

**SUPREME COURT OF AZAD JAMMU AND KASHMIR**

[Shariat Appellate Jurisdiction]

**PRESENT:**

Raja Saeed Akram Khan, CJ.

Civil PLA No.199 of 2020

(Filed on 28.09.2020)

Suleman Khan son of Ghulam Nabi, Caste Jatt r/o Siakh  
Mohra Aghro, Tehsil Dudyal, District Mirpur.

.....PETITIONER

VERSUS

Shahnaz Begum d/o Muhammad Alam r/o Mohra  
Agharu Siakh, Tehsil Dudyal, District Mirpur.

..... RESPONDENTS

[On appeal from the judgment of the Shariat Appellate  
Bench of the High Court dated 02.09.2020 in Appeal  
No.84/2018]

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FOR THE PETITIONER: Mr. Muhammad Younas  
Tahir, Advocate.

FOR THE RESPONDENT: Mr. Reaz Ahmed Alam,  
Advocate.

Date of hearing: 17.06.2021

**ORDER**

**Raja Saeed Akram Khan, CJ**– The captioned petition  
for leave to appeal has arisen out of the judgment of  
the Shariat Appellate Bench of the High Court (High  
Court) dated 02.09.2020, whereby the appeal filed by  
the petitioner, herein, has been dismissed.

2. The petitioner and respondent were husband and wife. Their marriage was solemnized on 18.05.1990 in lieu of prompt dower of Rs.150/- and deferred dower in shape of 34 tola and 6 masha gold. The petitioner, herein, divorced the respondent through written deed on 08.02.2017. Thereafter, the plaintiff-respondent filed a suit before the Additional District Judge/Judge Family Court, Dudyal on 04.03.2017 for recovery of deferred dower. The suit was contested by the defendant-petitioner by filing written statement. The learned trial Court, after necessary proceedings, vide judgment and decree dated 17.08.2018 held the petitioner liable to pay deferred dower in shape of 34 tola and 6 masha gold. The petitioner filed an appeal before the High Court which has been dismissed through the impugned judgment, hence, this petition for leave to appeal.

3. The sole point raised by the learned counsel for the petitioner for grant of leave is that the petitioner in her statement (brought on record through separate application) admitted that the deed of *Nikah* was prepared around five years before divorce. Furthermore, she also admitted in her statement that

some entries in *Nikah-nama* were made on her wish. It is stated that the Courts below failed to look into this important fact that the *Nikah-nama* is fake and entries made in it are also fictitious, hence, the judgments passed by both the Courts below are liable to be set-aside. As it is an important legal proposition, hence, grant of leave is justified.

4. Conversely, Mr. Reaz Ahmed Alam, Advocate, the learned counsel for the respondent stated that the claim of the petitioner is afterthought. The point raised by the learned counsel for the petitioner has already been dealt with by the High Court in the impugned Judgment. He submitted that the respondent through cogent evidence proved that the deferred dower was not paid, hence, the learned trial Court rightly decreed her suit. The learned High Court again appreciated the record and declared that the trial Court reached at just conclusion. No legal ground exists for grant of leave, hence, this petition is liable to be dismissed.

5. I have heard the arguments of learned counsel for the parties and gone through the record. The only point raised by the learned counsel for the petitioner is that both the Courts below have failed to

take into consideration the following part of petitioner's statement:-

"--- تقریباً 5 سال قبل یہ نکاح نامہ بنوایا تھا۔ جس مولوی نے نکاح پڑھوایا تھا اس نے یہ نکاح نامہ 5 سال قبل بنوا کر دیا تھا۔ یہ درست ہے کہ نکاح نامہ Ex.PA میں کچھ چیزیں مظہرہ نے اپنی مرضی سے لکھوائی ہیں۔۔۔۔"

In my opinion, the argument advanced by the learned counsel for the petitioner is based upon misconception. The controversy relates to the payment of deferred dower and not to the genuineness of deed of *Nikah*. The cumulative appreciation of the pleadings of the parties shows that it has not been denied by the petitioner that the deferred dower was fixed as 34 tola and 6 masha gold. The dispute only relates to its payment. The petitioner claims that the same has been paid, whereas, the respondent claims that the same is outstanding. In view of the evidence produced by the parties, the learned trial Court has recorded detailed findings, hence, there is no need to repeat the same. The question raised by the learned counsel for the petitioner has already been attended to and resolved by the High Court in the following manner:-

"4. .... Learned counsel for the appellant emphasized during arguments that the respondent has admitted in her statement that the deed of *Nikah* Ex. "PA" was prepared around 5 years before divorce, so, deed of *Nikah* produced by the respondent is fake. A perusal of

statement of respondent/plaintiff shows that she admitted during cross-examination that some entries in the *Nikahnama* have been made on her wish. This statement of respondent/plaintiff does not render the deed of *Nikah* invalid because a copy of *Nikahnama* produced by the appellant shows that entries in both the deeds of *Nikah* are the same. The date of marriage, names of witnesses and name of *Nikahnama* are the same and even signature of *Hafiz Abdul Rehman* looks similar on both the documents.....”

In this state of affairs, the argument raised by the learned counsel for the petitioner is not of worth consideration. Leave can only be granted if a question of public importance is involved and not to give false hopes to the litigants. Both the Courts below have recorded well-reasoned judgments.

Resultantly, finding no force this petition for leave to appeal is dismissed with no order as to costs.

CHIEF JUSTICE

Mirpur,  
17.06.2021