

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No.281 of 2018

Smt. Shweta Yadav, W/o Shivkumar Yadav, Aged About 25 Years, R/o
Karmachari Nagar, Qtr. No. A/10, Police Station Mohan Nagar, Tahsil
And District Durg Chhattisgarh **----Appellant**

Versus

Shiv Kumar Yadav, S/o Mulchand Yadav, Aged About 32 Years, R/o
House No. H-2, Sadak 16, Sector 02, Police Station Sector 06, Kotwali
(Bhilai Nagar) Tahsil And District Durg Chhattisgarh **--- Respondent**

For Appellant	:	Mr. Sanjay Patel, Advocate
For Respondent	:	None for other respondent though served

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board by Manindra Mohan Shrivastava, J.

14/10/2019

Heard.

1. This appeal is directed against order dated 16.10.2018 passed by learned First Additional Principal Judge, Family Court, Durg by which, the plaintiff's application for return of *Stridhan* has been partly decreed.
2. The appellant moved an application under Section 27 of the Hindu Marriage Act seeking a decree of return of *Stridhan*, the gift and other articles which according to the plaintiff's pleadings were given at the time of her marriage, by her father.
3. According to the pleadings of the plaint, marriage between the appellant and respondent was solemnized on 25.02.2011 at Durg. After three days, a dispute arose and on the allegation of demand of dowry, an FIR was lodged leading to registration of a criminal case for alleged commission of offence under Section 498-A of IPC. Later on, the appellant demanded return of *Stridhan* which has not returned leading to filing of application for returning enlisted items as shown in Annexure A/10-C of the list submitted by the appellant before the Court below. In support of her case, the appellant

produced various bills of purchases and a list Ex.P/10 of the gift article. In order to prove its case, the appellant examined herself as PW1. She also examined her mother Smt. Gayatri Yadu as appellant witness No.2. Respondent examined himself only as the sole defendant witness.

4. Learned Trial Court, after scrutiny of oral and documentary evidence on record, came to the conclusion that the appellant succeeded in proving gift of only two articles, namely a motorcycle and a double bed. As far as claim of other articles are concerned, learned Trial Court rejected the same holding that the appellant failed to lead clinching evidence in respect of those articles. This led to filing this appeal.

5. Learned counsel for the appellant would submit that learned Trial Court erred in not giving due weight to jointly signed list of gifted articles as contained in Ex.P/10-C. He would argue that this list was prepared a day before solemnization of marriage and it contains the list of as many as 31 items of gift which were gifted at the time of solemnization of marriage. Learned counsel for the appellant would further argue that this list contains the name of respective father of the parties and witnesses also which has not been substantially disputed by respondent husband therefore, the trial Court ought to have acted upon the same and placing reliance, ordered for return of entire *Stridhan* items. He would further argue that number of bills of purchases of clothes, jewelery were submitted before the Court below but learned Court below on trivial and insignificant discrepancies has disbelieved those bills.

6. I have heard learned counsel for the appellant and gone through the record.

7. As we see from the impugned judgment, particularly para 14 & 15 thereof, learned Family Court has minutely scrutinized the evidence led by the appellant, particularly documentary evidence. List Ex.P/10-C is said to be the list of articles gifted during marriage. However, we find that on bare perusal, it appears to be prepared in three different handwriting. Who prepared the document has not been proved. Moreover, we also find that the document appears to be more in the nature of a self-serving document because it does not bear signature of the father of the husband, though, his name has been written on the document. Neither Ashok Kumar Yadu, father of the appellant, who is said to have signed this document has been examined to prove execution of the document nor any of the witnesses named in that document

has been examined. The respondent husband has not admitted execution of this document. The document does not contain signature of his father but only his name. Therefore, list Ex.P/10 hardly constitutes a legally admissible evidence which could be made a basis to grant relief in favour of the appellant. The other bills of purchases which has been placed before the Court below have been partly accepted and partly rejected. As far as purchases and gift of motorcycle and double bed is concerned, the same has been admitted by respondent husband which has been directed to be returned to the appellant as a *Stridhan*. However, all other articles in respect of which bills of purchases has been produced have been found doubtful by the Court below mainly on the ground it contains overwriting with regard to the date, not containing the name of purchaser and the shop wherefrom purchases were made and also such documents of purchases which are of a date more than one year after the marriage. Therefore, the finding of the learned Family Court in this regard does not appear to be illegal, improper, warranting any interference.

8. Therefore, in view of the above, we do not find any good ground to interfere with the impugned judgment and decree. The appeal is, therefore, dismissed.

9. Let appellate decree be drawn accordingly.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge