

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1409 OF 2022

AYESHA HUMERA W/O. SHAIKH ASLAM
VERSUS
SHAIKH ASLAM S/O. SK. NAZIR AND OTHERS

...
Advocate for Petitioner : Mr. G. R. Syed
Advocate for Respondents : Mr. A. S. Tilve
...

CORAM : R.M. JOSHI, J

DATE : JUNE 20, 2023

PER COURT :

1. This Petition takes exception to the part of the order dated 29th June, 2016 to the extent that prayer for return of ornaments of the Petitioner is rejected by the learned trial Court.

2. Learned Counsel for the Petitioner states that in the matrimonial proceedings often examination of the shop keeper from whom gold ornaments were purchased is not seen. According to him, list of articles which was exchanged at the time of marriage is duly proved which shows that Petitioner received ornaments in marriage. According to him, on the basis of this evidence, learned trial Court ought to have passed order of return of gold ornaments to the Petitioner.

3. Learned Counsel for the Respondents states that in absence of the proof of the fact that any ornaments were purchased by the Petitioner, Application for return thereof could not have been allowed. He further contends that in fact Petitioner had taken all her ornaments from her matrimonial home.

4. Perusal of the order passed by the learned trial Court shows that though the receipts of purchase of the gold ornaments were produced along with list Exh. 30, however, those documents are not proved in accordance with law. Needless to say that those receipts are proved only by the shop keeper. Unless these documents are admitted by the other side, it is duty of the party who is placing reliance on the same to prove it as provided by Evidence Act. It is further seen that there is no evidence to show which documents were wore by Petitioner at time of marriage.

5. In view of above discussion, this Court finds no perversity in the order passed by the learned trial Court. Hence, Petition stands dismissed.

(R.M. JOSHI, J.)