

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

**Const. Petition No.S-690 of 2022**

Date \_\_\_\_\_ Order with signature(s) of Judge(s) \_\_\_\_\_  
Hg: of Case / Priority.

1. For hearing of CMA No.4507/22
2. For hearing of main case.

**07.08.2024.**

Mr. Muhammad Rizwan holding brief for Mrs. Mehmooda Suleman, Advocate for the Petitioner.

Mr. Muhammad Nadeem Khan, Advocate for Respondent

Mr. Shehreyar Qazi, Addl. Advocate General Sindh.

Mr. Faheem Panhwar, DAG.

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**Mohammad Karim Khan Agha, J.** Petitioner has filed this petition against the judgment dated 18.05.2022 passed by the Court of District & Sessions Judge (South) Karachi which up held judgment and Decree dated 11.10.2021 passed by the learned XXth Civil & Family Judge (South) Karachi.

2. In brief Mst. Wajiha Ayaz daughter of Haroon Younus filed Family Suit No.1055 of 2016 in the Court of XXth Family Judge & Judicial Magistrate Karachi South in connection with payment of Dower amount and Maintenance. Vide judgment dated 11.10.2021 a Decree was passed in her favor which reads as follows:-

*"This Family suit came up for final disposal before SHAHNAWAZ, XXth Civil Judge & J.M. Karachi South, on 11<sup>th</sup> day of October, 2021, in presence of respective counsel of both parties. It is ordered that under the circumstance mentioned above I am in view that the plaintiff is entitled for her Iddat period maintenance at the rate of Rs.10,000/- per month for the period of three months only. The past maintenance of plaintiff No.2 to 04 is allowed from period of March 2010 till disposal of this case at the rate of Rs.15000/- per month for each minor and future maintenance at the rate of Rs.25,000/- per month with increment of 10% till their legal entitlement. The plaintiff is entitled to recover the dowry articles viz furniture only i.e. bedroom set (2 side boxes, 1 dressing table, 1 king size bed, 2 side table, Coffee table, 2 side chairs) or equivalent value of Rs.70,000/-."*

3. Petitioner / Appellant Mohammad Ayaz being dissatisfied with the aforesaid judgment filed an appeal being No.202 of 2021 in the Court of Addl. District Judge (South) Karachi which up held

the earlier judgment and Decree dated 11.10.2021 vide impugned judgment dated 18.05.2022.

4. Petitioner/Appellant has approached this Court in its constitutional jurisdiction in effect to appeal the maintenance amount and dowry articles which has been ordered to be given to / paid by him to Ms. Wajiha Ayaz and her children.

5. I have heard the respondent and have been assisted by learned Addl. Advocates General in the absence of the petitioner and have considered the record.

6. Under the Family Court Act, 1964 a composite and self-contained scheme is provided for dealing with family disputes. Under that Act Section 14 gives only one right of appeal which has been exhausted by the petitioner. The appellant has approached this Court in its constitutional jurisdiction against the appellate order. It is well settled by now that this Court in its constitutional jurisdiction cannot go into factual issues for example determination of the amount of maintenance by the trial and appellate Court (as has been sought in this case) as this issue is to be decided under the Family Court Act, 1964 which passes such orders/judgments after recording evidence. It is also noted that it has been held by the Supreme Court that where only one right of appeal is given in the Family Court Act, 1964 this does not mean that a further right of appeal is permissible to the High Court acting in its constitutional jurisdiction though the Court may in exceptional circumstances consider such cases. In this case no exceptional circumstance exist. In this respect reliance is placed in the case of **Arif Fareed v Bibi Sara** (2023 SCMR 413), **M. Hamad Hassan v Mst. Isma Bukhari** (2023 SCMR 1434) and the judgment passed in Civil Petition No.473-K of 2024 re: **Syed Raheel Ahmed v Mst. Syeda Zona Naqvi** by the Supreme Court of Pakistan (Approved for reporting) dated 26.07.2024.

7. However, it is noted that the petitioner has not paid full dower amount as the court ordered and produced a cheque of Rs.7,52,000/- which he shall deposit with the Nazir of this Court during course of the day who shall distribute the same as per Judgment & Decree of Family Court dated 18.05.2022.

3

8. Accordingly for what has been discussed above this petition is dismissed as being not maintainable along with listed application.