

IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-142 of 2025

(Syed Zafar Mohiuddin v. Mst. Syeda Chand Qadri and others)

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| DATE | ORDER WITH SIGNATURE OF JUDGE. |
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- 1. For orders on office objections a/w reply of counsel as at “A”.
- 2. For hearing of CMA No.1293/2025.
- 3. For hearing of CMA No.1294/2025.
- 4. For hearing of main case.

Mr. Raheel Ali Bhatti, Advocate for the Petitioner.

Mr. Hassan Haider, Advocate for Respondent.

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Date of hearing : 16.01.2026

Date of Decision : 30.01.2026

J U D G M E N T

Abdul Hamid Bhurgri, J.- Through the instant constitutional petition, the petitioner has impugned the judgment dated 10.02.2023 passed by the learned XIIIth Civil & Family Judge, Karachi Central, in Family Suit No.3234 of 2022, whereby the marriage between the parties was dissolved by way of Khula. The petitioner has also challenged the decree dated 17.01.2024 passed in the same suit, whereby Iddat maintenance and other ancillary reliefs were granted. The petitioner has further assailed the judgment dated 17.08.2024 passed by the learned VIth Additional District Judge, Karachi Central, in Family Appeal No.22 of 2024, whereby the appeal was dismissed and the judgment and decree passed by the learned Trial Court were maintained.

2. The following reliefs were originally sought before the learned Family Court and form the subject matter of the impugned judgments:-

- a) To dissolve the marriage of plaintiff with the defendant on the ground in the plaint.*
- (b) To direct the defendant to pay Rs.51,000/- per month and on his refusal coercive process be issued for recovery.*
- (c) To direct the defendant to pay Rs.25,000/- per month and on his refusal recovery be effective as land revenue.*
- (d) To direct the defendant to return the all dowry articles or otherwise pay the cost of dower and other expenses in sum of Rs.9,70,000/-.*
- (e) Any other relief or reliefs which this Honourable Court deem fit in the circumstances of the matter.*

3. Learned counsel for the petitioner contends that the impugned judgments and decree have been passed without proper appreciation of the evidence available on record and suffer from misreading as well as non-reading of material facts. It is argued that the learned courts below failed to consider relevant aspects of the case while granting ancillary reliefs. Learned counsel prays that the impugned judgments and decree be set aside.

4. Conversely, learned counsel for respondent No.1 supports the impugned judgments and decree and submits that the learned Trial Court as well as the learned Appellate Court have rightly appreciated the evidence on record and recorded concurrent findings of fact. It is contended that no illegality, perversity, or jurisdictional defect has been pointed out so as to warrant interference by this Court in exercise of constitutional jurisdiction. Learned counsel prays for dismissal of the petition.

5. Heard learned counsel for the parties and perused the available material on record.

6. The principal submission advanced on behalf of the petitioner is that neither the weight nor the value of the alleged gold ornaments was mentioned in the plaint, nor was the same proved in accordance with law, and that, in any event, the respondent had taken the ornaments with herself. However, the record reveals and the learned courts below have correctly observed that the petitioner has taken inconsistent and mutually destructive stands. While replying to the relevant averments of the plaint, the petitioner categorically denied that any gold ornaments were given to the respondent by her parents; yet, before this Court, it is urged that the respondent herself took away the gold ornaments. Such vacillating stands materially impair the petitioner's credibility and were rightly disbelieved by the learned courts below.

7. The respondent, on the other hand, had specifically pleaded, and supported by a list appended with the plaint, that jewelry worth Rs.600,000/- was given to her by her parents at the time of marriage. The denial thereof by the petitioner in the written statement, followed by a subsequent assertion in the constitutional petition and during arguments that the respondent took away the gold ornaments, clearly demonstrates a self-contradictory posture. The learned Trial Court as

well as the learned Appellate Court have taken due notice of this inconsistency while appreciating the material on record. No perversity, misreading or non-reading of record has been pointed out in the concurrent findings so recorded.

8. Even otherwise, under Section 17(1) of the West Pakistan Family Courts Act, 1964, the provisions of the Qanun-e-Shahadat Order, 1984 are not applicable to proceedings before the Family Courts. For convenience, Section 17 of the Family Courts Act, 1964 is reproduced as under:-

“Provisions of Evidence Act and Code of Civil Procedure not to apply:-

(1) Save as otherwise expressly provided by or under this Act, the provisions of the (Qanun-e-Shahadat, 1984 (P.O No.10 of 1984) and the Code of Civil Procedure, 1908 (except section 10 and 11) shall not apply to proceedings before any Family court, [in respect of Part I of Schedule].

(2) Sections 8 to 11 of the Oaths act, 1973, shall apply to all proceedings before the Family Courts.”

9. A bare perusal of the above provision makes it abundantly clear that the strict provisions of the Qanun-e-Shahadat Order, 1984 stand excluded from family proceedings. It is well established that strict rules of evidence are not to be applied in family and matrimonial matters, particularly where claims are based on customary practices and supported by credible documentary material. The testimony of the bride, if found trustworthy and corroborated by available material, is sufficient to prove such claims.

10. In the case of **Muhammad Habib v. Mst. Safia reported in 2008 SCMR 1584**, the Honourable Supreme Court has held as under:-

“4. Having heard learned counsel for the petitioner in the light of the material on file, we find that learned High Court has rightly observed that “the evidence of the petitioner is insufficient to rebut the version of after proper appreciation of the evidence on record modified the decree of learned Judge Family Court and accepted the appeal of the plaintiff/respondent regarding her whole claim of Rs.1,80,7000. The perusal of A list Exh. P.1 reveals that these are the articles which are ordinarily given to a bride at the time of her marriage. Both the Courts below have given concurrent findings which are based upon substantial evidence and the petitioner has not been able to controvert the same during the trial, as such the petitioner has failed to show any illegality or irregularity committed by the Courts

below in the impugned judgments so as to warrant interference by this Court In exercise of its constitutional jurisdiction”.

11. This Court also relies upon the case of ***Muhammad Iqbal v. Mst. Zahida and 2 others, reported in 2013 MLD 800***, wherein it has been held as under:-

“10. Even otherwise, in our society, it is not possible for any bride/wife to keep the record of purchase receipts, prepare the list of dowry articles, and obtain signatures from bridegroom/husband side. In my observation, mothers start collecting, purchasing and preserving of articles for her daughter, when she starts growing. It is also a tradition that in-laws of any bride/wife are extended esteem respect and it is considered an insult to prepare the dowry list for the purposes of obtaining signature from them”.

12. I am further fortified by the ratio laid down by the Honourable Supreme Court in ***Mirza Arshad Baig v. ADJ, reported in 2005 SCMR 1740***.

13. It is well settled that in exercise of constitutional jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, this Court does not sit as a court of appeal to re-appraise evidence or substitute its own conclusions for those concurrently recorded by the courts below. Interference is warranted only where the impugned judgments suffer from patent illegality, perversity, misreading or non-reading of evidence, or lack of jurisdiction. In the present case, none of these contingencies has been demonstrated. The learned Trial Court as well as the learned Appellate Court have passed well-reasoned judgments based on proper appreciation of law and evidence, which call for no interference in constitutional jurisdiction. Reliance is placed on the case of ***M. Hamad Hassan v. Mst. Isma Bukhari and others (2023 SCMR 1434)***.

14. In view of the above discussion, this Court does not find any misreading or non-reading of evidence. The impugned judgments are based on proper appreciation of law and evidence and do not suffer from any illegality or jurisdictional defect. Accordingly, this constitutional petition, being devoid of merit, is dismissed along with all pending applications, if any.

JUDGE