IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Constitutional Petition No.S-139 of 2026

Petitioner:	Sunil son of Jairam Das. Through Mr. Shankar Lal Meghwar, Advocate.
Respondent No.1:	Sht. Aneela D/o Keshive, wife of Sunil. Through Mr. Vasand Thari, Advocate.
Respondents Nos.2&3:	Through, Mr. Harish Chander, A.A.G.
Date of Hearing:	16.11.2026
Date of Order:	16.11.2026

O R D E R

Nisar Ahmed Bhanbhro, J*:* This petition is directed against the judgment dated 05.05.2026 and decree dated 08.05.2026 passed by the learned Additional District Judge-I, Tharparkar at Mithi (Appellate Court), in Family Appeal No.10 of 2025 (Re-Sunil vs. Sht. Aneela), whereby the judgment and decree dated 30.10.2025 passed by the learned Civil Judge-III/Family Judge, Mithi (Trial Court) in Family Suit No.18 of 2025 (Re-Sunil vs. Sht. Aneela), was maintained and the suit filed by the applicant for termination of marriage under Section 11 of the Sindh Hindu Marriage Act, 2018, was dismissed.

2. Learned counsel for the Petitioner contended that soon after the marriage, Petitioner became uncomfortable with respondent Aneela due to her misbehaviour she caused continuous disturbance in the house, treated petitioner with cruelty and ultimately at her own left the applicant's house, despite being his legally wedded wife failed to maintain marital obligations and respect. He further contended that the Petitioner is a Primary School Teacher and a well-educated person, he was subjected to misbehaviour at the hands of the respondent. He further contended that the petitioner’s financial status as Primary School Teacher was not considered while imposing huge amount of maintenance upon him by the

learned trial Court. He, therefore, prayed for allowing the instant petition and setting aside the concurrent findings of the Courts below.

3. Counsel for the respondent has supported the impugned judgment and decrees and contended that the learned Courts below have rendered findings of fact which cannot be disturbed in the writ jurisdiction of this Court. He further contended that the respondent, being the legally wedded wife of the petitioner, is still willing to reside with him; however, due to disputes with other members of the petitioner's family, she requires the petitioner to arrange a separate residence for her. He further contended that no ground for termination of marriage under Section 11 of the Sindh Hindu Marriage Act, 2018, is made out and that the learned Courts below have rightly decided the suit in favour of the respondent. He, therefore, prayed for dismissal of the instant petition.

4. Learned A.A.G. supported the impugned judgment and decrees and contended that, in view of the concurrent findings of the Courts below, no interference is warranted by this Court in its writ jurisdiction; hence, the instant petition is liable to be dismissed.

5. Heard arguments and perused the material available on record.

6. From the perusal of the material available on record, it transpired that the petitioner filed the suit for termination of marriage on the ground that the respondent misbehaved with him and her conduct was inhuman. The respondent, in her written statement, denied the allegations and stated that she was willing to reside with the petitioner as his legally wedded wife; however, the petitioner had turned her out of the house and failed to maintain her. She, therefore, claimed maintenance and return of her dowry articles. On the basis of the pleadings of the parties, the learned Trial Court framed the following issues:

> *(1) Whether the suit of plaintiff is maintainable and he is entitled relief for termination of marriage under section 11 of Sindh Hindus Marriage Act 2018?*
>
> *(2) Whether the plaintiff is residing separately from defendant without any reason/justification and not performing matrimonial obligations?*
>
> *(3) Whether the defendant is entitled for her dowry articles mentioned in list attached with written statement or its alternative value from plaintiff?*
>
> *(4) Whether the defendant is entitled for her maintenance from plaintiff? if yes since when and at what rate?*
>
> *(5) What should the judgment and decree be?*

7. Issue No.2 was framed in view of the relief sought by the petitioner. While deciding the said issue, the learned Trial Court concluded that the respondent was a legally wedded wife of Petitioner and her conduct did not demonstrate cruelty, refusal to perform marital obligations, or any behaviour warranting termination of marriage under Section 11 of the Sindh Hindu Marriage Act, 2018. It was further observed that the petitioner was at fault and had failed to maintain the respondent. He had also concealed the fact of the respondent's medical treatment as well as the termination of marriage of his sister, which was made a ground for seeking termination of the instant marriage, when confronted to above observations, learned counsel for the petitioner conceded that the sister of the petitioner had already obtained termination of her marriage through a decree of Court. He contended that the marriage of petitioner was solemnized with Aneela and in return Aneela's brother solemnized marriage with sister of Petitioner under the custom of "Mata Sata", the Petitioner therefore also wants termination of marriage with Respondent.

8. Law does not recognize the concept of "Mata Sata" in marriages, but it might be a customary practice. There is no recognition to the separation of one couple, if the other couple married under "Mata Sata" has failed to continue marital relations. In order to appreciate the controversy involved in the matter, it would be appropriate to reproduce Section 11 of the Sindh Hindu Marriage (Amendment) Act, 2018, which provides as under:

> ***11. Termination of Hindu Marriage.*** *Any Hindu marriage solemnized whether before or after commencement of this Act may, on a petition presented to the Court by either a husband or a wife, be terminated by decree of termination of marriage on the ground:-*
>
> *(a) That the other party:-*
>
> *i. has, after the solemnization of the marriage, treated the petitioner with cruelty,*
> *ii. or has deserted the petitioner, for a continuous period of not less than two years immediately preceding the presentation of the petition or*
> *Explanation- in this clause, the expression "desertion" means the desertion of the petitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party and includes the willful neglect of the petitioner by the other party to the marriage: or*
> *iii. has ceased to be Hindu by conversion to another religion,*
> *iv. or has been incurably of unsound mind, Mental Disorder.*
> *Explanation:- In this clause the expression "mental disorder" means mental illness, arrested or incomplete development of mind, psychopathic disorder or*

any disorder or disability of mind including schizophrenia and the expression "psychopathic disorder" means a persistent disorder or disability of mind (whether or not including sub-normality intelligence) which results in abnormally aggressive or serious irresponsible conduct on the part of the other party and whether or not it requires or is susceptible to medical treatment: or

v. has been suffering from virulent and incurable from of leprosy, or

vi. has been suffering from venereal disease in communicable from or HIV Aids: or

vii. has renounced the world by entering any religious order, or

(b) That there has been no resumption of cohabitation as between the parties to the marriage for a period of more than one year after the passing of a decree for judicial separation or order of restitution of conjugal rights passed by the court.

(2) A wife may also present a petition for termination of her marriage on the ground:-

a) in the case of any marriage solemnized before commencement of this Act, that the husband has married again before such commencement or that another wife of the husband married before such commencement was alive at the time of the solemnization of the marriage of the petitioner:-
Provided that in either case the other wife is alive at the time of the presentation of the petition: or

b) that the husband has neglected or has failed to provide for her maintenance for a period of two years;

c) that the husband has been sentenced to imprisonment for a period of four years or upward; or

d) that her marriage, whether consumed or not, was solemnized before she attained the age of eighteen years and she has repudiated the marriage before attaining that age;
Explanation:- This clause applies whether the marriage was solemnized before or after commencement of this Act.

9. From the perusal of Section 11 of the Sindh Hindu Marriage Act, 2018, it is clear that a marriage may be terminated only on the grounds specified therein. However, no such ground is established in the present case, as rightly observed by the learned Trial Court. The learned Trial Court, therefore, rightly declined the request of the petitioner for termination of marriage, while deciding the issue of maintenance in favour of the respondent.

10. Respondent Aneela in her written statement by claiming for dowry articles and maintenance, however, she was granted maintenance of Rs.10,000/- per month with effect from November 2025 to continue until her lawful entitlement. Since the marriage between the parties subsisted and the husband is under an obligation to maintain her wife under Hindu Law. The petitioner is primary school teacher and the learned trial Court has already taken lenient view by imposing maintenance of Rs.10,000/- per month, which is fourth portion of his salary as stated by Learned Counsel, therefore, no exception can be taken to such findings.

11. This Court under its extra ordinary writ jurisdiction, sparingly exercises the powers of judicial review conferred under article 199 of the Constitution of Islamic Republic of Pakistan, of 1973, when the findings from the face of it appear to be perverse to record or suffered from misreading and non reading of the evidence. No illegality or material irregularity is found in the concurrent findings of the Courts below, warranting interference by this Court in its constitutional jurisdiction. Consequently, the instant petition, being devoid of merit, fails and is accordingly dismissed.

JUDGE

Approved for reporting

"Adnan Ashraf Nizamani"