JUDGMENT SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT.

W.P No.225 of 2025.

Imrat Rafique
Vs.
Additional District Judge West Islamabad and another

Petitioner by:	Mr. Imran Feroz, Advocate.
Respondent No.2 by:	Mr. Chaudhry Nasir Abbas, Advocate.
Date of Decision:	**04.02.2025.**

INAAM ANEEN MINHAS, J:- Through the instant petition, the petitioner has assailed the judgment dated 11.12.2024 passed by the leaned Additional District Judge, Islamabad-West, whereby the appeal filed by the respondent No.2 was partially allowed and judgment and decree dated 19.12.2023 of the Trial Court was modified in the manner that the petitioner is entitled to recover maintenance allowance @ Rs.5000/- per month for 06 days for period of iddat and dowry articles as per list Exh.D.2.

2. Brief facts as per memo of the petition are that the petitioner filed a suit for recovery of maintenance, dowry articles and gold ornaments weighing 24 Tola against respondent No.2 with the averments that the marriage between the parties was solemnized on 17.09.2017; that initial period of marriage was harmonious, however, with the passage of time respondent No.2 started inflicting mental and physical torture; that family of respondent No.2 spared no opportunity to maltreat or degrade the petitioner and finally on 10.03.2022 respondent No.2 on instigation

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of his parents had beaten the petitioner and expelled her from his house in wearing apparel; that respondent No.2 never maintained the petitioner and did not return dowry articles; that 24 Tola gold was given by parents of the petitioner, which was also in custody of respondent No.2. Respondent No.2 appeared and contested the suit, issues were framed out of divergent pleadings of the parties, after recording evidence and hearing learned counsels for the parties, the Trial Court decreed the suit partially to the extent of maintenance and dowry articles, and dismissed the suit to the extent of recovery of gold ornaments. Feeling aggrieved from the judgment and decree of the Trial Court, respondent No.2 filed an appeal, which was allowed and judgment and decree of the Trial Court was modified in terms that the petitioner is entitled to recover maintenance allowance @ Rs.5000/- Per month, 6 days for a period of Iddat and dowry article as per list Exh.D.2 through the impugned judgment, hence, this petition.

3. Learned counsel for the petitioner contended that the petitioner is satisfied in respect of the findings of the Appellate Court to the extent of maintenance of the petitioner and does not press the same. The learned counsel further contended that during evidence it is admitted by respondent No.2 that at the time of marriage, the petitioner brought dowry articles as per list Exh.D.2 duly relied upon by the respondent; that it is the custom of our society that daughters are always given dowry articles and the low financial condition of the family does not matter and this aspect has been ignored by the Appellate Court while passing the impugned judgment and the petitioner is entitled to recover dowry articles and other things as per the list Exh.P.2/1-3.

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4. Learned counsel for respondent No.2 contended that the marriage was solemnized on 17.09.2017 and no dowry articles were given at the time of marriage but some articles were received on different occasions after marriage, the detail of which is mentioned in the list of dowry articles Exh.D.2; that respondent No.2 is ready to return the dowry articles as per list Exh.D.2. The Learned counsel further contended that the petitioner remained a disobedient wife during the existence of marriage and the petitioner obtained a decree for dissolution of marriage on the basis of Khula on 19.12.2022 on a condition that the petitioner would return the 4 ¼ Tola gold within 45 days, which the petitioner did not return as per Court's order and decree dated 19.12.2022 and the list provided by the petitioner as Exh.P.2/1-3 is concocted and based on malafide just to grab the 4¼ Tola gold through this suit.

5. I have heard the learned counsel for the parties and perused the record.

6. Learned counsel for the petitioner was confronted with the list of dowry articles as Exh.P.2/1-3, which was heavily relied upon during the course of arguments. The said document is handwritten and does not indicate by whom or when it was prepared. Furthermore, the petitioner failed to produce any evidence to substantiate the authenticity of Exh.P.2/1-3. During cross-examination, the petitioner stated that the dowry articles were provided by her parental aunts and uncle; however, neither the names of her aunts & uncle are mentioned in Exh.P.2/1-3, nor any of them was produced as a witness to prove the petitioner's claim.

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7. Perusal of Exh.P.2/1-3 further reveals that it contains more than 35 items, including furniture and electronic appliances such as a washing machine, refrigerator, food processor, gold ring, fan, iron, bath set, etc. However, no oral or documentary evidence was produced to proof the dowry articles as mentioned in P.2/1-3. Conversely, respondent No.2 has himself admitted his willingness to return the dowry articles as per the list as Exh.D.2.

8. The record also reveals that the petitioner has made contradictory claims regarding the gold ornaments. In paragraph 2 of the plaint, the petitioner asserted that the gold ornaments are weighing 24 Tola, 22 Carats. However, in her affidavit (Exh.P1/1), she claimed that the gold ornaments weighed 10 Tola 24 Carats. Furthermore, the respondent No.2 produced the settlement agreement dated 19.12.2022 (Exh.D.5), which was duly executed between the petitioner and respondent No.2 during the proceedings of the case titled *Amrat Rafiq vs. Faisal Iqbal*. In this agreement, the petitioner expressly agreed to return 4.25 Tola gold ornaments to respondent No.2. Given the petitioner's self-contradictory claims regarding the weight and composition of the gold ornaments, the petitioner’s claim remains unproven.

9. Learned Appellate Court while passing the impugned judgment minutely thrashed out the entire evidence and gave its findings in paragraph 15 of the impugned order, which is reproduced as under:-

> *Regarding the issue of dowry articles, record reveals that the appellant had specifically challenged the list of dowry articles by contending that the family was not in a position to purchase the articles mentioned in the list Exh.P.2/1-3. During cross-examination on the respondent it was brought out that the father of respondent has passed away and her mother was only lab assistant and her*

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> *brother was also not in a position to earn as there were younger than the respondent who herself was only 16 years when she was got married. It was the claim of the respondent that the dowry articles were purchased by her paternal aunts and uncles. However, neither a single receipt was produced nor any witness to corroborate her stance. While the appellant was successful in proving his stance, the respondent failed to produce any cogent or confidence inspiring evidence to prove her list. No doubt, every bride is given dowry articles at the time of her marriage, however, when the list is challenged there is burden on the party asserting the fact which in this case the respondent failed to prove. Since, the appellant has admitted to certain dowry articles which are in his possession, therefore, the respondent is only entitled to recover the dowry articles as per list produced by the appellant Exh.D.2. The appeal to this extent is allowed and the impugned judgment and decree stands modified.*

10. Even otherwise the findings of facts rendered by the District Court on appeal under the Family Courts Act, 1964 must be treated final and any interference in the same by this Court in constitutional writ jurisdiction should only be resorted to as an exception in the cases where the findings are based on no evidence or the findings are the result of gross misreading or non-reading of material evidence, making the findings without lawful authority and of no legal effect in terms of Article 199(1)(a)(ii) of the Constitution. Reliance is placed upon ***Fozia Mazhar vs. Additional District Judge Jhang and others*** **(PLD 2024 SC 771).**

11. In light of above, the findings rendered by the Appellate Court do not suffer from any flaw or error, hence, the instant petition is **dismissed.**

(INNAM AMEEN MINHAS)
JUDGE

R.Anjam

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