

IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA

Constitution Petition No. S-320 of 2025.

Before:
Mr. Justice Ali Haider 'Ada'.

Petitioner : Mst. Razia Parveen daughter of Abdul Razzak Junejo, *through* Mr. Abid Hussain Abro, Advocate.

Respondent : Fawad Maqbool son of Maqbool Ahmed, Soomro, *through* Mr. Rafique Ahmed K.Abro, Advocate.

Mr. Saeed Akbar Siyal, Assistant A.G.

Date of Hearing : 14.09.2026
Date of Order : 14.09.2026.

ORDER

Ali Haider 'Ada' J.- Through this petition, the petitioner/wife has assailed the judgment and decree dated 05.08.2025, passed by the learned Additional District Judge-V, Shikarpur (Appellate Court), whereby her claim for recovery of dower and dowry articles, which had earlier been decreed by the learned Family Judge, Shikarpur (Trial Court), was declined.

2. The crux of the matter is that the petitioner/wife instituted a suit for recovery of dower comprising two tolas of gold ornaments and dowry articles, the latter having been mentioned in the list annexed as Schedule-A. The petitioner claimed that she was entitled to recovery of the dower, particularly after issuance of the divorce deed, as the respondent/husband was under an obligation to pay the dower. According to the petitioner, the Nikahnama specifically provided that the dower was payable at the first night of marriage; however, the same was not paid to her. The respondent/husband

filed his written statement and, after framing of issues, both parties led their respective evidence. The learned trial Court, after recording evidence, decreed the suit in favour of the petitioner/wife. The respondent/husband challenged the said judgment and decree before the learned Appellate Court, which, however, set aside the judgment and decree of the trial Court and dismissed the claim of the petitioner. Being aggrieved by the findings recorded by the learned Appellate Court, the petitioner has preferred the present petition.

3. Learned counsel for the petitioner mainly contended that the learned trial Court, after proper appraisal of the entire evidence, passed a detailed judgment by considering and determining all the issues. He submitted that the learned trial Court had duly considered the cogent evidence produced by the petitioner; however, the learned Appellate Court, without assigning any legally sustainable reasoning, dismissed the claim principally on the ground that, in our society, women have an inordinate passion for gold ornaments and, owing to such attachment, they ordinarily keep their ornaments in their own custody. He contended that such finding is contrary to the evidence available on record and is based merely upon presumptions and assumptions rather than any evidence. He further submitted that the learned Appellate Court itself acknowledged the prevailing circumstances of the area, yet, once the petitioner had asserted that she was deprived of her ornaments, such presumption could not have been treated as sufficient to non-suit her. He, therefore, prayed that the impugned judgment and decree of the learned Appellate Court be set aside and the judgment and decree passed by the learned trial Court be restored.

4. Conversely, learned counsel for the respondent/husband submitted that the list of dowry articles was produced without any supporting receipts or other documentary evidence and that the

dower had already been paid to the petitioner at the time of the first night of marriage. He further submitted that although the divorce deed was admitted, the divorce was granted on account of the petitioner being a disobedient wife. He contended that the learned trial Court had recorded its findings without proper appraisal of the entire evidence. He supported the impugned judgment of the learned Appellate Court on the ground that there is a general presumption that a woman keeps her ornaments in her own custody and, even while leaving the matrimonial home, ordinarily takes her personal belongings, including gold ornaments, with her. So far as the dowry articles are concerned, he submitted that the same were already in the possession of the petitioner.

5. On the other hand, learned Assistant Advocate General, Sindh, did not support the findings recorded by the learned Appellate Court and submitted that the same are not founded upon the material available on record but are based merely on presumption and assumption adopted by the learned Appellate Court for arriving at its conclusion. He contended that such presumption cannot form the basis of a judicial verdict in the absence of supporting evidence. He, therefore, supported the judgment and decree passed by the learned trial Court rather than the impugned judgment and decree of the learned Appellate Court.

6. Heard and perused the material available on record.

7. The learned trial Court recorded its findings on the issues framed before it, namely, whether the Haq Mehr was payable on demand or at the first night of marriage; whether the defendant/respondent had paid the Haq Mehr to the plaintiff/petitioner; whether the plaintiff/petitioner was entitled to recovery of the dowry articles mentioned in the list; and whether the

said dowry articles had already been taken away by the petitioner/plaintiff.

8. On this aspect, a perusal of the evidence reveals that the petitioner/wife categorically deposed that the dower had not been paid to her. Conversely, the respondent/defendant, while appearing in cross-examination, admitted that the dower was fixed at two tolas of gold, though he asserted that the same had already been paid. The Nikahnama, however, reflects that the said dower was payable at the first night of marriage. Thus, the burden lay upon the respondent to establish that the admitted dower had in fact been paid. In this regard, the evidence of the mother of the respondent does not provide any independent corroboration, as she merely stated that the dower had been paid. Likewise, the sister of the respondent also simply asserted that the dower had been paid, without disclosing any particulars or circumstances in which such payment was allegedly made.

9. It is also relevant to note that **Section 10 of the Muslim Family Laws Ordinance, 1961** provides that where no details regarding the mode of payment of dower are specified in the Nikahnama or marriage contract, the entire amount of dower shall be presumed to be payable on demand. In the present case, however, the question before the Court was whether the dower was payable, as its fixation at two tolas of gold is admitted, but whether the respondent had succeeded in proving its actual payment. In the circumstances, a mere assertion by the respondent and his close family members, without any independent or convincing corroboration, could not by itself be treated as sufficient proof of discharge of the admitted liability, particularly when the petitioner had consistently maintained that the dower remained unpaid.

10. A plain reading of the above provision makes it clear that where no details regarding the mode of payment of dower are

specified in the Nikahnama or marriage contract, the entire amount of dower is presumed to be payable on demand. In the present case, the mode and time of payment are reflected in the Nikahnama, whereas the respondent has failed to establish through reliable and convincing evidence that the admitted dower of two tolas of gold had actually been paid to the petitioner. The learned trial Court, therefore, rightly appreciated the evidence available on record and concluded that the petitioner was entitled to recover the dower.

11. So far as the claim regarding dowry articles is concerned, the expression **“dowry” has been defined under Section 2(b) of the Dowry and Bridal Gifts (Restriction) Act, 1976**. For ready reference, the relevant provision reads as under:—

2 (b) 'dowry' means any property given before, at or after the marriage either directly or indirectly, to the bride by her parents in connection with the marriage but it does not include property which the bride may inherit under the laws of inheritance and succession applicable to her;

12. At this juncture, it is quite clear that it is not necessary for the petitioner to explain each and every detail of the dowry articles beyond what has already been placed on record. The petitioner appeared as a witness and furnished the details of the dowry articles through her affidavit, which formed part of the record. She was subjected to lengthy cross-examination; however, nothing material or fruitful could be elicited to discredit her version. The contention of the Respondent, nevertheless, declined her claim principally on the ground that no receipts regarding the purchase of the dowry articles had been produced. Such approach, in the circumstances of the case, is not sustainable, particularly when the respondent himself admitted during his evidence that: “It is correct to suggest that parents of the plaintiff gave dowry articles to the plaintiff at the time of marriage and the same were brought to the house of the defendant one day prior to the marriage.” The said

admission substantially corroborates the petitioner's claim regarding the bringing of dowry articles to the matrimonial home. Therefore, mere non-production of receipts cannot, by itself, be made a ground to disentitle the petitioner from recovery of the dowry articles, particularly when their existence and delivery to the matrimonial home stand admitted by the respondent. In this regard, reliance may be placed upon **Shafique Sultan v. Mst. Asma Firdous and others, 2017 SCMR 393.**

13. So far as the dower is concerned, it is a settled principle that deferred dower becomes payable upon dissolution of marriage. In the present case, the marriage between the parties stood dissolved, while the respondent failed to establish that the dower amount had been paid to the petitioner. The petitioner consistently maintained that the dower remained unpaid. The petitioner was, therefore, rightly held entitled to recovery of the dower. Reliance in this regard is placed upon **Mehnaz Saleem and another v. Kashif Iqbal and others, 2026 YLR 1338.**

14. Likewise, the learned trial Court, while determining the claim regarding dowry articles, rightly considered the valuation mentioned in the list furnished by the petitioner. Where the dowry articles are not returned or their recovery in specie is not possible, the amount corresponding to the value of such articles, as established from the record, may be awarded. The learned trial Court, therefore, committed no illegality in directing payment of the value of the dowry articles which were not returned to the petitioner. Reliance in this regard is placed upon **Shafaqat Ali v. Mst. Zaib-ul-Nisa and others, 2026 SCMR 494.**

15. For the foregoing reasons and keeping in view the facts and circumstances of the case, this Constitution Petition is allowed. The impugned judgment and decree dated 05.08.2025 passed by the learned Additional District Judge-V, Shikarpur (Appellate Court), is

hereby set aside, while the judgment and decree dated 14.05.2025 passed by the learned Family Judge, Shikarpur (Trial Court), is restored and maintained. The parties shall bear their own costs.

JUDGE