on 28/05/2016 at about 11:00 a.m., they went to the house of the accused. He, Md. Omar Ali, Md. Ibrahim Khalil, Md. Shahid Mia and Md. Emdadul Haque, along with a total of seven persons, went to the house of Accused No. 1 on the date of the second occurrence and requested them to take his sister to their house as his wife, with due dignity and without dowry.

At that time, Accused Nos. 1 to 3 became agitated. They stated that “they are residents of Dhaka District and are not afraid of anyone” and that unless the stated amount of dowry was paid, they would not take his sister into their house and would divorce her. Accused No. 3 directly stated that unless the said amount of dowry was paid, they would have Accused No. 1 married elsewhere by taking an even larger amount of dowry. They insulted them and drove them out of the house. Those who went to the house of the accused with him are witnesses in this case.

Thereafter, the accused did not communicate with them. On the date of the wedding, at the request and demand of Accused Nos. 2 and 3 for furnishing the household of

Accused No. 1, Tk. 10 lakh in cash and 40 tolas of gold ornaments were taken from his sister and misappropriated. He seeks appropriate justice.

In cross-examination, CW-2 stated that they had arranged the marriage of his sister after hearing about the bridegroom through a matchmaker. He had made inquiries through the matchmaker. Before the marriage, they went to the accused's house to discuss the marriage. There was no ceremony at the bridegroom's house. During the pre-marriage discussions, they agreed that after the marriage, they would take his sister to their residence. Before marrying his sister, Accused No. 1 had not married anyone else. He does not know whether Accused No. 1 subsequently married anyone else. They gave the aforesaid cash and money for purchasing furniture to set up the household at Accused No. 1's house. On the night of the wedding, they gave the said money to Accused No. 1 at their house in Tongi.

His sister never went to the accused's house. His sister wore the gold ornaments on the day of the marriage. The gold ornaments had initially been at their house. His sister was studying medicine.

It is mentioned in the complaint petition that the accused started demanding dowry three months after the marriage. When Accused Nos. 1 and 2 came to their house on

18/04/2016, he was in the adjoining room. They demanded dowry from his sister after coming to their house. When his sister came and informed him, he said that they couldn't pay such an amount. The complaint petition does not mention that he refused to pay the money.

His sister was not given medical treatment at midnight for the assault allegedly committed by Accused No. 1. However, a doctor came to their house the following morning and treated her. The complaint petition may not have mentioned that she received medical treatment.

On the date of the second occurrence, they did not take his sister to the accused's house because the accused said they would not take her unless the dowry money was paid. When they went to the accused's house, the maternal uncle, paternal uncle, and relatives of the accused, as well as many neighbors, were present. No Ward Councilor or other prominent person of the locality was present because many relatives of the accused were there. On the last date, the accused had threatened them.

His sister divorced Accused No. 1 on 28/01/2017. In the case filed for realization of dower, they obtained a decree/judgment in their favor, but they have not yet received the money.

CW-3, Md. Emdadul Haque, in his deposition, stated that he knows both the complainant and the accused. The first occurrence took place on 18/04/2016 at the complainant's own house. The second occurrence took place on 28/05/2016 at the accused's house. Accused No. 1 was at the complainant's house. They were married on 05/11/2015. He was present at the said marriage ceremony.

After the wedding ceremony, they went to the complainant's house at about 12:00 midnight. Accused No. 1 started matrimonial life with the complainant at her house. Subsequently, he did not take the complainant to his own house because he would not take her there without dowry.

Accused Nos. 1 and 2 demanded a total of Tk. 4.50 crore as dowry. On 18/04/2016, when the complainant informed her guardians, they said they could not pay. The accused stated that unless the money was paid, he would not take her to his house. The accused left the house. For this reason, they went to the accused's house on 28/05/2016. However, the accused stated that they would not take her to their house without the dowry money, insulted them, and drove them out of the house. At the time of marriage, the accused gave 40 tolas of gold and Tk. 10 lakh. The accused took the entire amount and did not return it to the complainant. Although the complainant wanted to continue

the matrimonial relationship, the accused did not agree. He was personally present during the second occurrence. The complainant's father was dead, and her brother brought her up.

In cross-examination, CW-3 stated that he works in Tongi. He does not work at the complainant's brother's factory. The accused first demanded dowry on 18/04/2016. He had office on that day. He heard about the occurrence from the complainant on the following day, i.e., 19/04/2016.

They went to the accused's house. Six or seven persons went there together. When they went to the accused's house on 28/05/2016 at about 11:00 a.m., the accused demanded Tk. 4.50 crore as dowry. The accused persons reside in their own house. Shakil, Tania, and others were present at the accused's house. He had gone there for settlement.

CW-4, Md. Anachar Ali, in his deposition, stated that he appeared before the court on time to give evidence. He knows both the complainant and the accused. The accused is named Md. Mahamudul Alam Sohag. The first incident occurred on 18/04/2016 at the accused's house. They were married on 05/11/2015. Relatives from both sides were present. After the marriage, they went to the complainant's paternal home. They gave Tk. 10 lakh and 40 tolas of gold. The accused did not take the complainant into his household. Accused Nos. 1 and

2 demanded Tk. 4.50 crore from the complainant for taking her into their household. The complainant informed her guardians. During an altercation between the accused and the complainant, the accused assaulted the complainant. On 28/05/2016, he went to the house of the accused. They stated that they would not take the wife into their household without money. Ultimately, they threatened them. Thereafter, being compelled, the present case was filed. Subsequently, they did not return the articles they had previously received.

In cross-examination, CW-4 stated that he has known the complainant since childhood. His house is beside the complainant's house. He had also gone to the complainant's house about three months earlier. On 18/04/2016 at 4:00 p.m., he was at his shop. He went to the accused's house. The accused stated that he would not live with the complainant as husband and wife without dowry.

The accused persons reside in their own house. On 18/04/2016, the accused demanded dowry from the complainant. He heard about it from the complainant on 19/04/2016. He does not remember whether his shop was closed on 28/05/2016. Subsequently, he stated that his shop was open on 28/05/2016.

On 28/05/2016, six or seven persons went to the accused's house in a private car. On 23/05/2016, the

complainant's brother informed him that he had to go to the house of Accused No.1. They left at about 10:00 a.m. and returned at about 1:30 p.m.

Analyzing the above evidence on record, it appears that the complainant stated in her evidence that the accused, i.e., opposite party No. 2, demanded Tk.1,50,00,000/- for purchase of prado car, 2,00,00,000/- for construction of a multi-storied building, and Tk.1,00,00,000/- for starting a business, in total Tk.4,50,00,000/-. The complainant side refused to pay the same, but the accused opposite party No.2 left the complainant at the house of her father, and the accused threatened the complainant that he would forsake and divorce her and marry if his demand was not fulfilled.

Considering the above, it transpires that the complainant failed to prove her claim, as there was no corroboration from other witnesses. However, 3 (three) additional witnesses were examined in the witness box to support the prosecution case, except her. On the contrary, the complainant herself divorced the opposite

party No. 2, and after the divorce she instituted the instant case.

It is a settled principle of law that a demand of simply money by the husband to his wife does not constitute any offense under Section 4 of the Dowry Prohibition Act. This view is supported the case of Mahir Lal Saha Poddar @ Mihir Kumar Poddar, Motilal Shaha v. Zhunu Rani Saha, reported in 37 DLR (1985) 227, wherein it is laid down that--

The demand for money is not even alleged to be made as a consideration of the marriage. Neither money nor any other property can be said to be dowry unless they satisfy the definition of dowry as under the Act.

We may also rely upon the case of Anamul Hoque Faraji Vs. Mahabuba Begum and Ors reported in 28 BLC (HCD) 688 wherein it was laid down---

The language of Section 4 of the Dowry Prohibition Act, 1980 is clear and unambiguous, which suggests that the demand of dowry should be made to the parent or guardians of the bride or bridegroom, as the case may be, to bring a person under the dragnet of

Section 4 of the Dowry Prohibition Act, 1980. In

other words, if a husband demands dowry from his wife directly, instead of her parents or guardians, such demand will not come under the purview of Section 4 of the Dowry Prohibition Act, 1980.

In the instant case, we have already noticed that the complainant petitioner claimed that her husband, i.e. the opposite party No. 2 herein, demanded the alleged amount from her; therefore, we are of the view that the amount alleged demanded does not satisfy the definition of “dowry” under the Act.

In view of the above facts and circumstances, it appears that the trial Court exhaustively discussed the oral and documentary evidence and arrived at the correct finding of acquittal of the accused. The trial Court independently considered the evidence and rightly passed judgment and order of acquittal.

On the contrary, the appellate court, after considering the evidence in detail, affirmed the findings of the trial court below and found no substance in the complainant-petitioner’s arguments. Therefore, we are of the firm view that the appellate court very rightly and judiciously dismissed the appeal.

In view of the above facts and circumstances, we do not find any merit in the Rule.

Resultantly, the Rule is discharged.

The impugned judgment and order dated 16.07.2024 passed by the learned Additional Sessions Judge, 4th Court, Gazipur in Criminal Appeal No.244 of 2023 dismissing the appeal and affirming the judgment and order dated 23.02.2022 passed by the learned pMetropolitan Magistrate, Court No.4, Gazipur in T.R. Case No.83 of 2021 corresponding to C.R. No.273 of 2016 is hereby affirmed.

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

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(Md. Salim, J).