

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

Misc. Application No.49 of 2024

(*Atif Raza Saleh v. Marium Anwar*)

DATE: ORDER WITH SIGNATURE(s) OF JUDGE(s)

Disposed of matter:

For Orders on CMA No.9932/2024 (O 41 R.19 CPC)

7-4-2026

Mr. Sadaruddin Burriri, Advocate for Appellant

1. **Sana Akram Minhas J:** CMA No.9932/2024 – Through the listed application, filed under Order 41 Rule 19 CPC (“**Restoration Application**”), the Appellant seeks restoration of the instant Appeal – which is admittedly time-barred, as an application for condonation of delay (CMA No.7894/2024) under Section 5 of the *Limitation Act 1908* was filed at the time of its institution on 15.2.2024 – which was dismissed for non-prosecution by Order dated 15.10.2024.
2. By way of background, the Appellant has challenged the Trial Court’s Order dated 13.1.2024 (**at Court File Pg.23**), whereby the Respondent’s application under Order 7 Rule 11 CPC was allowed and the plaint in Defamation Suit No.26/2022 (*Atif Raza Saleh v. Marium*) (**at Court File Pg.49**) was rejected. The relevant background facts are as follows:
 - i) The *nikah* between the Appellant and the Respondent was solemnised on 27.3.2021 (**at Court File Pg.61**), however no *rukhsati* took place. Subsequently, in March 2022 the Respondent instituted Family Suit No.1155/2022 (**at Court File Pg.65**) seeking dissolution of marriage by way of *Khula*.
 - ii) In the plaint (particularly paragraphs 8 and 9 of the Defamation Suit), the Appellant has alleged, inter alia, that having distributed thousands of wedding cards, his reputation was harmed due to the refusal of *rukhsati* and the filing of the Suit for *Khula*. On this basis, the Appellant instituted the Defamation Suit, which came to be rejected by the learned Trial Court.
3. The Order Sheet of the present Appeal reflects that, owing to non-compliance with Office Objections since 15.2.2024 (i.e. the date of institution), the matter was fixed for non-prosecution. By order dated 29.8.2024, this Court granted

time to learned counsel for the Appellant to comply with the objections and fixed the matter after six (6) weeks. However, due to the absence of the Appellant, the Appeal was ultimately dismissed for non-prosecution on 15.10.2024.

4. Learned Counsel for the Appellant submits that on the date of dismissal, he was engaged before another Bench and, therefore, could not appear in time. However, a perusal of the Restoration Application and the affidavit filed in support thereof reveals that no such ground has been taken. On the contrary, the supporting affidavit – notably sworn by an attorney of the Appellant rather than by learned Counsel – states that both the Counsel and the attorney arrived late in Court due to traffic.
5. Even if this Court were to overlook the incorrect provision of law cited in the Restoration Application, no cogent grounds – let alone “*sufficient cause*” within the meaning of law – have been demonstrated for the absence of the Counsel. The explanation furnished is not only inconsistent but also unsupported by the material on record.
6. In these circumstances, the Appellant has failed to make out a case for restoration of the Appeal. The Restoration Application (CMA 9932/2024) is, therefore, **dismissed**, with no order as to costs.

JUDGE