

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD,
(JUDICIAL DEPARTMENT).

Writ Petition No. 1342 of 2015

Mst. Mussarat Yasmin

Versus

Additional District Judge, Islamabad (West) and others.

S.No. of order/ proceeding	Date of order/ proceeding	Order with signature of Judge and that of parties or counsel where necessary.
(13)	03.11.2022	Raja Aamir Azad, Advocate for the petitioner. Respondent No. 3 / Muhammad Hanif, ex- parte.

Through the instant writ petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has assailed judgment and decree dated 17.04.2014, passed by learned Judge Family Court, West-Islamabad, whereby the suit filed by the petitioner for recovery of dowry articles worth Rs. 4,18,469/- as per list attached or in alternative recovery of Rs. 4,18,469/- was partially decreed and the petitioner was held entitled only for recovery of dowry articles as per list Ex-D/6

while rest of the suit was dismissed as well as judgment and decree dated 27.11.2014, passed by learned Additional District Judge, West-Islamabad, whereby the appeal filed by the petitioner was accepted and the petitioner was held entitled to the recovery of the dowry articles enlisted in Ex-P/3 at Srl. Nos. 3, 4 (furniture / mattress), Srl. Nos. 5, 6, 10 & 11.

02. Succinctly stated facts of the case are that petitioner filed a suit for recovery of dowry articles worth Rs. 4,18,469/- according to the list annexed with the suit. On 11-12-1995, marriage between petitioner and respondent No. 3 was solemnized and *Rukhsati* took place on 19.12.1995. At the time of marriage parents of the petitioner gave dowry articles worth Rs. 4,18,469/-, which on the day of Nikkah were shifted to the house of respondent No. 3, whereas gold ornaments, silver jewelry items and bridal clothes were worn by the petitioner. The respondent No. 3 allowed

the petitioner to live in the house of her parents as due to his job in France, he was residing there. On the visit of the respondent No. 3 to Pakistan for one or two months, spouses used to live together and they were blessed with two daughters. The respondent No. 3 came to Pakistan in the year 2000, and took the petitioner to his house. During the said period, the petitioner came to know that respondent No. 3 has contracted another marriage at France without her consent. Upon which, the petitioner strongly protested the matter and resultantly, the respondent No. 3 expelled her from his house in three clothes after snatching all the gold & silver ornaments etc.

03. The suit was contested by the respondent No. 3 through submission of written statement. Issues were framed and after hearing both the parties learned Judge Family Court, West-Islamabad partially decreed the suit of petitioner vide impugned judgment and decree dated 17.04.2014.

04. Being aggrieved, the petitioner filed an appeal which was accepted by the Court of learned Additional District Judge, West-Islamabad vide impugned judgment and decree dated 27.11.2014, in terms of the recovery of the dowry articles enlisted in Ex-P/3 at Srl. Nos. 3, 4 (furniture / mattress), Srl. Nos. 5, 6, 10 & 11 duly supported by the receipts and affidavits of the shop keepers from whom the said articles were purchased.

05. Pursuance to order dated 12.05.2022, passed by this Court, notice upon respondent No. 3 through proclamation in "**Daily Jang**" has been issued on 31.10.2022, however, no one is in attendance on his behalf, therefore, he was ordered to be proceeded against ex-parte.

06. Learned counsel for the petitioner *inter alia* contends that sufficient evidence has been produced by the petitioner; list of the dowry articles was produced in the learned trial Court; respondent No. 3 has

raised no objection regarding the genuineness of the list; it is also admitted in the evidence that she took dowry articles at the time of wedding, receipts of shop keepers have also been exhibited; learned Additional District Judge, West-Islamabad has not given sufficient / plausible reasons for partially allowing the dowry articles according to the list of articles produced by her (Ex-P/3), hence she is entitled for all the dowry articles mentioned in list which has been exhibited during the course of trial and has prayed that instant writ petition be allowed and order for handing over the dowry articles be issued.

07. Arguments heard, record perused.

08. It is admitted that the petitioner has produced list of dowry articles (Ex-P/3) along with receipts of the concerned vendors. The respondent No. 3 raised no objection regarding the genuineness of the list or receipts etc.

09. The respondent No. 3 has also admitted that dowry articles produced by the petitioner are lying in the house. It has also been admitted in the evidence that the petitioner took dowry articles at the time of *Rukhsati*.

10. It has been laid down in a case titled as **Shafique Sultan Vs. Mst. Asma Firdous and others (2017 SCMR 393)**,

that:

"Husband denying that dowry articles were ever given to wife. The list of dowry articles provided by wife consisted of articles of daily use which were generally given to brides at the time of their marriages. The said list did not contain any article(s) which may be termed as extravagant or beyond the financial resources of the wife's family. Supreme Court observed that giving dowry articles to daughters was in line with custom/tradition and practices which were deeply rooted in the society and were followed by parents of all classes irrespective

of their financial status. Held, suit for recovery of dowry articles had been rightly decreed.”

Reliance is also placed upon the cases titled **Muhammad Habib Vs. Mst. Safia Bibi and others (2008 SCMR 1584)** and **Mirza Arshad Baig Vs. Additional District Judge Multan and others (2005 SCMR 1740).**

11. For what has been discussed above, the instant writ petition is **allowed** and the petitioner is held entitled to receive dowry articles mentioned in list (Ex-P/3) or in alternative recovery of Rs. 4,18,469/-.

**(TARIQ MEHMOOD JAHANGIRI)
JUDGE**

Bilal /-