

CERTIFICATE OF THE HIGH COURT OF SINDH, KARACHI

C.P No.S- 819 of 2020

Mst. Sadaf Rashid

Vs.

1- Faisal

2- Additional District & Sessions Judge-IX (MCAC)

Karachi east

HIGH COURT OF SINDH

Composition of Bench.

Single.

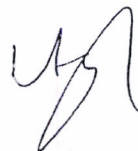
Mr. Justice Mohammad Karim Khan Agha

Dates of hearing : 06-08-2024

Decided on : 06-08-2024

(a) Judgment approved for Reporting

Yes



CERTIFICATE.

Certified that the judgment \*/Order is based upon or enunciates a principle of law  
\*/decides a question of law which is of first impression/distinguishes/. Over-rules/  
reverses/explains a previous decision.

\* Strike out whichever is not applicable.

NOTE: - (i) This slip is only to be used when some action is to be taken.

(ii) If the slip is used, the Reader must attach it to the top of the first  
page of the judgment.

(iii) Reader must ask the Judge writing the Judgment whether the  
Judgment is approved for reporting.

(iv) Those directions which are not to be used should be deleted.

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**IN THE HIGH COURT OF SINDH AT KARACHI.**

Constitutional Petition No. <sup>S-</sup> 819 /2020.

Presented on

27-10-2020

Mst. Sadaf Rashid D/o Ahmed Rashid,  
Muslim, Adult, R/o House at plot No. 146,  
Ground Floor, Right Portion, C.P & Bihar,  
CHS, Block 7 & 8, Karachi. ....

Additional Registrar (Writ),

PETITIONER

**VERSUS**

1. Faisal S/o Ghulam Muhammad Abdul Ghani,  
Muslim, Adult, R/o House No.1,  
Shuaib Manzil, Memon Society,  
Tayab Ali Road, Karachi.
2. Additional District & Sessions Judge-IX (MCAC),  
Karachi East, Karachi. .... RESPONDENTS

**CONSTITUTIONAL PETITION**  
**UNDER ARTICLE 199 OF THE CONSTITUTION OF**  
**ISLAMIC REPUBLIC OF PAKISTAN, 1973.**

Being aggrieved by and dissatisfied with the Impugned Judgment dated 01-11-2019 and Decree dated 07-11-2019, passed by Learned IX-Additional District & Sessions Judge/Model Civil Appellate Court, District East Karachi in Family Appeal No. 172/2018, Re. Faisal V/S Mst. Sadaf Rashid, whereby modified the Judgment & Decree dated 25-09-2018, passed by the learned V-Civil & Family Judge, East at Karachi in Family Suit No.939/2014, and modified the Judgment and Decree in above suit. The petitioner most respectfully to pray that this Honourable Court may be pleased to set-a-side the Impugned Judgment dated 01-11-2019 and Decree dated 07-11-2019, passed by respondent No.2, Learned IX-Additional District & Sessions Judge/Model Civil Appellate Court,



CP's not maintainable against appeals from family etc. 07

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

CP S-819 of 2020

DATE

ORDER WITH SIGNATURE OF JUDGE(S).

Direction

For orders as to maintainability

**06.08.2024**

Mr. Ashfaq Ahmed, Advocate for the Petitioner.  
Mr. Naeem Akhtar Memon, Advocate for Respondent  
No.1.  
Mr. Faheem Hussain, D.P.G.  
Mr. Shehreyar Qazi, & Irshad Hussain, Addl. A.G.

MUHAMMAD KARIM KHAN AGHA.J., The Plaintiffs and Defendant  
had filed suit for dissolution of marriage and maintenance in the  
Court of VTH Civil & Family Judge, East, Karachi in Family Suit  
No.939/2014 and vide the judgment dated 25.09.2018 the marriage  
was dissolved and issue No.3 maintenance of the Plaintiff was  
ordered as under:-

"In view of the above circumstances, the suit of the  
plaintiff is decreed accordingly with no order as to cost.  
The marriage of the parties is dissolved by way of khula,  
the defendant is directed to deposit the maintenance of  
the Plaintiff No.2 at the rate of Rs.8000/- per month  
from February 2013 till her legal entitlement with  
increase of 10% per annum with the Nazir of this Court.  
The Defendant is also directed to deposit the iddat  
period maintenance of the Plaintiff No.1 at the rate of  
Rs.3000/- per month i.e. Rs.9000/-."

The appellant/Defendant being dissatisfied with the aforesaid  
order filed an appeal in the Court of IXth Addl. District & Session  
Judge (MCAC) Karachi East, Family Appeal No.172/2018 for  
reduction in the amount of maintenance which was ordered to be  
paid. However, after hearing the parties, vide judgment dated  
01.11.2019 the amount of maintenance was reduced as under:-

"Keeping in view of above discussion in point No.1, I  
have come to the conclusion that the impugned  
judgment and decree do not suffer from any illegality  
and same is hereby maintained to the extent of  
maintenance awarded to the respondent No.1/mother  
of IDDAT period @ of Rs.3,000/- (Rupees Three  
Thousand) per month. However, maintenance awarded  
to the respondent No.2/minor/Baby Zeemal is  
modified/reduced up to Rs.5,000/- (Rupees Five

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Thousand) per month instead of Rs.8,000/- (Rupees Eight Thousand) since the date of filing of suit dated 17.04.2014 till her legal entitlement with 15% annual increment in future. The judgment of learned trial Court is accordingly modified. Hence, the instant family appeal stands disposed of in above terms. Parties shall bear their own costs. Let the decree be prepared accordingly."

The Respondent/Petitioner has approached this Court in its constitutional jurisdiction in order to appeal judgment dated 01.11.2019 whereby the maintenance awarded to her was reduced. At the very outset it needs to be pointed out that the Family Courts Act, 1964 is an Act, which as found by the Supreme Court is a self contained and composite Act where and the Court is at liberty to pass any appropriate order as it deems fit based on the facts and circumstances of the case which allows a single right of appeal under the Family Courts Act, 1964 and no further appeal under the constitutional jurisdiction of this Court. In this respect reliance is placed on the case of **Arif Fareed ..Vs.. Bibi Sara** (2023 SCMR 413 and **M. Hamad Hassan ..Vs.. Mst. Isma Bukhari** (2023 SCMR 1434). As such this Court can only hear such appeals in its constitutional jurisdiction in very exceptional circumstances. In this case there is no exceptional circumstances as in the impugned judgment dated 01.11.2019 the reasoning for the judgment has been fully explained at paragraph-12. Furthermore, it is not possible for this Court in its constitutional jurisdiction to go into the facts of the case to determine what should be the correct and appropriate amount for maintenance. This being the case the constitutional petition is dismissed as being not maintainable and judgment dated 01.11.2019 is upheld.

Petition stands disposed of in the above terms.