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JUDGMENT SHEET
LAHORE HIGH COURT, LAHORE

JUDICIAL DEPARTMENT

W. P. No. 82719 of 2023

Simra Arif

VERSUS

Additional District Judge, Lahore & 02 others

JUDGMENT

Date of Hearing	23.04.2026
Petitioner by:	Ch. Akbar Ali Shad, Advocate
Respondent No. 3 by:	Mr. Iqtidar ul Islam Hashmi, Advocate

ABID HUSSAIN CHATTHA, J. This constitutional Petition is directed against the impugned Orders dated 24.01.2023 and 23.10.2023 passed by Judge Family Court and Additional District Judge, Lahore, respectively. It is noted that the titled Petition was dismissed vide Judgment dated 20.01.2026 primarily by holding that interference at preliminary stage is not warranted when specific issue qua jurisdiction has already been framed. However, after discovering that the impugned Order has finally passed with reference to preliminary issue qua jurisdiction, review application No. 8677 / 2026 was accepted vide order dated 03.03.2026 and in consequence thereof, the Judgment dated 20.01.2026 qua dismissal of the titled Petition was recalled and the titled Petition was listed for hearing.

2. The brief facts of this case are that the marriage between the Petitioner and Respondent No. 3 (the "**Respondent**") was solemnized on 09.09.2016, however, the Respondent subsequently divorced the Petitioner on 03.10.2018. During the subsistence of the marriage, a minor son was born out of the wedlock. The dissolution of marriage strained the relationship between the parties culminating in the institution of *inter se* family suits. The Respondent instituted a suit on 20.06.2019 for recovery of bridal gifts i.e. gold ornaments and a diamond ring or in the alternative its value amounting to Rs. 1,812,488/-. The Petitioner, on the other hand, filed a suit on 12.09.2019 for recovery of her belongings valuing Rs. 1,732,488/-. The Family Court consolidated both

suits, framed consolidated issues on 18.09.2020 and called upon the parties to produce their evidence. The Petitioner subsequently filed an application on 18.01.2021 for framing of additional issues which was allowed on 12.02.2022. Consequently, the following two additional issues were framed:-

i. Whether the Family Court lacks jurisdiction to try the suit "Furqan Aslam v. Simra Arif" filed on 20.06.2019 for recovery of bridal gifts from the Petitioner? OPD
ii. Whether the suit dated 20.06.2019 is liable to be dismissed with special costs? OPD

The above issues were framed as issues of law with respect to the maintainability of the suit of the Respondent. The Family Court after hearing arguments vide impugned Order dated 24.01.2023 held that in terms of entries contained in Part-I of the Schedule to the Family Courts Act, 1964 (the "**Act**"), suit regarding bridal gifts falls within the jurisdiction of the Family Court.

3. Dissatisfied from the said Order, the Petitioner preferred an Appeal. The Appellate Court opined that in terms of item No. 9 of Part-I of the Schedule to the Act under Section 5 thereof, the jurisdiction of the Family Court is available with respect to 'the personal property and belongings of a wife and a child living with his mother'. Hence, the suit of the Respondent for recovery of 'bridal gifts' as defined in Section 2(a) of Dowry and Bridal Gifts (Restriction) Act, 1976 is maintainable and the Family Court has the jurisdiction to adjudicate upon the suit of the Respondent.

4. The sole point for determination before this Court is as to whether the suit is maintainable before the Family Court under the Act? Before adverting to the aforesaid question, it is pertinent to mention that the entire claim of the Respondent is listed in paragraph Nos. 4 to 6 of the plaint which are reproduced as under:-

> "4. That at the time of engagement and the marriage, the plaintiff gave gifts i.e. engagement diamond ring valuing Rs.80,000/- and gold ornaments weighing 266gm-250mg, amounting to Rs.17,32,488/- at present current rate Rs.6,507/- per gm to the defendant, total amounting to Rs.18,12,188/-, the same are in possession of the defendant. The detail of gold ornaments (bridal gifts) and engagement diamond ring are as under:-

Sr.	Article	Weight	Amount
(i)	One Diamond Ring		80,000/-
(ii)	One Bridal Set, One Kanta Set & One Bangles Set	266gm – 250mg	17,32,488/-
		Total:	18,12,488/-

> 5. That as the defendant herself depart from the plaintiff and choose not to live with the plaintiff as wife and herself demanded the Talaq, having no other option the plaintiff pronounced Talaq to the defendant on 03.10.2018, the same was effected after due process.
> 6. That as the Talaq was pronounced on the demand of the defendant, therefore she was bound to return the benefits taken from the plaintiff but she did not return the gold ornaments i.e. the bridal gifts to the defendant."

5. Section 5 of the Act relates to the jurisdiction of the Family Court which is reproduced as under:-

> "5. Jurisdiction.– Subject to the provisions of the Muslim Family Laws Ordinance, 1961, and the Conciliation Courts Ordinance, 1961, the Family Courts shall have exclusive jurisdiction to entertain, hear and adjudicate upon matters specified in Part I of the Schedule.
> (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the Family Court shall have jurisdiction to try the offences specified in Part II of the Schedule, where one of the spouses is victim of an offence committed by the other.
> (3) The Government may amend the Schedule through addition, deletion or substitution of any entry in the Schedule."

6. The entries contained in the Schedule in Part-I under Section 5 of the Act are reproduced as under:-

1. Dissolution of marriage (including Khula)
2. Dower
3. Maintenance
4. Restitution of conjugal rights
5. Custody of children and visitation rights
6. Guardianship
7. Jactitation of marriage
8. Dowry
9. The personal property and belongings of a wife and a child living with his mother
10. Any other matter arising out of the Nikahnama

7. The jurisdiction of the Family Court is confined to the items listed in the Schedule reproduced above. The right to recover personal property and belongings has been duly conferred to a wife and a child living with his mother. The benefit does not extend to the husband. Notwithstanding the same, item No. 10 is a catch-all item which intends to bring all matters arising out of the *Nikahnama* within the jurisdiction of the Family Court in order to facilitate prompt, just and fair adjudication of all matters *inter se* the family arising in consequence of *Nikah*. Notwithstanding the same, it is incumbent to determine the nature of the claim in terms of its admissibility. As stated above, the Respondent unequivocally admitted specified gifts given to the Petitioner at the time of engagement and marriage and therefore, pivotal question is if

admitted gifts are recoverable. The question was extensively explored by the Supreme Court of Pakistan in case titled, "Muhammad Sajid v. Mst. Shamsa Asghar and others" (**PLD 2025 Supreme Court 461**), wherein, it was held that all property given to the bride as bridal gifts or presents shall absolutely vest in her, barring any adverse claim by the husband or his relatives. This absolute vesting of rights in the bride remains unaffected by any subsequent separation or divorce, thereby, reinforcing her enduring and independent entitlement to such property. The framework of law encapsulated in the Act allows the wife to initiate proceedings for the recovery of property, whether classified as dower, dowry, bridal gifts or presents given to the bride as these items vest absolutely in her as personal property and are recoverable, accordingly. This entitlement does not extend to 'presents' given to the groom or his relatives, as such items do not vest in the bride and therefore, fall outside the scope of 'personal property and belongings of a wife'.

8. It follows from the above that admitted gifted property is not recoverable. Hence, as per the contents of the plaint of the Respondent, admitted gifts were not recoverable. The provisions of the Code of Civil Procedure, 1908 (the "**CPC**") are not applicable to family suits. However, in view of established principle of civil law as encapsulated in Order VII, Rule 11 of the CPC, the suit of the Respondent was barred by law. Therefore, the suit was not maintainable and consequently, beyond the jurisdiction of the Family Court or even the Civil Court since the suit of the Respondent did not contain any other claim. Hence, the impugned Orders are not sustainable.

9. In view of the above, this constitutional Petition is **allowed**; the impugned Orders dated 24.01.2023 and 23.10.2023 are set aside; and in consequence thereof, the suit of the Respondent is dismissed as not maintainable. The Family Court is directed to frame fresh issues with respect to the suit of the Petitioner and proceed further in accordance with law.

(Abid Hussain Chattha)
Judge

Approved for reporting.

Judge

Ahsan