

**Present:*****Mr. Justice Md. Kamrul Hossain Mollah*****Civil Revision No.469 of 2020****IN THE MATTER OF:**

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

- AND -

**IN THE MATTER OF:**

Md. Abdul Jalil

....Defendant-Appellant -Petitioner

-Versus –

Most. Mahmuda Khatun and another

....Plaintiff-Respondent-Opposite Parties

No one appears

.... For the petitioner

Mr. Md. Ferdous Sarker, Advocate

.....For the Opposite-Parties

**Heard on 05.12.2023, 06.12.2023  
and Judgment on 07.12.2023****Md. Kamrul Hossain Mollah, J:**

On an application by the petitioner, under section 115(1) of the Code of Civil Procedure, this Rule was issued in the following terms:

Let a Rule be issued calling upon the opposite party to show cause as to why the impugned Judgment and Decree dated 15.09.2019 (decree signed on 19.09.2019) passed by the learned District Judge, Joypurhat in Family Appeal No.14 of 2019 dismissing the Appeal and thereby affirming the Judgment and Decree dated 15.01.2019 (decree signed on 21.01.2019)

passed by the learned Judge, Family Court, Khetlal, Joypurhat in Family Suit No.22 of 2018 decreeing the suit in part, should not be set-aside and or pass such other order or further order or orders as to this Court may seem fit and proper.

At the time of issuance of the Rule this Court stayed all further proceedings of Family Execution Case No.05 of 2019, now pending before the learned Family Court, Khetlal, Joypurhat for a period of 06(six) months from date.

Facts necessary for disposal of the Rule, in short are that, the plaintiff and the defendant No.1 entered into wedlock on 29.04.2015 AD by dint of a registered kabinnama fixing dower to the amount of Tk.2,00,000/- out of which paid Tk.75,000/- and Tk.1,25,000/- remained unpaid. They performed conjugal life and gave birth to a female child. The defendant No.1 claimed as dowry to the plaintiff and in failure tortured her physically and mentally and drove her along with the minor child in her paternal home for which the plaintiff filed case under section 4 of the Dowry Prohibition Act and also filed Family Suit in the Family Court of Khetlal for dower money and maintainance. The defendant No.1 knowing about the case secretly went abroad. The defendant No.2 proposed the plaintiff, if she gave talak to the defendant No.1 and withdraw the case, the defendant No.2 will give the dower money, maintainance of her Iddot period and maintainance of minor child. The plaintiff imagined that there will be long time to obtain the judgment and she agreed with the proposal of defendant No.2. Then on 18.01.2018 the plaintiff divorced defendant No.1 and withdrew the cases. The defendant No.2 told that after withdraw

the cases and soon after talak rest amount to dower money of Tk.1,25,000/- will be paid but he without paying the same told that defendant No.1 from abroad will sent Tk.1,00,000/- and from his family Tk.25,000/- will be paid and accordingly in total Tk.1,25,000/- will be paid. But the defendant No.2 without paying the aforesaid money took dilatory tactics. For which the plaintiff only sign in the talaknama but no notice was sent to defendant No.1 and local U.P. Chairman so the talak of the plaintiff only paper transaction. Lastly, the plaintiff with the witnesses on 16.04.2018 went to the house of the defendant No.2 and demanded rest dower, maintenance of her and maintenance of her minor child Tk.6000/- per month but he denied to pay the same and told to ask the money to the defendant No.1. The plaintiff over mobile demanded the rest dower money, maintenance of her and her children to the defendant No.1, but he denied to pay the same. Hence the Case.

The defendant No.2 entered appearance in the suit and contested the suit by filing a written statement contending inter alia that marriage with the plaintiff and defendant No.1 was solemnized on 29.04.2015 by registered kabinama. After marriage the defendant No.1 went abroad. In the meantime, a female child was born. While defendant No.1 in the country, the plaintiff filed case under section 4 of the Dowry Prohibition Act and for rest dowry and maintainance of her and her children filed Family Suit No.46 of 2017, at one stage with the intervention of local elite persons plaintiff proposed for compromise with the defendants. On that proposal the plaintiff obtaining all her demanded money withdrew the aforesaid cases and on his own will gave talak to the defendant No.1 on

18.01.2018 and after obtaining all the demanded money took the female child to the defendant No.2. The plaintiff as per Muslim Shariah sent the notice to the defendant No.1 as well as local Chairman. Thereafter, on 21.08.2018 at Eid-Ul Azha coming the house of defendant No.2 enticing secretly took the female child. The plaintiff was working in Garments at Dhaka. The defendant is ready to maintaining the child in his custody. The plaintiff filed the suit by false statement and as such is liable to be dismissed.

After hearing both the parties, the learned Judge, Family Court, Khetlal, Joypurhat passed judgment and decree dated 15.01.2019 (decree signed on 21.01.2019) in Family Suit No.22 of 2018 decreed the suit in part allowing plaintiff in total Tk.33,000/- as maintenance and Tk.3,000/- per month as maintenance of minor daughter from 16.01.2019.

Being aggrieved by and dissatisfied with the judgment and decree dated 15.01.2019 (decree signed on 21.01.2019) passed by the learned Judge, Family Court, Khetlal, Joypurhat in Family Suit No.22 of 2018 decreeing the suit in part the defendant-petitioner filed Family Appeal No.14 of 2019 before the learned District Judge, Joypurhat. After hearing both the parties the learned District Judge, Joypurhat dismissed the Family Appeal No.14 of 20219 by his judgment and decree dated 15.09.2019 (decree signed on 19.09.2019).

Being aggrieved by and dissatisfied with the judgment and decree dated 15.09.2019 (decree signed on 19.09.2019) passed by the learned District Judge, Joypurhat in Family Appeal No.14 of 2019 the petitioner

filed this revisional application under section 115(1) of the Code of Civil Procedure and obtained the present Rule and order of stay.

No one appears on behalf of the petitioner to press the instant Rule, when the matter was taken up for hearing, although it appears in the daily cause list several times.

Mr. Md. Ferdous Sarker, the learned Advocate appearing for the opposite parties submits that, the plaintiff and the defendant No.1 entered into wedlock on 29.04.2015 AD by dint of a registered kabinnama fixing dower to the amount of Tk.2,00,000/- out of which paid Tk.75,000/- and Tk.1,25,000/- remained unpaid. They performed conjugal life and gave birth to a female child. The defendant No.1 claimed as dowry to the plaintiff and in failure tortured her physically and mentally and drove her along with the minor child in her paternal home for which the plaintiff filed case under section 4 of the Dowry Prohibition Act and also filed Family Suit in the Family Court of Khetlal for dower money and maintainance. The defendant No.1 knowing about the case secretly went abroad. The defendant No.2 proposed the plaintiff, if she gave talak to the defendant No.1 and withdraw the case, the defendant No.2 will give the dower money, maintainance of her Iddot period and maintainance of minor child. The plaintiff imagined that there will be long time to obtain the judgment and she agreed with the proposal of defendant No.2. Then on 18.01.2018 the plaintiff divorced defendant No.1 and withdrew the cases. The defendant No.2 told that after withdraw the cases and soon after talak rest amount to dower money of Tk.1,25,000/- will be paid but he without paying the same told that defendant No.1 from abroad will sent

Tk.1,00,000/- and from his family Tk.25,000/- will be paid and accordingly in total Tk.1,25,000/- will be paid. But the defendant No.2 without paying the aforesaid money took dilatory tactics. For which the plaintiff only sign in the talaknama but no notice was sent to defendant No.1 and local U.P. Chairman so the talak of the plaintiff only paper transaction. Lastly, the plaintiff with the witnesses on 16.04.2018 went to the house of the defendant No.2 and demanded rest dower, maintenance of her and her child's maintenance Tk.6000/- per month but he denied to pay the same and told to ask the money to the defendant No.1. The plaintiff over mobile demanded the rest dower money, maintenance of her and her children to the defendant No.1, but he denied to pay the same. Thereafter, the plaintiff-opposite party filed the Family Suit No.22 of 2018 before the learned Judge, Family Court, Khetlal, Joypurhat and after hearing both the parties the learned Judge decreed the Suit in part by his judgment and decree dated 15.01.2019 (decree signed on 21.01.2019). Thereafter, the defendant-petitioner filed Family Appeal No.14 of 2019 before the learned District Judge, Joypurhat and after hearing both the parties the learned District Judge dismissed the said Appeal, which is maintainable in the eye of law. Therefore, he prays for discharging the instant Rule.

I have considered the submissions of the learned Advocate for the opposite parties minutely, perused the revisional application, the impugned judgment and decree of the Courts' below, the papers and documents as available on the record.

It appears from the record that, the plaintiff and the defendant No.1 entered into wedlock on 29.04.2015 AD by dint of a registered kabinnama

fixing dower to the amount of Tk.2,00,000/- out of which paid Tk.75,000/- and Tk.1,25,000/- remained unpaid. They performed conjugal life and gave birth to a female child. The defendant No.1 claimed as dowry to the plaintiff and in failure tortured her physically and mentally and drove her along with the minor child in her paternal home for which the plaintiff filed case under section 4 of the Dowry Prohibition Act and also filed Family Suit in the Family Court of Khetlal for dower money and maintenance. The defendant No.1 knowing about the case secretly went abroad.

The defendant No.2 proposed the plaintiff, if she gave talak to the defendant No.1 and withdraw the case, the defendant No.2 will give the dower money, maintenance of her Iddot period and maintenance of minor child. The plaintiff imagined that there will be long time to obtain the judgment and she agreed with the proposal of defendant No.2. Then on 18.01.2018 the plaintiff divorced defendant No.1 and withdrew the cases. The defendant No.2 told that after withdraw the cases and soon after talak rest amount to dower money of Tk.1,25,000/- will be paid but he without paying the same told that defendant No.1 from abroad will sent Tk.1,00,000/- and from his family Tk.25,000/- will be paid and accordingly in total Tk.1,25,000/- will be paid. But the defendant No.2 without paying the aforesaid money took dilatory tactics. For which the plaintiff only sign in the talaknama but no notice was sent to defendant No.1 and local U.P. Chairman so the talak of the plaintiff only paper transaction. Lastly, the plaintiff with the witnesses on 16.04.2018 went to the house of the defendant No.2 and demanded rest dower, maintenance of her and her

child's maintenance Tk.6000/- per month but he denied to pay the same and told to ask the money to the defendant No.1. The plaintiff over mobile demanded the rest dower money, maintainance of her and her children to the defendant No.1, but he denied to pay the same. For this reason, the plaintiff-opposite party No.1 filed the present Family Suit following all legal formalities, which is maintainable in the eye of law.

In view of the discussion made above, facts and circumstances, I think that the learned District Judge, Joypurhat rightly passed the judgment and decree dated 15.09.2019 (decree signed on 19.09.2019) in Family Appeal No.14 of 2019. So, this Court finds no merit in the present Civil Revision Case and as such, in the impugned judgment and decree dated 15.09.2019 warrants no interference by this Court and as such, the Rule is liable to be discharged.

In the result, the Rule is discharged.

The judgment and decree dated 15.09.2019 (decree signed on 19.09.2019) passed by the learned District Judge, Joypurhat in Family Appeal No.14 of 2019 dismissing the Appeal and affirming the judgment and decree dated 15.01.2019 (decree signed on 21.01.2019) passed by the learned Judge, Family Court, Khetlal, Joypurhat in Family Suit No.22 of 2018 decreeing the suit in part is hereby upheld and confirmed.

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



Send down the L.C.R. along with a copy of this judgment and order to the concerned Court below at once.

Md. Anamul Hoque Parvej  
Bench Officer