

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. S-128 of 2025

[Mst. Humera v. Imran Ahmed and another]

Petitioner by : Mr. Feroz Ali, Advocate

Respondent No.1 by : Mr. Abdul Sattar Mahesar, Advocate

: Mr. Zulfiqar Ali Naich, Assistant A.G. Sindh

Date of Hearing : 31.08.2026 & 07.09.2026

Date of Announcement : 18.09.2026

ORDER

ARBAB ALI HAKRO, J. – Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner impugned the judgment and decree dated 24.04.2025, passed by the learned District Judge, Khairpur in Family Appeal No. 07 of 2025 (hereinafter referred to as “the **impugned judgment**”), whereby the appeal of respondent No.1 was allowed and the judgment and decree dated 04.02.2025 passed in Family Suit No. 160 of 2023 by the learned Family Judge, Khairpur (hereinafter referred to as “the **Family Court**” and “the **decree of the Family Court**” respectively) were set aside to the extent of Haq Mahar and the dowry articles.

2. The marriage of the parties was solemnized on 26.11.2022 against a dower of 02 tolas of gold. Rukhsati took place on the same day, and the wedlock remained issueless. A family suit earlier instituted by the petitioner was withdrawn upon the intervention of the nekmards of the locality, and the parties resumed cohabitation. According to the petitioner, on 25.10.2023 respondent No.1 beat her, turned her out of the house in three plain clothes, and retained her dowry articles, including the golden ornaments. According to respondent No.1, she left of her own accord and carried away with her one Duhri worth Rs.460,000/-, a half set worth Rs.88,000/-, and cash of Rs.600,000/-. Respondent No.1 pronounced talaq upon the petitioner on 30.10.2023, and the divorce deed was dispatched through TCS and delivered on 01.11.2023. The petitioner thereupon instituted a family suit for

maintenance at the rate of Rs.15,000/- per month with effect from 25.10.2023, and for the return of the dowry articles particularized in paragraph 8 of the plaint.

3. Respondent No. 1 filed his written statement, denied the allegations, pleaded that the Haq Mahar had been paid at the time of the marriage, as recorded in the Nikahnama, and that it had never been snatched, and prayed that the petitioner be directed to return the golden ornaments and the cash amount to him.

4. The pre-trial reconciliation failed, and two substantive issues were settled, i.e whether the petitioner was entitled to claim past maintenance until her iddat period and, if so, its quantum, and whether she was entitled to the recovery of the dowry articles mentioned in paragraph 8 of the plaint. No issue was settled with regard to Haq Mahar. The petitioner examined herself and produced her father and her grandfather, along with receipts for gold, electronics and furniture; respondent No.1 examined himself and his brother and produced the original divorce deed, the TCS documents, an account statement, two original receipts from a goldsmith and a USB.

5. The suit was partly decreed. It was held that the petitioner, having left the house of respondent No.1 on 25.10.2023 and with the marriage having been dissolved, was entitled to maintenance of Rs.10,000/- for the iddat period alone; that she was entitled to 02 tolas of gold as Haq Mahar, or, in the alternative, to its price as per the market value of gold at the date of payment; and that she was entitled to the recovery of the dowry articles as per paragraph 8 of the plaint, excluding 06 tolas of golden ornaments, or, in the alternative, to their value of Rs.500,000/-. The claim of respondent No.1 to the Duhri, the half set and the cash was declined because he had produced neither any witness in whose presence the gold was said to have been given nor any jeweler.

6. It is necessary to set out how the learned Family Judge reached her conclusion on the dowry articles, because the impugned judgment proceeds on an assumption to the contrary. She did not base that finding upon the

purchase receipts at all. She viewed the USB produced by respondent No.1 himself and recorded as follows¹:

“at the time of evidence defendant produced USB I have gone through the record/video clip in which it can clearly be seen that plaintiff is taking her dowry articles from her room from the house of defendant, in the presence of defendant as his voice is very much clear; she took clothes, bed sheets, bangles and other daily use articles such as face creams lotion etc from the dressing table’s drawer.”

7. She then relied upon the admissions of respondent No.1 in his cross-examination that “the dowry articles of Mst. Humaira were brought at my house in our room before performing Nikah” that “plaintiff was given clothes, artificial jewelry, makeup, sandals and many unstitched suits” and that “every father of this society give the dowry articles to her daughters” and upon the statement of his witness that “the plaintiff brought in her dowry articles crockery, clothes, bed sheets, sandals and I do not remember other articles”². Upon that material, she held that “the burden lies on the shoulders of the defendant to prove and support his version”.

8. Upon the dower, the learned Family Judge found that “the dower amount as per conditions No.13 and 14 of Nikahnama (02) tola Gold was given on the spot”; she noted that according to paragraph 4 of the plaint the same was thereafter snatched by respondent No.1, which he denied, and she concluded that “the burden lies on the shoulders of the defendant to proof and support his version that in whose presence (02) gold was given to the plaintiff”³.

9. In appeal learned District Judge maintained the maintenance for the iddat period, holding that the petitioner had left the residence of respondent No.1 “of her own volition, reflecting disobedience on her part”. She set aside the decree for Haq Mahar upon the ground that “no relief was sought in respect of Haq Mahar, nor was any issue framed by the family court in this regard”, so that the grant of that relief “amounts to an exercise of jurisdiction not conferred by law”. She set aside the decree for the dowry articles upon the ground that the receipts were “admittedly issued in the name of Khalil Ahmed (the plaintiff’s uncle), who was not produced as a witness”, that they

¹ Judgment and decree of the Family Court dated 04.02.2025, reasons upon issue No.2.

² Statements of respondent No.1 and of his witness recorded on 11.01.2025.

³ *Ibid*, reasons upon issue No.1.

“pertain to the marriage of her uncle Khalil Ahmed, which was solemnized much prior to the marriage of the respondent and the same were used to get undue advantage from the court of law”, that the petitioner had produced her father and grandfather “who were ignorant of such facts” and that “such reliance demonstrates a lack of proper judicial application by the family court and constitutes a serious legal error and irregularity”. The claim of respondent No.1 to the Duhri, the half set and the cash was left undisturbed, it being held that he had “failed to produce any independent witness in support of his claim” and that “In the absence of corroborative evidence, the trial court was justified in discarding the said plea”.

10. Learned counsel for the petitioner submitted that the impugned judgment is neither speaking nor well reasoned; that the dowry articles and golden ornaments remain in the house of respondent No.1; that the appellate court failed to advert to the admissions on the record and that a court is not powerless to grant relief not formally prayed for and may mould the relief as required under the law. He placed reliance upon **Amina Begum** and **Ayisha Qureshi**⁴.

11. Learned counsel for respondent No.1 supported the impugned judgment and contended that the Haq Mahar stood paid as recorded in the Nikahnama and could not have been decreed in the absence of any prayer or issue; that the petitioner herself admitted having removed articles from the house and that the findings recorded on appeal are findings of fact not open to interference in this jurisdiction. Learned Assistant Advocate General adopted his submissions.

12. I have heard learned counsel for the parties and, with their assistance, have reviewed the records of both the courts below.

13. The controversy resolves itself into three questions: first, whether the setting aside of the decree for the dowry articles can be sustained; secondly, whether the setting aside of the decree for Haq Mahar can be sustained; and thirdly, whether any interference is called for in the decree for maintenance.

⁴ *Amina Begum v. Mehr Ghulam Dastgir* PLD 1978 SC 220; *Ms. Ayisha Qureshi v. Tauseef Javed Chaudhry* 2026 CLC 474 (Islamabad).

14. It is convenient first to state the limits within which this jurisdiction is exercised over a decision of the District Court in a family appeal. In **Fozia Mazhar**⁵ the Supreme Court held as follows:

“It is important to underscore that the High Court, in exercise of its constitutional writ jurisdiction, is not supposed to interfere in the findings on controversial questions of fact based on evidence. The scope of judicial review by the High Court under Article 199 of the Constitution ... is limited to the extent of misreading or non-reading of evidence, or if the finding is based on no evidence, which may cause a miscarriage of justice. It is not proper for the High Court to disturb the finding of fact through a reappraisal of evidence in constitutional writ jurisdiction or to exercise this jurisdiction as a substitute for revision or appeal. We, therefore, observe that the findings of facts rendered by the District Court on appeal under the Act must as a rule be treated final and any interference in the same by the High Court in its constitutional writ jurisdiction should only be resorted to as an exception in cases where the findings are based on no evidence or the findings are the result of gross misreading or non-reading of material evidence, making the findings without lawful authority and of no legal effect in terms of Article 199(1)(a)(ii) of the Constitution.”

15. To the same effect is **Muhammad Shamim Ali**⁶, where it was held that a Constitutional Court ought not to interfere with the exclusive jurisdiction of the Family Courts “*unless the jurisdiction exercised by the Family Courts was contrary to law and/or findings reached in exercise of said jurisdiction are perverse and without proper appreciation of evidence that non-interference would lead to a grave miscarriage of justice or for that matter injustice*”. The rule is therefore one of restraint, but the exception is not a formality and where it is attracted the jurisdiction is not to be withheld.

16. The USB produced in this Court, along with the statement of learned counsel dated 07.09.2026, is the same as exhibited before the Family Court at Ex.D-VII and appraised by that Court, and this Court is not a forum for the reception of evidence. Nor does any question arise regarding the competence of the appeal, for section 14(2)(b) of the West Pakistan Family Courts Act, 1964 (hereinafter referred to as “**the Act of 1964**”) bars an appeal only where the decree for dower or dowry does not exceed Rs.100,000/- and both heads here exceeded that figure⁷.

⁵ Mst. Fozia Mazhar v. Additional District Judge, Jhang PLD 2024 SC 771, para 10.

⁶ Muhammad Shamim Ali v. Mst. Asma Begum 2024 SCMR 1642, para 9.

⁷ Sections 14(1)(b), 14(2)(b) and 14(4), the Act of 1964.

17. **Question No.1-the dowry articles.** The first and the most serious infirmity in the impugned judgment is that the learned District Judge reversed the judgment of Family Court upon a reason which the Family Court had never given and did not address the reasons which she did give. As already noticed, the decree upon this head rested upon the video, upon the admissions of respondent No.1 and upon the admissions of his witness. Not one of those three matters finds mention in the impugned judgment. The purchase receipts, which constitute the entirety of the appellate reasoning, formed no part of the reasoning of the Family Court. A judgment of reversal arrived at in that manner is the result of non-reading of material evidence.

18. Secondly, the observation that the Family Court “ignored the evidence on record” and displayed “a lack of proper judicial application” is contrary to the record. Learned Family Judge viewed the very USB upon which the appellate court relied and recorded a finding as to what it discloses. She also excluded 06 tolas of golden ornaments from her decree for want of supporting evidence and declined the claim of respondent No.1 upon the identical footing. That is not the mark of an unapplied mind, and the appellate court reached the contrary conclusion without noticing either circumstance.

19. Thirdly, the ground actually taken does not survive scrutiny even upon its own terms. The marriage of Khalil Ahmed was admittedly solemnized in the year 2018, whereas the receipts upon the record bear dates between June and November 2022, that is to say, within a few months of the marriage of the parties on 26.11.2022, and they answer item for item and price for price to the particulars set out in paragraph 8 of the plaint. More fundamentally, the name appearing upon a receipt does not determine the character of the article. It has been held that dowry “may be conveyed through intermediaries, informal channels, or third parties, so long as its origin lies with the bride’s parents and the transfer is linked to the marriage and the bride is the ultimate beneficiary”⁸; that all property given to a bride as dowry “shall vest absolutely” in her and that “this absolute vesting of rights in the bride remains unaffected by any subsequent separation or divorce”⁹.

⁸ *Muhammad Sajid v. Mst. Shamsa Asghar* PLD 2025 SC 461, para 10.

⁹ *Muhammad Sajid* (n.8 above), para 4; and see section 5 of the Dowry and Bridal Gifts (Restriction) Act, 1976.

20. Fourthly, the admissions upon the record were not open to being brushed aside. Respondent No.1 did not confine himself to a denial. He accepted that the dowry articles of the petitioner were brought into his house and into his room before the Nikah, that the articles so brought were used and that it is the custom of society for a father to give dowry to his daughter, and his own brother accepted that the petitioner had brought dowry with her. Where a husband does no more than deny delivery and leads no evidence of his own and the list consists of articles of daily use which are generally given to brides and are not beyond the means of her family, the claim has been held to be rightly decreed¹⁰. The case of the petitioner stands upon a higher footing, for here the delivery is admitted.

21. Fifthly, once the presence of the dowry in the matrimonial home is admitted, the burden of proving its return or removal lies with the party, asserting it. A decree for the return of dowry articles has been upheld where, “despite the petitioners’ claim that respondent No. 3 had received all her dowry articles through respectable persons, there was a conspicuous absence of the names of such persons. Furthermore, the petitioners failed to bring forth any witnesses who could confirm the return of the dowry articles in their presence”¹¹. Respondent No.1 named only his puphi Mst. Bisma and produced neither her nor any other person. An unrebutted and uncontroverted version is to be treated as valid and legal for all intents and purposes¹².

22. Sixthly, the impugned judgment is internally inconsistent. The assertion of respondent No.1 that the petitioner had carried away a Duhri of Rs.460,000/-, a half set of Rs.88,000/- and Rs.600,000/- in cash was rejected for want of any independent corroborative witness; yet his assertion, resting upon precisely the same uncorroborated word, that she had carried away the whole of her dowry was accepted. The video does not explain the discrepancy. Upon the finding of the Family Court, it shows the removal of clothes, bed sheets, bangles and articles of daily use from the drawer of a dressing table and a double bed; a sofa set, an almirah, a divider, a refrigerator, an LED television, a washing machine and a sewing machine were not removed from a house in that fashion.

¹⁰ *Shafique Sultan v. Mst. Asma Firdous* 2017 SCMR 393, paras 5 and 6.

¹¹ *Muhammad Shakeel v. Additional District Judge, Faisalabad* PLD 2025 SC 572, para 11.

¹² *Mst. Farah Naz v. Judge Family Court, Sahiwal* PLD 2006 SC 457.

23. The case is in substance the same as **Muhammad Iqbal**¹³, where the Additional District Judge “refused to allow return of the other articles which in the light of evidence on record stood admittedly given to the petitioner by way of dowry”, a course which the High Court held to be “a case of gross misreading of record rather failure on the part of the learned Additional District Judge to read evidence on record” and the judgment therefore “without lawful authority”; and the Supreme Court, reproducing that reasoning and affirming it, held that the High Court “in its writ jurisdiction rightly exercised its powers, wherein the order of the Additional District Judge was contrary to the evidence recorded by the parties and his findings were perverse, which resulted in the miscarriage of justice”. The same must be said of the impugned judgment upon this head.

24. As to quantum, the particulars in paragraph-8 of the plaint, excluding the 06 tolas of golden ornaments, aggregate Rs.583,100/-, against which the Family Court decreed return in specie or Rs.500,000/- in the alternative, for a marriage that subsisted for about eleven months. That is a careful and circumspect assessment showing due application of mind, and it is well within the approach approved where 65% of the listed value was allowed after six and a half years of use, the primary relief remaining the return of the articles themselves¹⁴. No case for interference with the quantum is made out.

25. The setting aside of the decree regarding the dowry articles is therefore the result of gross misreading and non-reading of material evidence, and it cannot be sustained.

26. **Question No.2-Haq Mahar.** The reason assigned by the learned District Judge upon this head cannot be supported. Dower, dowry and the personal property and belongings of a wife are all matters specified in Part-I of the Schedule to the Act of 1964 and the Family Court was seized of them. Where dower is paid and thereafter taken back, “the dispute would fall within the exclusive jurisdiction of the Family Court in view of the provisions of section 5 read with part 1 of the schedule of the Family Courts Act, 1964”¹⁵. To describe the grant of such relief as “an exercise of jurisdiction not

¹³ *Muhammad Iqbal v. Mst. Nasim Akhtar* 2002 SCMR 701, paras 4 and 5.

¹⁴ *Shafique Sultan* (n.10 above), para 6.

¹⁵ *Malik Tahir Ayub v. Additional District Judge, Rawalpindi* PLD 2015 Lahore 57, para 9.

conferred by law” is to confuse a defect of procedure with a want of jurisdiction and the finding to that effect is set aside.

27. Nor is the absence of an issue, taken by itself, fatal. It has been held that “framing or non-framing of issue cannot be a ground for reversing the judgment and decree of any court”, subject to the qualification that the party complaining must have raised the issue at the time of the framing of the issues and must show specific prejudice borne out by the record¹⁶. Here the dower was pleaded in paragraph-4 of the plaint, specifically traversed in paragraph-4 of the written statement, and both parties deposed to and were cross-examined upon it. Upon that footing, the objection, standing alone, would not have availed respondent No.1.

28. In **Amina Begum** the principle enunciated was that of taking notice of events occurring after the institution of the proceedings and moulding the decree to the altered circumstances, a discretion vested in the courts “to be judicially exercised in proper cases” and the Court there contemplated that it be worked out through bona fide amendment. In **Ayisha Qureshi** the relief moulded was one which stood pleaded in paragraph-10 of the plaint and was supported by an admission in cross-examination¹⁷. Where relief not specifically prayed has been sustained, the Supreme Court has required that the matter be raised in the pleadings of the parties, that a specific issue be framed upon it, that evidence be adduced and that definite findings be recorded¹⁸. The second of those conditions is wanting here.

29. However, what is decisive on this head is the reasoning of the Family Court itself. Having found, on the Nikahnama, that the 02 tolas of gold “was given on the spot”, the petitioner’s case was not that the dower was unpaid, but that it was afterwards snatched from her. Having so found, the learned Family Judge nevertheless cast upon respondent No.1 the burden of proving “in whose presence (02) gold was given to the plaintiff”, that is, the burden of establishing a fact which she had already found in his favour and had decreed against him for his failure to discharge it. An allocation of onus in those terms cannot be supported.

¹⁶ *Muhammad Ibrahim (deceased) v. Taza Gul* 2020 SCMR 2033, para 6.

¹⁷ *Amina Begum and Ayisha Qureshi* (n.4 above).

¹⁸ *Mst. Akhtar Sultana v. Major (Retd.) Muzaffar Khan Malik* PLD 2021 SC 715, para 41.

30. In **Shazia Begum** it was held that “it is not spelt out from the evidence produced by the petitioner that the ornaments received by her at the time of Nikahnama (weighing 9 tolas), were forcibly snatched from her by the respondent at any subsequent point of time, so as to maintain her claim in this regard” and more recently, in **Humaira Wazir**, that “the allegation of snatching away of the 25 tolas gold from her, had remained unproved”¹⁹.

31. It is not for this Court to record a finding upon that question for the first time. The Family Court decided it upon a reversed onus, and the appellate court did not decide it at all. To enter upon it here would be to reappraise the evidence, which this jurisdiction forbids²⁰. Where an order is sustainable although the reason assigned for it is unsound, it is not to be disturbed on account of the reasoning alone²¹. I therefore decline to interfere upon this head.

32. The finding that the petitioner left the matrimonial home of her own accord is the finding of the Family Court, recorded in these words: “it is admitted by the Plaintiff that she left the house of defendant herself on 25.10.2023, hence she is not entitled for her maintenance”. The petitioner preferred no appeal against the decree of the Family Court and filed no cross-objection in the appeal of respondent No.1. The appellate court did no more than affirm that finding and maintain the maintenance of Rs.10,000/- for the iddat period, which respondent No.1 has expressed his willingness to pay. This head is therefore closed and no interference is called for.

33. For the reasons recorded above, this petition is partly **allowed**. The impugned judgment, to the extent that it sets aside the decree of the Family Court for the return of the dowry articles particularized in paragraph-8 of the plaint, excluding 06 tolas of golden ornaments, or for Rs.500,000/- in lieu thereof, is declared to have been passed without lawful authority and to be of no legal effect and the decree of the Family Court to that extent stands restored.

¹⁹ *Mst. Shazia Begum v. Additional District Judge, Islamabad* PLD 2014 SC 335, para 3; *Mst. Humaira Wazir v. Muhammad Faisal* 2025 SCMR 1003, para 9.

²⁰ *Fozia Mazhar* (n.5 above); *Muhammad Shamim Ali* (n.6 above).

²¹ *Badshah v. Bahadur Shah* 1994 SCMR 384, para 3.

34. The impugned judgment, to the extent that it sets aside the decree for Haq Mahar, is maintained. The decree for maintenance of Rs.10,000/- for the iddat period is maintained. The parties shall bear their own costs.

J U D G E

Abdul Basit