

HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 57 of 2018**

- Manisha Gupta, D/o Shri Radheshyam Gupta, Aged About 26 Years, R/o Near Nagorao Shesh School, In front of Rajesh Kirana Store, Juna Bilaspur, Tahsil & District Bilaspur, Chhattisgarh.

---- Appellant**Versus**

- Ganesh Prasad Gupta, S/o Shri Banshi Lal Gupta, Aged About 33 Years, R/o Seepat Chowk, Sarkanda, Jai Durga Hardware & Paints Sarkanda, Bilaspur, Tahsil & District Bilaspur, Chhattisgarh.

---- Respondent

For Appellant : Shri Anand Kumar Gupta, Advocate.

For Respondent : Shri Brijesh Singh, Advocate.

**Hon'ble Shri Justice P. Sam Koshy, Judge &
Hon'ble Smt. Justice Rajani Dubey, Judge**

Order on Board**12/11/2021****Per : Hon'ble Smt. Justice Rajani Dubey, Judge**

1. Heard.
2. Being aggrieved by the impugned judgment dated 15.12.2017 passed by the learned Family Court, Bilaspur, District- Bilaspur (C.G.) in Civil M.J.C. No. 27/2014, whereby learned Family Court partly decreed the suit in favour of the appellant. The appellant has filed an application u/s 27 of the Hindu Marriage Act, 1955 for return of dowry articles, gift item Stridhan and expenditure of the marriage.
3. Brief facts of the case are that the marriage of the appellant/wife and respondent was solemnized on 26.06.2009 as per the Hindu rites and rituals which was dissolved by the Family Court in Civil Suit No. 378-A/2011 vide judgment and decreed dated 25.02.2014. As per the pleadings of the appellant/wife, the articles which she has received

from her father, was in possession of the respondent and the husband/respondent has not returned the said articles. Appellant has also sent legal notice to the respondent to return the said articles but in his reply, respondent has denied his possession of the articles and that the appellant has taken away all the articles with her. The appellant also produced list of articles in the divorce case wherein the respondent gave his consent for return of amount spent of marriage and learned Family Court has directed the parties to remain present with their parents but the respondent was not present before the Court. Thereafter, appellant/wife has filed an application for return of 'Stridhan' and enclosed the list of 'Stridhan' with her plaint.

4. In his reply, the respondent/husband denied all the allegations levelled against him and stated that the appellant has performed second marriage with her ex-lover Ganesh Gupta and is residing with him. At present, the respondent is not having any possession of the said articles and she has taken away all the articles with her, and the expenses which were borne by the appellant's father for which she herself is responsible. Respondent has also raised objection about the maintainability of the application U/s 27 of the Hindu Marriage Act, because of the reason that as per judgment and decree dated 25.02.2014 in Civil Suit No. 378-A/2011, finding was recorded.
5. After appreciating the oral and documentary evidence on record, learned trial court by the impugned order dated 15.12.2017 has partly allowed the application of the appellant. Hence, this appeal filed by the appellant/wife.
6. Learned counsel for the appellant submits that the judgment and decree passed by the trial court is bad in the eye of law. There is no rebuttal in cross-examination of the appellant about payment of

Stridhan. Learned Family Court wrongly held that some of the articles are not for joint use, whereas even if the appellant uses the articles separately which have been given to her at the time of marriage it comes under the definition of Stridhan. Learned Family Court ought to have returned all the articles which has been given at the time of marriage even if receipt of the articles is not with the appellant.

7. On the other hand, Learned counsel appearing for the respondent has supported the impugned judgment.
8. Heard counsel for both the parties and perused the material available on record.
9. The Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985 Rule 2 provides as under:-

2. Rules in accordance with which lists of presents are to be maintained.-

(1) The list of presents which are given at the time of marriage to the bride shall be maintained by the bride.

(2) The list of presents which are given at the time of marriage to the bridegroom shall be maintained by the bridegroom.

(3) Every list of presents referred to in sub-rule (1) or sub-rule (2)-

(a) shall be prepared at the time of the marriage or as soon as possible after the marriage,

(b) shall be in writing,

(c) shall contain, -

(i) a brief description of each present;

(ii) the approximate value of the present;

(iii) the name of the person who has given the present; and

(iv) where the person giving the present is related to the bride or bridegroom, a description of such relationship;

(d) shall be signed by both the bride and the bridegroom.

(4) The bride or the bridegroom may, if she or he so desires, obtain on either or both of the lists referred to in sub-rule (1) or sub-rule (2) the signature or signatures of any other person or persons present at the time of the marriage.

According to this Rule, signature of the bride and bridegroom is mandatory in the list of articles and learned trial Court has rightly found that there is no signature in the receipt of the articles given by the appellant.

10. Learned trial court has found only the receipt of articles (Ex.P/11) in which signature of seller, date and value of articles are clearly mentioned and except in Ex.P/11 there is proof against the respondent/husband. Learned trial court has directed that the appellant shall be entitled for one LG T.V. worth Rs. 6,700/-, one LG Fridge worth Rs. 8,400/-, one washing machine worth Rs. 7,100/- or the total amount to be received in lieu of the said property is 22,200/- from the husband/respondent. In other receipts, there is no signature or date and, therefore, the trial court disbelieved all other receipts.

11. Considering the facts and circumstances of the case and the evidence available on record, this Court finds that the impugned judgment and decree passed by the learned Family Court is based on proper appreciation of oral and documentary evidence and does not call for interference. Hence, the appeal is liable to be and is hereby dismissed.

Sd/-
(P. Sam Koshy)
Judge

Sd/-
(Rajani Dubey)
Judge