

# HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

## **C.P No.S-313 of 2025**

*[Muhammad Tahir Khan v. Mst.Zobia]*

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Petitioner : Muhammad Tahir Khan (in-person)  
Respondent (s) by : Mr.Safdar Ali Lakhiar, Advocate  
Date of Hearing : **02.3.2026**  
Date of Decision : **02.3.2026**

### **JUDGMENT**

**ARBAB ALI HAKRO, J:-** These two Constitution Petitions arise out of separate but interlinked judgments passed by the learned Family Judge-II, Hyderabad and the learned VI- Additional District Judge/Model Civil Appellate Court-II, Hyderabad, in Family Suit No.867 of 2024 and Family Suit No.2131 of 2023, respectively. As the factual background, parties, and legal questions substantially overlap, both petitions are being decided through this consolidated order.

2. In C.P. No. S-313 of 2025, the petitioner has challenged the concurrent findings whereby the trial Court partly decreed the respondent's suit for recovery of dowry articles to the extent of Rs.80,000/- and the appellate Court maintained the said decree through judgment dated 17.07.2025. The petitioner asserts that the respondent failed to establish the existence, quantity or value of the alleged dowry articles; that the receipts produced were neither proved nor supported by any witness and that the Courts below misread the evidence by ignoring the petitioner's stance that several items were already returned through bailiff, and the remaining were either never given or had deteriorated with use.

3. In C.P. No. S-314 of 2025, the same petitioner has assailed the concurrent findings recorded in Family Suit No.2131 of 2023, wherein the learned Family Judge decreed maintenance for the respondent-wife at Rs.5,000/- per month till expiry of her iddat period and for the minor daughter at Rs.6,000/- per month with annual increment, which the learned appellate Court subsequently modified to Rs.4,000/- for the respondent and Rs.5,000/- for the minor. The petitioner averred that the Courts below failed to appreciate his financial constraints, his unemployment following the closure of the bangle factory and the absence of any evidence from the respondent regarding his alleged income. He further asserts that the respondent left the matrimonial home of her own accord and that he never refused to maintain the minor.

4. The factual matrix emerging from the record shows that the marriage between the parties was solemnised on 27.11.2020, rukhsati took place, and a female child, Ume-Khadija, was born from the wedlock. The respondent alleged maltreatment, non-maintenance and forcible ouster on 15.04.2022, whereas the petitioner maintained that she left voluntarily at the behest of her parents. In Family Suit No.867 of 2024, the respondent sought recovery of dowry articles; in Family Suit No.2131 of 2023, she sought dissolution of marriage by khula, past maintenance, iddat maintenance, and maintenance for the minor.

5. The trial Court, after recording evidence in both matters, partly decreed the suits. In the dowry suit, the Court held that although the respondent failed to prove the entire list of articles, she was nonetheless entitled to Rs.80,000/- towards the remaining items, considering that some articles had been returned through bailiff and others were reasonably presumed to have been given at the time of rukhsati. In the maintenance suit, the Court held that the petitioner failed to establish that the respondent was a disobedient wife, that he had ever made efforts for reconciliation, or that he

remained under a legal and religious obligation to maintain both the respondent (till iddat) and the minor.

6. Learned appellate Court, upon re-appraisal of the evidence, maintained the decree in the dowry suit and modified the quantum of maintenance in the second suit, reducing the amounts in light of the petitioner's earning capacity as reflected from the evidence of his own witnesses.

7. The petitioner, appearing in person in both petitions, argued that the impugned judgments suffer from misreading and non-reading of evidence. He submitted that the respondent produced no reliable proof of the alleged dowry articles; that the receipts were photocopies, unsigned, and issued in the name of an unrelated person who was never examined; and that the Courts below ignored the petitioner's evidence showing that several items were returned through a bailiff, while others never existed. He further contended that the respondent admitted attending Court during her iddat period, which, according to him, undermined her credibility.

8. Regarding maintenance, the petitioner argued that the respondent failed to prove his income and that the Courts below ignored the testimony of his witnesses who confirmed his limited earnings. He maintained that he never refused to maintain the minor and that the respondent left the matrimonial home without justification. He submitted that the maintenance awarded is beyond his means and that the appellate Court, despite partially reducing the amount, failed to consider the full extent of his financial hardship.

9. Conversely, learned counsel for the respondent supported the concurrent findings of the Courts below. He submitted that the petitioner admitted receiving dowry articles at the time of rukhsati and that his own witness corroborated the respondent's version. He argued that the respondent's inability to produce receipts or photographs does not negate

the presumption that parents ordinarily give dowry at the time of marriage. He further contended that the trial Court had already taken a lenient view by awarding only Rs.80,000/-, which is a nominal amount considering the nature of the articles listed.

10. On the issue of maintenance, learned counsel submitted that the petitioner failed to prove that the respondent was disobedient or that she left the house without cause. He emphasised that the petitioner neither filed a suit for restitution of conjugal rights nor produced any independent witness to rebut the allegations of maltreatment. He argued that the petitioner's obligation to maintain his minor daughter is absolute and that even the modified amounts fixed by the appellate Court are modest in view of prevailing inflation and the needs of a growing child.

11. I have heard the petitioner, who appeared in person, as well as learned counsel for the respondent at considerable length. I have also carefully examined the material available on record.

12. The core question in both petitions is whether the concurrent findings recorded by the learned Family Judge and the learned Appellate Court suffer from such jurisdictional, legal, or constitutional defects as would justify interference under Article 199 of the Constitution. It is by now a settled principle that the High Court, while exercising constitutional jurisdiction, does not act as a Court of appeal nor does it re-appraise evidence as a matter of course. Interference is warranted only where the impugned orders are tainted by patent illegality, perversity, misreading or non-reading of material evidence, or where the Courts below have acted without lawful authority or in violation of due process.

13. In the first petition concerning recovery of dowry articles, the petitioner's principal grievance is that the respondent failed to prove the list of articles and that the Courts below ignored the deficiencies in her evidence. The record, however, reveals that the trial Court undertook a detailed

examination of the receipts, the list, the parties' oral testimony, and the bailiff's report. The Court expressly noted the deficiencies in the respondent's documentary evidence, including the absence of the purchaser "Adil" and the questionable dates on the receipts. Yet, the Court also recorded that the petitioner himself admitted receiving dowry articles at the time of rukhsati, and his own witness corroborated the same. Learned Appellate Court, upon re-appraisal, affirmed that admission and held that the trial Court had already taken a lenient view by awarding only Rs.80,000/- for the remaining articles.

14. The petitioner has not been able to demonstrate that the Courts below misread any material portion of the evidence. The findings are based on admissions elicited during cross-examination, the bailiff's report and the general presumption recognised in family jurisprudence that parents ordinarily give dowry at the time of marriage. It is settled law that dowry articles, once proved to have been given, remain the property of the wife and must be returned unless shown to have been lawfully consumed or destroyed. The petitioner has not produced any evidence to rebut this presumption. The concurrent findings, therefore, do not suffer from perversity or illegality.

15. In the second petition relating to maintenance, the petitioner's argument rests on two planks: first, that the respondent left the matrimonial home without justification and second, that the maintenance awarded is beyond his means. The trial Court examined the pleadings and evidence and found that the petitioner neither filed a suit for restitution of conjugal rights nor produced any independent witness to substantiate his allegation that the respondent left voluntarily. The Court also noted that the petitioner failed to show that he ever made any efforts to reconcile. The husband's obligation to maintain his wife subsists during the marriage, irrespective of whether she resides with him, unless he proves disobedience without lawful excuse.

16. As to the quantum of maintenance, the learned Appellate Court carefully examined the petitioner's own admissions and the testimony of his witnesses, who placed his income between Rs.20,000/- and Rs.35,000/- per month. The Appellate Court correctly held that maintenance must be commensurate with the father's means and may be modified where the amount fixed by the trial Court exceeds his earning capacity. The reduction from Rs.5,000/- to Rs.4,000/- for the respondent and from Rs.6,000/- to Rs.5,000/- for the minor is neither arbitrary nor excessive; rather, it reflects a judicious balancing of the petitioner's means and the needs of the minor.

17. The petitioner has not been able to point out any jurisdictional defect, violation of law or misreading of evidence that would justify interference under Article 199. The impugned judgments reflect proper application of settled principles of family law, correct appreciation of evidence and adherence to procedural fairness. The supervisory jurisdiction of this Court cannot be invoked to convert these petitions into a third round of factual re-appraisal.

18. It is also pertinent to observe that family litigation is governed by principles of equity, welfare, and social justice. The Courts below have exercised their jurisdiction in a manner consistent with these principles. The petitioner's grievances are factual and do not raise any constitutional or legal question warranting interference. The concurrent findings, being well-reasoned and supported by evidence, do not call for substitution by this Court.

19. For the reasons stated above, both Petitions lack merit. Accordingly, the petitions are dismissed.

**JUDGE**