

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. S – 222 of 2024

(Muhammad Kashif Rahmani v. Mst. Nimra Rahmani & another)

Date of hearing : 18.11.2024

Date of decision : 18.11.2024

Ms. Rizwan Jabeen Siddiqui, Advocate for petitioner.

ORDER

Zulfiqar Ahmad Khan, J. – Through this petition, the petitioner has impugned the concurrent findings of the Courts below, including judgment and decree dated 27.01.2024, passed by learned Family Judge, Naushahro Feroze in Family Suit No.56 of 2023, and judgment and decree dated 26.09.2024, passed by learned Additional District Judge-III, Nashahro Feroze in Family Appeal No.10 of 2024.

2. Respondent No.1 (plaintiff) filed a suit for dissolution of marriage, maintenance of plaintiff, minor Muhammad Ahmed and return of dowry articles. The trial Court granted maintenance of Rs.5,000/- (Five Thousand Rupees) per month for the minor Muhammad Ahmed, starting from March 2022 until the minor's legal entitlement, with a 10% annual increase. However, the interim maintenance paid by the petitioner (defendant) during the course of the trial was to be excluded from the decretal maintenance. The suit was decreed in favour of the plaintiff through the judgment and decree dated 27.01.2024, in the following terms:

- *The marriage between Plaintiff Mst. Nimra Rehmani is dissolved with Defendant Muhammad Kashif Rehmani on ground of non-maintenance, cruelty & aversion.*
- *Defendant Muhammad Kashif Rehmani is directed to pay maintenance PKR: 50,000/- (Fifty Thousand Rupees Only) to plaintiff Mst: Nimra Rehmani as total amount of Iddat period.*
- *Defendant Muhammad Kashif Rehmani is directed to return the dowry articles of plaintiff except Gold Jewelry, Buffalo and other household articles (Which are claimed with A.C)*

or in lieu of dowry articles, defendant shall pay worth of dowry articles in sum of PKR: 400,000/- (Four Hundred Thousands Rupees) as appreciated amount.

- *Defendant Muhammad Kashif Rehmani is further directed to pay delivery/maternity expenses of PKR: 30,000/- (Thirty Thousand Only) to plaintiff side incurred upon birth of minor Muhammad Ahmed.*
- *There is no order as to costs.*

3. Being aggrieved, the petitioner (defendant) challenged the aforesaid judgment before the appellate Court. However, the appeal was dismissed vide judgment and decree dated 26.09.2024. Consequently, the petitioner has now approached this Court against the concurrent findings of the Courts below.

4. Learned Counsel for the petitioner has argued that no dowry articles are available at the petitioner's residence, and that, in fact, the petitioner purchased all the articles, which have since been taken away by respondent No.1. It is further contended that no receipts or evidence regarding the dowry articles, including gold, have been produced. Learned Counsel also submits that the Courts below have failed to properly consider and evaluate the material available on record. In this regard, it is asserted that the impugned judgments are not well-reasoned and, as such, are liable to be set aside.

5. The marriage between respondent No.1 (Mst. Nimra Rahmani) and the petitioner (Muhammad Kashif Rahmani) was dissolved on the grounds of cruelty, non-maintenance and aversion. The trial Court observed that the relationship between the parties had deteriorated, and despite the fact that they had been living separately, the petitioner had not filed a suit for restitution of conjugal rights nor provided any substantial evidence of attempts to reconcile. Additionally, the trial Court also addressed the issue of respondent No.1's willingness to forgo the dower (*Haq Maher*) if *Khula* was granted, which shows her desire to end the marriage amicably.

6. Respondent No.1 claimed dowry articles worth Rs.13,80,000/-, which included gold jewelry, furniture, household items and livestock. The

trial Court carefully considered the record presented by both parties, noting that respondent No.1 did not provide receipts for the dowry items. However, the trial Court also took into account the social custom that dowry articles are often given informally and without receipts. The petitioner, on the other hand, denied the receipt of dowry articles and claimed that respondent No.1's family was poor and could not afford to provide such expensive dowry items. However, the petitioner failed to produce any evidence to support this claim or to show when the dowry articles were allegedly taken back by respondent No.1. Since the petitioner could not provide sufficient evidence, the trial Court rightly concluded that respondent No.1's claim for dowry articles was valid, and thus, the petitioner was ordered to return the dowry articles or compensate respondent No.1 with Rs.4,00,000/- as an alternate.

7. The trial Court awarded a maintenance amount of Rs.50,000/- for respondent No.1 for the duration of her *Iddat* period, which is in line with the principle that the husband is responsible for the wife's maintenance during the *Iddat* period after a divorce or *Khula*. Regarding the minor child, the legitimacy of the child was admitted by both parties, and the trial Court rightly pointed out that the father is obligated to provide maintenance for his children until they reach the age of puberty. Since the child was in the custody of the mother, the petitioner (father) was still required to provide financial support for the child. The trial Court awarded monthly maintenance of Rs.5,000/- for the child, starting from March 2022, with a 10% annual increase.

8. Respondent No.1 claimed maternity expenses for the birth of the minor child, which were not disputed by the petitioner except for the claim that he had paid the delivery expenses. Since the petitioner did not provide tangible proof of this payment, such as hospital bills or receipts, the trial Court rightly awarded respondent No.1 Rs.30,000/- for the maternity expenses incurred during the birth of the minor.

9. The trial Court made a well-balanced decision based on the facts presented and in accordance with Islamic family law. The trial Court

carefully examined the evidence, weighed the claims and counterclaims, and applied the law correctly to grant relief to respondent No.1 (plaintiff). The petitioner's (defendant) failure to produce satisfactory evidence regarding the return of dowry articles and the payment of maternity expenses, coupled with the established principles of maintenance for the wife and minor child, supports the trial Court's findings. The decision is both legally sound and just, and it ensures that respondent No.1's rights are upheld while holding the petitioner accountable for his responsibilities under the law.

10. The appellate Court, addressing the point of dowry articles, highlighted a USB containing footage of the dowry items, which was not contested by the petitioner (appellant). Furthermore, the petitioner did not seek forensic analysis of the USB, thus undermining his case. The appellate Court's conclusion regarding the gold ornaments, which were presented by the petitioner to the respondent and are considered her own property, is legally sound and sustainable.

11. Both the judgments of the Courts below are well-reasoned and align with established legal standards and customary practices. The trial Court's decision was correct, and the appellate Court has rightly upheld it. Consequently, the petition is **dismissed in *limine***.

J U D G E

Abdul Basit