

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FA(MAT) No. 77 of 2019**

- Deepak Das S/o. Late Shri Jagdish Das Aged About 30 Years Caste Panika, R/o Purani Basti Sitapur, District-Surguja Chhattisgarh

---- Appellant**Versus**

- Smt. Anisha Das W/o. Shri Deepak Das Aged About 24 Years Caste- Painka, R/o Kenabandh Ward No.21 Ambikapur P.S. & Tehsil - Ambikapur, District-Surguja Chhattisgarh

---- Respondent

For Appellant	:	Shri Shakti Raj Sinha, Advocate
For Respondent	:	Shri Sunil Tripathi, Advocate

D.B.:- Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board**28/01/2020**

This appeal is directed against impugned order dated 30/10/2019 by which, the application of respondent / wife for return of 'Stridhan' has been allowed by the Family Court.

2. The respondent / wife moved an application under Section 27 of the Hindu Marriage Act before the Family Court for return of 'Stridhan' on the pleadings that the parties had married on 26/05/2016 and at the time of marriage, various gifts were given to the respondent / wife as mentioned in schedule – A appended to the application. The allegation of the respondent / wife was that all those items listed in the schedule were those gifts, which were given to her at the time of marriage, by her mother, father, uncle, aunty and other relations which the husband and his

family members are still keeping in their possession. The application was opposed by the appellant / husband by submitting that no items, as stated in the application, were gifted to the wife at the time of marriage. He came out with the pleadings in para 3 of his reply that various gold and silver ornaments were gifted to the wife by his sister.

3. After framing issues, learned Trial Court allowed the parties to lead oral and documentary evidence. The respondent / wife, apart from her oral evidence that the gift articles stated in the schedule were given to her at the time of her marriage by her parents, she filed various receipts in Ex.P/1 to Ex.P/12 in support of her case that these gift items were purchased by her husband. The appellant / husband also led his own evidence.

Learned Trial Court, relying upon the evidence of the wife and also relying upon various documents of purchase, allowed the application against which, this appeal has been preferred.

4. Learned counsel for the appellant would argue that once the appellant had denied all the averments made in the application filed by the wife that any items mentioned in schedule appended to the application were gifted by the parents or relatives of the wife at the time of marriage, it was the burden on the respondent that these articles were purchased by the wife or her parents or their relatives. He would submit that most of the bills i.e. from Ex.P/1 to Ex.P/12, neither bear any name nor any specific detail of purchase made by any other members of the family or any other person. It is also submitted that the evidence of his wife in this regard is vague and she has not stated as to which particular gift was given to her by which of the relatives.

5. Therefore, it is submitted that the learned Court below, only on presentation

of unnamed bills, which also contained interpolation with regard to dates, has mechanically allowed the application in respect of all the items.

6. Learned counsel for the respondent, on the other hand, would submit that the order was passed by the Trial Court, not only on the basis of oral evidence led by the respondent / wife but also on the basis that she has produced number of bills in original. It is also submitted that even in many of the bills, name of purchaser has been mentioned. The very fact that these original bills were produced by the respondent / wife before the Court, on preponderance of probability, learned Trial Court was right in holding that these gift articles were actually gifted to the respondent / wife by her parents and her relatives at the time of marriage and rightly treated to be *Stridhan*.

7. We have heard learned counsel for the parties and perused the records.

8. In the application under Section 27 of the Hindu Marriage Act, the respondent / wife has stated that the marriage was solemnized on 26/05/2016 whereas the appellant / husband has stated that the marriage was solemnized on 26/05/2015. The respondent / wife in her evidence has also stated that marriage was solemnized on 26/05/2016. According to the husband, their marriage was solemnized on 26/05/2015.

9. Certified copy of judgment dated 10/08/2017 passed in Civil Suit No.17-A/17 passed by the Family Court, Ambikapur in the matter of dispute between the parties has been presented, in which, the date of marriage between the parties is stated to be 26/05/2015. By the aforesaid order, decree of divorce on the basis of mutual consent has been passed by the learned Family Court on 10/08/2017. The decree clearly states that the marriage solemnized on 26/05/2015 is dissolved. None of the parties have challenged the aforesaid judgment and decree. Therefore, we have to

hold that the version of the appellant that the marriage was solemnized on 26/05/2015 deserves to be accepted and that of the wife that the marriage was solemnized on 26/05/2016 is liable to be rejected.

10. In her evidence, the respondent /wife has deposed that at the time of her marriage, number of gift items as enlisted in schedule-A were gifted. She has further deposed that these articles were purchased by her parents and in support thereof, she has produced receipts Ex.P/2 to Ex.P/12. In her cross-examination, however, she admits that in receipt Ex.P/2, name of the purchaser or name of shop is not mentioned, in receipt Ex.P/3, name of purchaser is not mentioned. In Ex.P/3, Ex.P/4, Ex.P/7 and Ex.P/8, name of purchaser is not mentioned. She also admits that in the list, Ex.P/1, there is no signature of mother, father or sister of the husband.

11. We have perused the bills Ex.P/1 to Ex.P/12. Out of these bills, in one bill dated 25/05/2015 (Ex.P/3), name of one Deepa found mentioned. However, in the evidence, it has nowhere been stated as to relationship of the respondent / wife with Deepa. In the evidence, the respondent has not stated that she received the articles stated in Ex.P/3 from one Deepa, either relative or a friend, at the time of marriage. In another bill Ex.P/4 dated 25/05/2015, we find that the bill, in original, has been issued in the name of respondent / wife – Anisha. In another bill dated 25/05/2015 Ex.P/5 also, we find that the name of respondent / Anisha has been mentioned as the purchaser. In bill Ex.P/6, name of one Santosh Singh has been mentioned but in the evidence, there is nothing to show that Santosh Singh is either related to respondent / wife or he was a friend or close associate of the family who gifted those items stated in Ex.P/6 to respondent / wife at the time of marriage. Said Santosh has also not been examined. All other bills from Ex.P/7 to Ex.P/12 do not bear any name of purchaser.

12. We also find that on the suggestion given from the side of the wife, the appellant / husband has accepted that in the divorce case, the respondent / wife had submitted an application for return of 'Stridhan', which was rejected and further that the application was rejected on the basis of mutual consent. We, however, do not find any documentary evidence on record in support of that statement. Moreover, no suggestion has been given to the respondent / wife in her evidence.

13. Therefore, upon consideration of the aforesaid material on record, we find that except articles stated in Ex.P/4 and Ex.P/5, the respondent / wife failed to prove that the other articles were gifted to her at the time of marriage by her parents and relatives.

14. In the result, the appeal is allowed in part. The order of the Family Court, to the extent it directs return of Stridhan, other than those stated in Ex.P/4 and Ex.P/5 is set aside. However, the gift items shown to be purchased vide Ex.P/4 and Ex.P/5 shall be returned to the respondent / wife as her Stridhan. The impugned decree is accordingly modified only to the said extent. Let appellate decree be accordingly drawn.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge