ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-442 of 2021
Mst. Nimra & another v IXth ADJ Karachi East)
C.P No.S-621 of 2021
Zamirul Islam v Mst. Nimra Anwaar & another)

DATE	**ORDER WITH SIGNATURE OF JUDGE**

Date of hearing and order:- 23.02.2026

Mr. Zahid Hussain Shah, Advocate for the Petitioner in C.P. No. S-442/2021 and for Respondent No. S-621/2021
Ms. Sumaya Saleem advocate for the respondent in C.P. No. S-442/2021 and for the petitioner in C.P. No. S-621/2021
Mr. Abdul Jalil Zubedi, AAG

O R D E R

Adnan-ul-Karim Memo, J Both petitioners have challenged the judgment dated 18.05.2021 passed by the learned IXth Additional District Judge, East Karachi, through their respective constitutional petitions under Article 199 of the Constitution.

2. Mst. Nimra, in C.P. No. S-442 of 2021, seeks setting aside of the impugned judgment to the extent it declined or inadequately allowed her claim for dower amount, maintenance during the Iddat period, and dowry articles as per the submitted list, and further prays for enhancement of minor's maintenance from Rs.7,000/- to Rs.20,000/- per month in view of prevailing inflation, along with grant of Rs.10,000/- per month as maintenance during Iddat from the date of institution of the family suit.

3. Learned counsel for the petitioner, Mst. Nimra, submits that the petitioner, being the ex-wife of respondent No.2, has impugned the judgment dated 18.05.2021 passed by the learned IXth Additional District Judge, East Karachi, in Family Appeal No.148/2020, whereby an amount of Rs.62,600/- was awarded on account of dowry articles instead of the claimed amount of Rs.1,38,850/- as per the list duly submitted before the trial court. He contends that the appellate court failed to apply its judicial mind while passing the impugned judgment, as it neither properly considered the petitioner's entitlement towards dower and dowry articles nor granted adequate maintenance during the Iddat period, and further erred in not enhancing the minor's maintenance from Rs.7,000/- to Rs.20,000/- per month in view of the

prevailing inflationary trend. He therefore prays that the impugned judgment to the aforesaid extent be set aside and the petitioner be granted dower amount, dowry articles as per the submitted list, maintenance during the Iddat period at the rate of Rs.10,000/- per month, and enhanced maintenance for the minor from the date of institution of Family Suit No.2591/2017, along with any other relief deemed just and proper in the circumstances.

4. Conversely, Zamirul Islam, in C.P. No. S-621 of 2021 seeks partial setting aside of the same judgment, particularly findings on points No.14 and 19, challenging the direction to pay Rs. 62,600/- as the alternative value of dowry articles without specific prayer or proof, and prays for restoration of the trial court's findings, as well as directions to Mst. Nimra to return the bridal items and gold ornaments as per the annexed list or their current market value.

5. Learned counsel for the petitioner, Zameerul Islam, submits that the petitioner is also aggrieved by the judgment dated 18.05.2021 passed by the learned IXth Additional District & Sessions Judge, East Karachi, in Family Appeal No.148/2020, whereby the appellate court, while maintaining the findings of the trial court with respect to dower and maintenance, modified the judgment to the extent of dowry articles and directed the petitioner to either return certain electronic, utensil and cutlery items or pay their alternate value amounting to Rs.62,600/- without any specific prayer, cogent evidence or reliable proof on record. She contends that the respondent/petitioner, Nirma, in C.P. No. S-442 of 2021 had failed to produce any independent witness, documentary evidence, or credible receipts to substantiate her claim regarding dowry articles, and the list produced was fabricated, bearing only her signature and having been consistently denied by the petitioner in the written statement as well as evidence. It is further submitted that the appellate court failed to appreciate material available on record, including admissions made by the respondent Nirma, during cross-examination and documents reflecting that she had taken along bridal articles and gold ornaments at the time of leaving the matrimonial home, which are still in her possession. She argues that the impugned direction to pay Rs.62,600/- for used items after a lapse of three years, assessed at current market value, is arbitrary and based on misreading and non-reading of evidence, therefore the findings recorded in paragraphs 14 and 19 of the impugned judgment are liable to be set aside, the trial court's judgment dated 07.11.2020 be restored to that extent, and appropriate directions be issued to the respondent to return the bridal items and gold ornaments as per receipts or their current market value, along with

any other relief deemed just and proper in the circumstances. She prayed to allow her petition.

6. Through the impugned judgment dated 18.05.2021, the learned appellate court disposed of Family Appeal No.148/2020 arising out of judgment and decree dated 07.11.2020 passed in Family Suit No.2591 of 2017 by the learned Vth Civil and Family Judge, Karachi East.

7. Briefly, as per record, the petitioner, Mst. Nimra had instituted the suit seeking recovery of dower fixed at 10 grams of gold, return of dowry articles or their alternate value amounting to Rs. 1,38,850/-, as well as past and future maintenance for herself and the minor daughter born out of wedlock. After pre-trial proceedings failed, the trial court framed issues and, upon recording evidence, held that the appellant had already received the prompt dower at the time of Nikah and failed to prove that the same was subsequently taken back by the respondent, thus disentitling her from its recovery. The trial court, however, granted maintenance to the petitioner Nimra limited to the Iddat period at the rate of Rs.5,000/- per month, declined her claim for past maintenance, and awarded past and future maintenance to the minor at the rate of Rs.3,000/- per month from the date of filing of the suit and Rs.7,000/- per month thereafter with 10% annual increment, while declining the claim for dowry articles for want of proof. Feeling aggrieved, the petitioner, Nimra, preferred a family appeal, contending that the trial court failed to properly appreciate the evidence regarding unpaid dower, entitlement to maintenance, and the dowry articles supported by receipts and a list produced on record. Conversely, the respondent/petitioner in C.P. No. S-621 of 2021 maintained that the dower had already been paid, denied the list of dowry articles as false, and asserted that the appellant had herself deserted the matrimonial home.

8. Upon reappraisal of the evidence, the appellate court concurred with the findings of the trial court regarding payment of dower and limitation of maintenance to the Iddat period, as well as the quantum of maintenance awarded to the minor. However, with respect to dowry articles, the appellate court observed that the petitioner lady had produced a list along with receipts of certain electronic and household items and that, in the prevailing social context, the sworn testimony of the wife is sufficient to establish such a claim even in the absence of documentary proof. Consequently, the appellate court partly allowed the appeal by modifying the impugned judgment of the trial court to the extent of dowry articles and held the petitioner lady entitled to recovery of electronic items, utensils, and cutlery items or their alternate value

amounting to Rs. 62,600/-, while maintaining the remaining findings of the trial court. The family appeal was thus disposed of with no order as to costs.

9. Having heard the learned counsel for the parties at length and upon careful examination of the material available on record, it emerges that both constitutional petitions arise out of the same appellate judgment dated 18.05.2021 passed in Family Appeal No.148/2020, whereby the learned appellate court partly modified the judgment and decree dated 07.11.2020 rendered by the learned Vth Civil & Family Judge, Karachi East.

10. So far as the claim of Mst. Nimra with respect to recovery of dower is concerned, both the courts below have concurrently held, on the basis of admitted entries in Column No.13 of the Nikahnama and the petitioner's own evidence, that the prompt dower fixed at the time of Nikah had already been paid and no reliable evidence was produced to establish that the same was subsequently taken back by the respondent. The said finding being a pure finding of fact, based upon proper appreciation of evidence, does not suffer from any jurisdictional defect or legal infirmity so as to warrant interference in constitutional jurisdiction.

11. It is by now well settled through authoritative pronouncements of the Supreme Court of Pakistan that in proceedings under Article 199 of the Constitution, the High Court does not sit as a court of appeal to reassess or reappraise evidence unless the impugned findings are shown to be perverse, arbitrary or based on misreading or non-reading of material evidence. However nothing has been placed on record contrary to claim indulgence of this Court.

12. Likewise, the concurrent determination made by the courts below restricting the petitioner's entitlement of maintenance to the Iddat period and awarding maintenance to the minor at the rate of Rs.7,000/- per month with annual increment, is essentially dependent upon factual assessment of the respondent's financial capacity. Therefore at this stage, learned counsel for Zamir-ul-Islam submitted that he has been paying the maintenance of Rs. 11,000/-, to the minor. Be that as it may, if he pays or let him continue to pay with same pace without fail.

13. In absence of any cogent evidence demonstrating a higher earning capacity of the father, the quantum so fixed cannot be termed as arbitrary or capricious. However, since agreed that he had been paying Rs. 11,000/- for maintenance to minor, let him do so in future. The Supreme Court has

consistently held in recent jurisprudence that the quantum of maintenance is to be determined on the touchstone of the father's proven means and not on mere presumptions or prevailing economic conditions alone, and such determination ordinarily falls within the exclusive domain of the Family Court.

14. As regards the direction issued by the appellate court for return of dowry articles or payment of their alternate value to the extent of Rs.62,600/-, it appears that the learned appellate court, upon reappraisal of the evidence, extended partial relief to the wife by relying upon the list of articles supported by receipts produced on record and her sworn testimony.

15. The view taken by the appellate court finds support from the settled principle reiterated by the Supreme Court that in matters relating to dowry articles, the oath of a woman, if confidence inspiring and unrebutted through credible evidence, may constitute sufficient proof of entrustment, particularly in view of the social realities surrounding matrimonial transactions. At the same time, the appellate court exercised due restraint by declining the remaining claim relating to consumable items for want of sustainable proof and passage of time.

16. No jurisdictional error, illegality, perversity or misapplication of law has been pointed out in the impugned judgment which may justify interference in exercise of constitutional jurisdiction. The findings recorded by the learned appellate court represent a balanced and reasoned determination of the respective claims of the parties after proper appraisal of the evidence, and are thus prima facie immune from interference under Article 199 of the Constitution under such circumstances of the case.

17. Consequently, both constitutional petitions along with pending application(s) being devoid of merit are dismissed, with no order as to costs.

J U D G E

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