

Jagdish Vs. Raushalbai

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Court : Madhya Pradesh

Decided On : Sep-04-2002

Reported in : I(2003)DMC587

Judge : A.K. Gohil, J.

Acts : [Hindu Marriage Act, 1955](#) - Sections 27 and 28

Appeal No. : First Appeal No. 234 of 1994

Appellant : Jagdish

Respondent : Raushalbai

Advocate for Def. : V.K. Jain, Adv.

Advocate for Pet/Ap. : C.L. Yadav, Adv.

Judgement :

ORDER

A.K. Gohil, J.

1. The appellant/husband has filed this appeal Under Section 28 of the Hindu Marriage Act challenging the part of the decree by which the Trial Court has passed a decree of divorce as well as for return of Istridhan to the value of Rs. 35,100.00.

2. The only submission of Mr. C.L. Yadav, learned Counsel for appellant is that the gifts and amount given in the marriage to the husband is not a part of Istridhan. Therefore, Court has wrongly passed the decree for that property. He submitted that in Para No. 6 of the plaint, a sum of Rs. 6,900.00 have been claimed towards the gifts given to the bridegroom which is not part of Istridhan. Therefore, the decree for the said amount be set aside or modified.

3. Mr. Jain, learned Counsel for respondent supported the judgment and decree passed by the Trial Court.

4. I have heard learned Counsels for the parties and perused the record as well as the pleadings of Para No. 6 of the plaint. Though Under Section 27 of the Hindu Marriage Act the Court may order for the return of any property presented at or about at the time of marriage which may belong jointly to the husband and the wife. The property exclusively given to the husband cannot be the property given jointly to the husband and wife. Therefore, if some gifts were given to the husband alone cannot be ordered to be returned back.

5. In view of the submissions made by learned Counsel for appellant and looking to the provisions of Section 27 of the Act, this appeal is partly allowed. The respondent /wife is not entitled to get back the articles which were gifted to the bridegroom at the time of marriage. Accordingly out of a sum of Rs. 35,100.00, an amount of Rs. 6,900-00 is allowed to be deducted. The respondent /wife shall only be entitled for a decree of a sum of Rs. 28,200.00. Parties shall bear their own costs. A decree be drawn up accordingly.,-Record be returned.