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JUDGMENT SHEET

LAHORE HIGH COURT
RAWALPINDI BENCH RAWALPINDI
JUDICIAL DEPARTMENT

W.P No.930/2023

Farrukh Altaf ***Versus*** Mst. Sadia Anam etc.

J U D G M E N T

Date of Hearing:	08.10.2026
Petitioner by:	Mr. Arif Mehmood, Advocate.
Respondent No.1 by:	Mr. Muhammad Irfan Khan, Advocate.

Anwaar Hussain J: The controversy in this constitutional petition raises a question of wider significance in family litigation: how should a Court assess a disputed claim for dowry articles when the transaction is ordinarily private, the rules of evidence are relaxed, and the claim is supported by an inventory whose contents and alleged delivery are contested? More particularly, whether customary practice, without a satisfactory evidentiary foundation, can sustain recovery of the particular articles claimed.

2. Briefly, the petitioner and respondent No.1 ("**the respondent**") were married in December 2002. Both were also residents of the United States of America ("**USA**") and did not intend to establish their matrimonial residence in Pakistan. The respondent, accompanied by her mother, had arrived in Pakistan shortly before the marriage. The matrimonial relationship subsequently ended through a consent divorce granted by a Court in the USA on 24.12.2008. On 19.06.2012, the respondent instituted proceedings claiming recovery of the dowry articles on the strength of an itemized inventory and certain purchase receipts. The petitioner denied that the articles had been given or

delivered to him or his family, in Pakistan. The Trial Court dismissed the claim, but the Appellate Court below reversed that findings and decreed the recovery of the dowry articles. The petitioner has consequently invoked the constitutional jurisdiction of this Court.

3. Learned counsel for the petitioner contends that the Appellate Court below, through judgment and decree dated 30.11.2022 reversed the well-reasoned judgment of the Trial Court dated 03.10.2022, while treating the customary practice of giving the dowry as sufficient proof of the disputed inventory, without examining the peculiar circumstances of the marriage, the reliability of the receipts, issued in the name of different persons and issued from different districts, and the material discrepancies in the testimony of the respondent's mother, who appeared as special attorney (PW-1). Conversely, learned counsel for the respondent supports the impugned appellate judgment, submitting that the dowry is a customary family arrangement, ordinarily undertaken without formal documentation, and that strict proof of individual purchases or delivery cannot be insisted upon in family proceedings.

4. Arguments heard. Record perused.

5. The starting point is the character of the transaction. The dowry articles are ordinarily acquired and given within the privacy of family arrangements. Such transactions are seldom accompanied by the formal inventories, acknowledgments of delivery or systematic preservation of the purchase receipts. The Courts must therefore remain sensitive to the social realities in which these arrangements take place. Insistence upon the formal standards of a commercial transaction could unjustly defeat genuine claims. Equally, judicial recognition of a custom, of giving the dowry, cannot relieve the claimant of establishing the giving of articles sought to be recovered.

The custom may explain why the dowry was given; it cannot, without supporting evidence, establish what was given.

6. Section 17 of the Family Courts Act, 1964 ("**the Act**") excludes the strict application of the ordinary rules of evidence, subject to the exceptions provided therein. The object is to facilitate the expeditious adjudication of the family disputes, not to authorize decisions founded upon conjecture. Credible oral testimony may establish a dowry claim without purchase receipts or formal acknowledgment of the delivery. But the Court must still determine whether the oral testimony and surrounding circumstances reasonably establish the particular articles claimed, their delivery and the basis of the relief sought. The law relaxes the rules of proof in family proceedings; it does not dispense with the need for proof.

7. The distinction is illustrated by the Supreme Court of Pakistan, in the case reported as *Shafique Sultan v. Mst. Asma Firdous and others* **(2017 SCMR 393)**. The Court recognized the customary practice of giving the dowry and rejected an unduly technical insistence upon documentary proof. Significantly, however, the wife in that case had herself testified, her material evidence remained unshaken in cross-examination, and delivery was supported by the corroborative testimony. The decision did not elevate custom into conclusive proof of an inventory; rather, it recognized the sufficiency of credible evidence assessed in the light of the ordinary social practice. The distinction is important because flexibility in the admissibility and manner of proof must not be confused with unquestioning acceptance of the claim.

8. In this context, the following considerations may be used as guidelines, without constituting an exhaustive or inflexible formula:

(i) The articles claimed should be identified with reasonable particularity so that their existence, delivery and value

can meaningfully be examined. A bare aggregate monetary figure, unsupported by intelligible particulars or a reasonable basis of assessment, cannot ordinarily suffice.

(ii) Customary practice, the financial circumstances of the family and the nature of the marriage arrangements are relevant to the probability. They may support credible testimony, but cannot independently establish every article included in an inventory.

(iii) The origin of an inventory, the time and circumstances of its preparation and the source of its particulars bear upon its reliability. Ordinary human conduct is relevant in this assessment. While receipts for jewellery, electrical appliances or other valuable articles like furniture may be retained for warranties or future reference, the preservation of the receipts for everyday articles like crockery and kitchen utensils over many years is less usual. Where an inventory reproduces precise historical prices of numerous such every day articles after a substantial interval, the Court may reasonably examine the explanation for that precision and preservation, without treating either circumstance as conclusive evidence against the claim.

(iv) Purchase receipts are not indispensable, nor must they invariably bear the bride's or her parents' name. Where produced, however, their dates, contents, purchasers and correspondence with the articles claimed require examination.

(v) Purchase and delivery are distinct factual matters. Where substantial furniture, electrical appliances or other

heavy/bulky articles are alleged to have been delivered, the mode of transportation, place of delivery, identity of the recipient and circumstances of handing over may provide material corroboration. Formal transport documents or acknowledgments are not indispensable, but the absence of a satisfactory account of delivery may assume significance where possession is specifically denied. The inquiry is whether delivery is credibly established, not whether a prescribed form of documentation was maintained.

(vi) The testimony of a witness must be evaluated with reference to the personal knowledge, consistency and material contradictions. An attorney may competently testify to matters personally undertaken or witnessed, but the authority to represent a party does not itself establish facts exclusively within that party's knowledge.

(vii) The intended matrimonial residence, duration of the matrimonial life, nature of the articles, subsequent dealings between the parties and any material interval before seeking recovery may bear upon the probabilities. None creates an automatic presumption against the claimant; their significance depends upon the explanation offered and the evidence as a whole.

(viii) The Court(s) should distinguish between the articles satisfactorily established and those not proved, rather than mechanically accepting or rejecting an entire inventory. Where monetary compensation is awarded in lieu of return, valuation must rest upon a rational basis, having regard, where appropriate, to the nature, age, condition and use of the articles.

These considerations are intended to help and assist judicial evaluation, not to introduce technical requirements through the back door of Section 17 of the Act. The ultimate inquiry is one of evidentiary sufficiency. A genuine claim must not fail merely because a family did not preserve receipts; equally, the production of a detailed list or a set of receipts cannot dispense with examination of their connection to the articles allegedly delivered. The Court must assess the claim as a whole, without converting either customary practice or documentary precision into an irrebuttable presumption.

9. Tested against these principles, the present claim required particular scrutiny. The parties were settled in the USA and did not contemplate establishing a matrimonial household in Pakistan. This circumstance did not make the giving of the dowry impossible, for articles could have been acquired and delivered to the petitioner's family notwithstanding the parties' residence abroad. It did, however, make the nature, intended use and alleged place of delivery of substantial household articles relevant. The inventory included articles of ordinary domestic use, while the receipts relied upon originated from different places, were issued in the names of relatives and, in certain instances, bore dates several months before the marriage. None of these features was inherently discrediting. What required examination was whether the evidence established their connection with their alleged delivery to the petitioner or his family.

10. The chronology also bears upon the evidentiary assessment. The marriage took place in December 2002 and subsisted until the consent divorce of 24.12.2008, in the USA. The respondent instituted the dowry claim on 19.06.2012, approximately three years and five months thereafter. Neither the foreign decree nor the intervening period, by itself, defeats the claim. Nor is this Court deciding whether the decree had any preclusive effect or whether the claim was barred by limitation. Nevertheless, where household articles are alleged to

have remained in Pakistan throughout a matrimonial relationship conducted abroad and for a considerable period following its dissolution, the parties' subsequent dealings, any demands for return and the explanation for continued retention are relevant to the credibility of the assertion. Delay is not abandonment; but neither is the passage of time necessarily devoid of evidentiary significance. Nothing has been brought on record to establish when the recovery was demanded and when it was refused and why the respondent failed to lay a prompt claim after dissolution of marriage on 19.06.2012.

11. Moreover, the respondent did not herself enter the witness-box and instead produced her mother as special attorney (PW-1). Such representation is permissible and does not, without more, justify rejection of the claim. The difficulty lies in the evidentiary worth of the testimony actually given. During cross-examination, PW-1 was unable to state the exact date of her arrival in Pakistan and disclosed material uncertainty regarding the circumstances and timing of the alleged delivery of the articles. These matters were not peripheral: delivery was the central fact disputed by the petitioner. The present case is consequently distinguishable from the case of *Shafique Sultan supra*, where the wife's own testimony remained materially unshaken and was supported by evidence of delivery. The testimony of PW-1 was required to be assessed for what she personally knew and could reliably establish, rather than treated as equivalent to proof of every assertion contained in the inventory. Moreover, unlike case of *Shafique Sultan supra*, no supporting witness was produced by the respondent.

12. The evidentiary deficiencies must be considered cumulatively. Permanent residence abroad, the receipts issued in relatives' names, purchases made much before marriage in the absence of the and/or her parents from places other than their ordinary residence in Pakistan, delayed institution of the recovery proceedings and representation through an attorney are not, individually, grounds for rejecting

a dowry claim. Yet their combined significance cannot be ignored where the very acquisition, delivery and retention of the articles are denied. The Trial Court declined the claim upon its appraisal of the evidence. The Appellate Court below, in reversing that conclusion, was required to address the material circumstances bearing upon the reliability of the inventory and the alleged delivery. A general reliance upon the customary practice of giving dowry could not substitute for that exercise.

13. This Court is conscious of the restricted scope of constitutional jurisdiction in family matters, as reiterated by the Supreme Court in cases reported as *Fozia Mazhar v. Additional District Judge, Jhang and others* **(PLD 2024 SC 771)** and *Syed Raheel Ahmed v. Mst. Syeda Zona Naqvi and others* **(PLD 2024 SC 902)**. Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 cannot be employed as a second appeal merely because another appreciation of the evidence is possible. Nevertheless, the constitutional restraint does not protect findings founded upon material non-reading or misreading of evidence, erroneous assumptions of fact or a legally unsustainable approach to the controversy. Although the Appellate Court below was competent to reappraise the evidence, its reversal had to rest upon a reasoned evaluation of the material facts. Its failure to confront the circumstances central to the acquisition, delivery and retention of the dowry articles, while according decisive weight to the customary practice, constituted a legally material defect in the appellate determination.

14. This Court is of the considered view that the underlying object of the law is neither to impose an unrealistic burden upon women seeking recovery of their dowry articles nor to treat every asserted inventory as established merely because such articles are ordinarily given at marriage. Justice requires a principled assessment of the evidence actually available. In the present case, the material uncertainties concerning delivery, the deficiencies in PW-1’s

testimony and the surrounding matrimonial circumstances, considered together, sustain the Trial Court's conclusion. The reversal of the Appellate Court below, without adequately addressing these matters, cannot be maintained.

15. Consequently, this constitutional petition is **allowed**. The judgment and decree of the Appellate Court below dated 30.11.2022, to the extent of recovery of dowry articles, are set aside, and the judgment and decree of the Trial Court dismissing that claim are restored. No order as to costs.

(**ANWAAR HUSSAIN**)
JUDGE

Approved for reporting.

Judge

Announced in Open Court and,
dictated on the same date, however,
finalized on 24.10.2026.

Akram