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# 'Stridhan' Is Wife's Absolute Property, Husband Holds No Title Over It: Supreme Court Reiterates

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The Supreme Court (on April 24) reiterated that stridhan is an “absolute property” of a woman, and while the husband has no control over the same, he can use it in times of distress. Nevertheless, he has a “moral obligation” to restore the same or its value to his wife.

The Bench of Justices **Sanjiv Khanna and Dipankar Datta** referred to a three-judge Bench decision in **Rashmi Kumar v. Mahesh Kumar Bhada (1997) 2 SCC 397**. Therein, apart from the aforesaid observations, the Court had added that stridhan property does not become a joint property of the wife and the husband. The latter “has no title or independent dominion over the property.”

Stridhan property is essentially what is gifted to a woman before marriage, at the time of marriage or at the time of bidding of farewell or thereafter.

In the present case, the appellant (wife) had not registered any complaint of criminal breach of trust and had instead civil proceedings for return of her money equivalent to her lost stridhan property. In this regard, the Court had observed that in civil matrimonial cases, the standard of proof is of 'preponderance of probabilities' and not of 'beyond reasonable doubt.'

The factual matrix of the present case is such that the appellant got married to the respondent. It is her case that 89 sovereigns of gold were gifted to her by her family. Apart from this, after the marriage, her father had also given a sum of Rs. 2,00,000/- to her husband.

It was argued by her that on their wedding night, her husband took all the jewellery and entrusted the same to his mother for safekeeping. However, this was misappropriated for clearing prior liabilities. At a later point in time, the parties drifted apart, and a petition for dissolution of marriage was filed. Along with this, the appellant had also filed another petition for the recovery of the value of the jewellery and the amount mentioned earlier.

While the family Court had allowed her petition and held that the respondents had misappropriated her gold jewellery, the same was reversed by the High Court. Taking exception to this judgment, the appellant approached the Supreme Court.

At the outset, the Court opined that the impugned judgment is legally unsustainable because it has erred in requiring evidence similar to a criminal trial. Further, it based its findings on assumptions rather than evidence. After citing

several precedents in this regard, the Court added:

*“If there are no positive proved facts - oral, documentary, or circumstantial - from which the inferences can be drawn, the method of inference would fail and what would remain is mere speculation or conjecture. Therefore, when drawing an inference of proof that a fact in dispute is held to be established, there must be some material facts or circumstances on record from which such an inference could be drawn.”*

Having said that, the Court marked the discrepancies in the impugned order. While doing so, the Court also acknowledged that ordinarily, the Supreme Court does not disturb the factual findings as arrived by the High Court. It is always open to this Court, in diverse situations, to test whether the conclusions of fact reached upon a consideration of the probabilities contain any serious error., the Court added.

At first, it was pointed out that the High Court attributed a lack of bona fide to the appellant solely because she had filed the petition in 2009, although the couple had stopped living together since 2006. In this regard, the Top Court noted how matrimonial matters could not be straightforward, and divorce is still considered a stigma. Doubting the bona fide of the appellant, on facts and in the circumstances, was thus not called for., the Court added. To quote from the judgment:

*“Matters of matrimony can rarely be said to be simple or straightforward; hence, human reaction as per a mechanical timeline before the sacred bond of marriage is severed is not what one would expect. Divorce, majorly, in Indian society is still considered a stigma, and any delay in commencement of legal proceedings is quite understandable because of the attempts made to have the disputes and differences resolved; more so, in a case of the present nature, when the appellant was faced with the imminent prospect of termination of her second marriage.”*

Thereafter, the Court also observed that respondents admitted that the appellant had brought stridhan with her after the marriage. Observing this, the Court went on to examine the credibility of the respondent's claim that on the wedding night, the appellant placed her jewellery in her almirah instead of entrusting the same to his

mother. Imperatively, the Court opined that it is a more plausible view that a newly married woman gives jewellery for safekeeping rather than distrusting her husband and keeping it in her own locker.

*“To find an answer, we pose a question to ourselves: for a person of ordinary prudence, is it reasonable to expect that a woman, who is freshly married and is intending to live in the same house and under the same roof with her husband, to keep her personal belongings like jewellery, etc. under her own lock and key, thus, showing a spirit of distrust to the husband right after the moment she gets married? The answer cannot but be in the negative. On the contrary, the circumstance that the husband had volunteered to take custody of the jewellery for safekeeping with his mother appears to be more plausible than the rival version considering the probabilities that are associated with similar such situations.”*

Moving forward, the Top Court also highlighted the contradictory findings of the High Court. For instance, the High Court had doubted the payment of Rs. 2,00,000/- to the respondent. However, in the same breath, the Court had noted the husband's admission that he had received the money and was ready to return the same.

Ultimately, noting that there had been a considerable lapse of time since the proceedings were initiated, the Top Court decided the matter instead of remanding it to the High Court. The Court allowed the appeal and added:

*“Notwithstanding the infirmities, which are not considered not too serious or significant so as to defeat the claim of the appellant, we are of the opinion that weighing the evidence on record being what they are and on a preponderance of probabilities, it is the appellant who has established a stronger and more acceptable case.”*

It may also be noted that the Court had perused the photo of the appellant's wedding, where she had worn multiple pieces of jewellery. In this regard, the Court noted that respondents did not question the nature, quality, and valuation of the

gold jewellery. The Court opined that this strengthened the appellant's claim that she wore gold jewellery that possibly weighed 89 sovereigns.

The Court marked that in 2009 (when the petition was filed), 89 sovereigns of gold were valued at Rs 8,90,000/-. However, in the interest of justice, the Court also considered the passage of time and the rise in living expenses and granted the relief of Rs 25,00,000/- to the appellant. The Court directed the husband to make the said payment within six months.

**Case Title: MAYA GOPINATHAN vs. ANOOP S.B., Diary No.- 22430 - 2022**

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