

News

Divorced Muslim woman can recover gifts given by her parents during marriage from her husband: Supreme Court



The Court highlighted that the Muslim Women (Protection of Rights on Divorce) Act is designed to protect the dignity of Muslim women, and that its interpretation must consider real-life challenges faced by divorced women

The Supreme Court, on Tuesday held that a divorced Muslim woman is allowed to reclaim from her husband the cash and gold gifts that her parents gave the couple at

the time of her marriage, under the Muslim Women (Protection of Rights on Divorce) Act, 1986 [Rousanara Begum v. SK Salahuddin & Anr.]

The Bench comprising Justices Sanjay Karol and Justice **Nongmeikapam Kotiswar** Singh delivered the judgment while setting aside a Calcutta High Court ruling in the case.

The Court also noted that the Calcutta High Court had treated the dispute merely as a civil case, ignoring the broader social purpose of the 1986 law.

The top court highlighted that the Act is meant to protect equality, autonomy, and dignity of Muslim women, and that its interpretation must consider the real-life challenges faced by divorced women.

"The Constitution of India prescribes an aspiration for all, i.e. equality which is, clearly, yet to be achieved. Courts, in doing their bit to this end must ground their thinking in social justice adjudication. To put it in context, the scope and aim of 1986 Act is concerned with securing the dignity and financial protection of a Muslim women post her divorce which aligns with the rights of a women under Article 21 of the Constitution of India. The construction of this Act, therefore, must keep at the forefront equality, dignity and autonomy and must be done in the light of lived experiences of women where especially in smaller towns and rural areas, inherent patriarchal discrimination is still the order of the day," said the Court.

The case involved a couple who got married in 2005. Marital difficulties appeared soon after, and the woman left the matrimonial home on May 7, 2009.

Following this, she started proceedings under Section 125 of the Criminal Procedure Code (CrPC) for maintenance and made a criminal complaint alleging cruelty under Section 498A of the Indian Penal Code (IPC).

The pair got divorced on December 13, 2011.

Subsequently, the woman filed a claim under Section 3 of the 1986 Act, seeking the return of gifts, including cash and 30 bhories of gold as well as household furniture and appliances given to the couple by the woman's father at the time of marriage, all of which was alleged to be worth around ₹17.67 lakhs.

The case went through multiple rounds of lawsuits. A trial court originally awarded the woman ₹8.3 lakhs as the recovery amount.

On remand, an Additional Judicial Magistrate ruled that the woman was entitled to be paid ₹8 lakhs and reclaim 30 bhories of gold. It also noted that ₹1 lakh of mehr (money given by a Muslim groom to the bride at the time of marriage) had already been paid to the woman, leaving her ex-husband responsible to pay ₹7 lakhs and return 30 bhories of gold.

The ex-husband appealed these decisions, which brought the case to the Calcutta High Court.

The High Court rejected the woman's claim, based primarily on an alleged discrepancy between two entries in the marriage register, one noting that the gifts were given to the husband and another without specifying the recipient.

The Supreme Court, however, found this logic to be flawed.

It faulted the High Court for going by a statement made by the woman's father during the hearing in the Section 498A case, in which he said that he had given the gifts to his son-in-law.

The top court noticed that the Section 498A case in which the statement was made had resulted in an acquittal. In such circumstances, the top court questioned how the High Court could view the father's statement as more believable than a contrary claim by the marriage registrar.

"What, apparently, the High Court lost sight of is the end result of the proceedings in which the said statement of the father was made. Those proceedings were concerned with Section 498A-IPC and Section(s) 3/4 of the Dowry Prohibition Act, 1961, and despite such a direct statement by the father of the appellant the learned Trial Court seized of the matter acquitted the respondent, a conclusion which appears to have attained finality. Then, it cannot be said, in our view, that the evidence value of that statement is either equal to or greater than the statement of the marriage registrar," said the court.

Notably, the registrar had claimed that the marriage gifts were given without stating who the

recipient was.

A key element of the Court's decision involved Section 3(1) of the 1986 Act, which sets out the financial entitlements of a divorced Muslim woman. It provides that she has the right to reasonable maintenance during the iddat period (mandatory waiting period after dissolution of marriage), financial support for her children if she is responsible for their care, the mehr agreed at the time of marriage, and to recover any gifts or property given to her before, during, or after the marriage, whether by her family, friends, or her husband.

The provision is meant to ensure that a woman's financial security and dignity are protected following divorce.

Applying this law, the Supreme Court allowed the woman's appeal, set aside the Calcutta High Court's order, and restored the magistrate's decision to give ₹7 lakhs and 30 bhories of gold to the woman.