IN THE SUPREME COURT OF AZAD JAMMU AND KASHMIR
(Shariat Appellate Jurisdiction)

PRESENT:

RAZA ALI KHAN, J.
KHALID YOUSAF CHAUDHARY, J.

CIVIL APPEAL No. 181 OF 2025
(On appeal from the judgment of the Shariat Appellate Bench of the High Court dated 29.11.2024 passed in family appeals No. 92 & 93 of 2022)

Nazakat Akram,

…Appellant(s)

VERSUS

Shumaila Naz and another.

…Respondent(s)

Appearances:

For the Appellant(s):	Mr. Amjad Hameed Siddiqui, Advocate.
For the Respondent(s):	Barrister Hamayoun Nawaz Khan, Advocate.
Date of hearing:	15.01.2026

JUDGMENT:

***Raza Ali Khan, J*:-** This appeal, by leave of the Court, is directed against the judgment and decree dated November, 11 2024 passed by the Shariat Appellate Bench of the High Court (*hereinafter referred to as 'the High Court'*), in Family Appeals No. 92 and 93 of 2022.

2. The present controversy emanates from four independent actions instituted by the plaintiff-respondent against the defendant-appellant before the Court of Additional District Judge/Family Judge, Rawalakot. The relief sought comprised dissolution of marriage on the ground of cruelty, recovery of dower, maintenance allowance, and restoration of dowry articles. The defendant-appellant contested all the claims through written statements, wherein the allegations were denied. The trial Court consolidated the matters and, upon due adjudication, decreed dissolution of marriage, maintenance, and dowry articles, while dismissing the suit for recovery of dower on account of lack of evidence vide judgment dated April 29, 2022. Aggrieved, both parties filed appeals. The learned High Court, upon reappraisal of the record, partially allowed the appeal filed by the plaintiff-respondent by setting aside the dismissal of the dower suit and directing delivery of gold ornaments weighing 34.7 grams or, in the alternative, their market value, while dismissing the appeal filed by the defendant-appellant. Consequently, Appeal No. 92 of 2022 filed by the petitioner-plaintiff-respondent was partly accepted, whereas Appeal No. 93 of 2022 filed by the defendant-appellant was dismissed.

3. Mr. Amjad Hameed Siddiqui, learned counsel for the appellant, assailed the impugned judgment and decrees on the ground that they suffer from manifest illegality and are founded upon erroneous appraisal of law and evidence, contending that in view of the authoritative judgment in *Muhammad Sajid vs. Mst. Sajid Rashid* (2016 SCR 1280), once dower stands fully paid, a subsequent claim for its recovery is not maintainable under the Family Courts Act, 1993, even where it is alleged that the husband later reclaimed the same, as such matters fall outside the jurisdiction of the Family Court; it was emphasized that the *Nikahnama* unequivocally records full payment of dower amounting to Rupees 4,95,000 at the time of marriage with no deferred dower stipulated, a fact acknowledged by the trial Court but allegedly overlooked by the learned High Court, which, according to learned counsel, erroneously granted recovery of 34.7 grams of gold solely on the basis of the respondent's oral assertion without documentary corroboration; it was further submitted that the appellant had deposited a sum of Rupees 300,000 before this Court pursuant to its direction, which would be liable to adjustment in the event of acceptance of the appeal; lastly, learned counsel argued that the record, including the statements of the respondent's own witnesses, did not substantiate allegations of cruelty or torture and instead supported the appellant's stance, and that the failure of the Courts below to consider these material aspects vitiated the impugned findings.

4. Conversely, learned counsel for the respondent, Barrister Hamayoun Nawaz Khan, supported the impugned judgment and decree dated November 29, 2024, contending

that the same are firmly grounded in law and evidence and call for no interference. He argued that the appellant has failed to demonstrate any misreading or non-reading of the record, whereas the oral testimony of the respondent and her witnesses remained intact and unshaken. The appellant's witnesses, according to learned counsel, could not dislodge the respondent's version and, in fact, acknowledged the convening of a jirga, while the principal defence witness remained absent, further strengthening the respondent's case. It was further argued that the appellant admitted, both in the pleadings and during the jirga proceedings, that the gold ornaments were produced and weighed with mutual consent, thereby establishing a shortfall of 34.7 grams. Finally, learned counsel maintained that the respondent is lawfully entitled to maintenance as decreed by the courts below, a portion whereof has already been deposited by the appellant pursuant to the directions of this Court, rendering the appeal devoid of merit. Learned counsel placed reliance on the judgments of this Court reported as 2017 SCR 15222 and 2019 SCR 295.

5. We have heard the learned counsel for the parties at length and perused the record with due care. The appellant's objection, founded upon *Muhammad Sajid vs. Mst. Sajida Rasheed* (*2016 SCR 1280*) to the effect that a claim for recovery of dower is barred once it has been paid and that the Family Court lacks jurisdiction in such matters, is misconceived, as the said view no longer holds the field, having been expressly overruled by this Court through the judgments reported as *2017 SCR 15222* and *2019 SCR 295*. The objection, therefore, stands repelled.

6. At the outset, it merits emphasis that the controversy before this Court is of a limited compass and revolves around the correct appreciation of pleadings and evidence, particularly in relation to the gold ornaments constituting prompt dower. The plaintiff-respondent consistently pleaded that the ornaments delivered at the time of Nikah were taken into the custody of the defendant under various pretexts and that a substantial portion thereof was later sold by him. These allegations were not met with clear, specific, or categorical denial in the written statement. It is settled law that evasive or ambiguous denials do not constitute a valid traverse, and, in such circumstances, the averments are deemed to have been admitted. The record further reveals that repeated conciliatory efforts were undertaken through a local jirga. During these proceedings, the ornaments retained by the plaintiff were produced and weighed by a goldsmith in the presence of elders from both sides, including a close relative of the appellant-defendant. The weighing disclosed a material deficiency, which was not contested by the defendant-appellant at that time.

7. The oral testimony of the plaintiff-respondent remained consistent, credible, and natural, and stood corroborated by the surrounding circumstances. Significantly, the defendant-appellant failed to produce his father, an active participant in the jirga proceedings, as a witness. This omission, viewed in the factual matrix of the case, justifies drawing an adverse inference against the defendant. The learned High Court rightly concluded that the plaintiff had successfully discharged her evidentiary burden, whereas the defendant failed to rebut the claim by producing cogent or convincing evidence.

8. As regards the *Nikahnama*, it is not disputed that the entire dower was fixed and paid in the form of gold ornaments. Mere payment of dower does not vest the husband with any right to alienate or dispose of it. Where it is established that a portion of the dower was wrongfully sold, the wife is legally entitled to restitution, either in specie or by payment of its equivalent market value. The decree of the High Court on this count is fully aligned with both law and evidence.

9. With respect to the maintenance allowance, we find no infirmity in the concurrent findings recorded by the courts below. The quantum awarded cannot be termed arbitrary or inequitable, particularly in view of the financial position established on record. No legal or factual ground has been shown to warrant interference by this Court.

10. It is trite that this Court does not act as a court of third instance for reappraisal of evidence. Interference is justified only where findings are perverse, based on misreading or non-reading of evidence, or suffer from jurisdictional infirmity, none of which contingencies is attracted in the present matter. The impugned judgment reflects a proper and judicious exercise of appellate jurisdiction and cannot be disturbed merely because another view of the matter may also be possible.

Resultantly, the appeal against the judgment of the learned High Court dated November 11, 2024, is dismissed with no order as to costs.

JUDGE JUDGE

Mirpur,
19.01.2026