HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

C.P. No.S-227 of 2026

[Jawaid Ahmed vs. Mst. Shifa and others]

Petitioner:	Through Mr. Jahangir Khan, Advocate
Respondent No.1:	Through Mr. Zaheer Ahmed Arain, Advocate
Date of hearing & Decision:	16.11.2026

O R D E R

ADNAN-UL-KARIM MEMON J:- The petitioner has filed the instant constitutional petition challenging the judgment dated 11.03.2026 passed by the Appellate Court in Family Appeal No.10 of 2026, concerning the judgment and decree dated 22.12.2025 passed by the Trial Court in Family Suit No.747 of 2022.

2. Learned counsel for the petitioner contends that the marriage between the parties was solemnized on 14.01.2019, with Haq Mehr fixed at Rs.10,000/-, which was paid at the time of marriage. It is argued that the Nikahnama relied upon by the respondent, containing a claim of five tolas of gold and a house situated at Plot No.33-A, Gulshan-e-Sajjad, Hyderabad, is forged, fabricated, and materially different from the original Nikahnama. The petitioner maintains that the Nikah was solemnized by Molvi Mehmood-ul-Hassan and registered by Abdul Rehman, who confirmed the registration before the Trial Court; that the respondent's own deposition contains discrepancies regarding the date of marriage and names of witnesses, while the receipts of alleged dowry articles bear dates of 2018, although the marriage took place in 2019. Learned counsel further submits that the petitioner divorced the respondent on 15.01.2019, the second day of marriage, and denied having any conjugal relationship with her. It is argued that the respondent instituted the family suit after three years on the basis of a fabricated Nikahnama, and the Courts below failed to properly appreciate the evidence and material available on record. The petitioner seeks setting aside of the impugned judgment of the Appellate Court.

3. Conversely, learned counsel for the respondent submits that the Nikah was solemnized on 14.01.2019 by Qari Muhammad Akhter Chishti, who appeared as a Court witness and confirmed the marriage and the Nikahnama produced by the respondent; that Haq Mehr was fixed at five tolas of gold and a constructed house situated at Plot No.33-A, Gulshan-e-Subhan, Hyderabad, which has not been handed over to the respondent. The respondent further maintains that the petitioner retained the original Nikahnama and subsequently produced a forged and fabricated document before the Trial Court; that an inquiry was conducted through the concerned police, wherein the Nikah witnesses supported the respondent's version and denied the Nikahnama produced by the petitioner. The respondent also produced five witnesses in support of her case. The alleged

discrepancy in the date of marriage and name of one witness was attributed to stenographical errors in the deposition; that the dowry articles and relevant receipts were duly produced and proved during trial. Learned counsel for the respondent denies the allegations of fraud and substitution of bride, maintaining that the marriage was arranged with the participation of both families. It is further submitted that the respondent instituted the family suit for enforcement of her lawful matrimonial rights after the petitioner failed to fulfil his obligations. Regarding maintenance, it is contended that the Trial Court did not award maintenance from 15.01.2019; rather, it granted maintenance from 20.09.2022, the date of filing of the petitioner's written statement, in which he repeatedly admitted having divorced the respondent. It is argued that both Courts below decided the matter after framing issues, recording evidence and obtaining verification of Nikahnama, and their concurrent findings are based on proper appreciation of record. The respondent, therefore, maintains that no illegality or material irregularity has been committed by the Courts below and seeks dismissal of the constitutional petition.

4. I have heard learned counsel for the parties and perused the record with their assistance.

5. The Family Court, after examining the evidence and hearing the parties, observed that the marriage between the parties was admitted, whereas the defendant's plea of having divorced the plaintiff on the second day of marriage remained unsubstantiated by any independent or legally admissible evidence. It was held that, in the absence of proof of compliance with Section 7 of the Muslim Family Laws Ordinance, 1961, the divorce would take effect from the date of its disclosure in the written statement. Consequently, the plaintiff was held entitled to past maintenance from 15.01.2019 till 20.09.2022, including the period of Iddat, at the rate of Rs.10,000/- per month with 10% annual increase, payable in lump sum within one month. Regarding dower, the Court relied upon the Nikahnama produced by Nikahkhawan, which recorded 5.5 tolas of gold as dower and its payment in Column No.14. The defendant's Nikahnama was found unregistered and fake in the official verification reports. Since the dower was already recorded as paid, the plaintiff's claim for its recovery was declined. As regards dowry articles, the Court held that the plaintiff was not entitled to gold ornaments, artificial jewellery, clothes and other valuables presumed to be in her personal possession; however, on the basis of receipts and supporting evidence, she was held entitled to recovery of essential household articles, furniture and kitchen appliances, or their alternate value of Rs.100,000/-. On the claim relating to the house, the Court relied upon Column No.17 of the genuine Nikahnama and the testimony of the Nikahkhawan, holding that the defendant had agreed to provide Plot No.33-A, Gulshan-e-Subhan, Hyderabad, to the plaintiff. Accordingly, the defendant was directed to transfer the property in her name and deliver possession within two months, failing which the Nazir was directed to take necessary steps for execution of the decree. The suit was, therefore, partly decreed vide judgment dated 22.12.2025, with no order as to costs.

6. The appellate Court, after hearing the counsel for the parties and examining the evidence available on record, observed that the appellant's plea of divorce allegedly

pronounced on the second day of marriage, before Rukhsati, was not supported by any cogent or corroborative evidence. He had neither produced any notice of divorce issued to the Chairman of Union Council as required under Section 7 of the Muslim Family Laws Ordinance, 1961, nor established that the respondent had been informed of such divorce. Reliance was placed upon **Sohail Majeed Karim v. IInd Family Judge, South Karachi and others** (PLD 2004 Karachi 498). The appellant's own statement in proceedings under Sections 22-A and 22-B Cr.P.C., alleging that the respondent had been forcibly taken away from his house by her relatives on 11.02.2019, also contradicted his plea of an earlier divorce. The appellate Court further observed that the Nikahkhuwan, Qari Muhammad Akhtar Chishti, examined as a Court witness, categorically confirmed that the dower was fixed at 5.5 tolas of gold and that the appellant had agreed to provide Plot No.33-A, Gulshan-e-Subhan Colony, Hyderabad, to the respondent under Column No.17 of the Nikahnama. The verification reports also established that the Nikahnama produced by the appellant was fake, bogus and unregistered, whereas the Nikahnama produced by the respondent was confirmed by the Nikahkhuwan. The respondent had specifically pleaded that the original Nikahnama was in the appellant's possession; therefore, production of secondary evidence was justified under Article 76 of the Qanun-e-Shahadat Order, 1984. Regarding dowry articles, the appellate Court found that the respondent had produced original purchase receipts relating to furniture, household necessities and kitchen appliances, whereas the appellant merely denied their receipt without producing any rebuttal evidence. Accordingly, the trial Court's direction for return of essential household articles or payment of Rs.100,000/- in lieu thereof was found justified. The appellate Court, therefore, held that the appellant had failed to establish any misreading or non-reading of evidence, illegality or material irregularity in the impugned judgment and decree. Consequently, no ground for interference was made out. The appeal was dismissed and the judgment and decree passed by the trial Court were maintained, with no order as to costs.

7. The controversy primarily revolves around the genuineness of Nikahnama, the nature and payment of dower, the petitioner's plea of divorce, entitlement to maintenance and recovery of dowry articles and the house stipulated in Column No.17 of the Nikahnama. Admittedly, the marriage between the parties is not disputed. The petitioner's assertion that he pronounced divorce on the second day of marriage, prior to Rukhsati, has not been substantiated through any independent evidence or proof of compliance with the mandatory requirements of Section 7 of the Muslim Family Laws Ordinance, 1961. Mere assertion of pronouncement of divorce, without establishing the statutory procedure, cannot be accepted as sufficient to defeat the respondent's lawful matrimonial claims. More importantly, the petitioner's own statement in proceedings under Sections 22-A and 22-B Cr.P.C., alleging that the respondent was forcibly taken away from his house by her relatives on 11.02.2019, materially contradicts his plea that the marriage had already been dissolved before Rukhsati.

8. The question regarding the genuineness of Nikahnama has also been examined by both the Courts below on the basis of evidence, including the testimony of Nikahkhuwan,

who categorically supported the Nikahnama produced by the respondent and confirmed the stipulation regarding dower and transfer of Plot No.33-A in her favour. The verification reports further supported the respondent's version and cast serious doubt upon the document produced by the petitioner. The petitioner's reliance upon his alleged original Nikahnama, therefore, loses its evidentiary value in the face of verification reports and the direct testimony of the person who solemnized the marriage. Similarly, the objection regarding secondary evidence is misconceived, as the respondent had specifically pleaded that the original Nikahnama was in the petitioner's possession. The production of Nikahnama by the respondent was, therefore, legally considered by the Courts below in the circumstances contemplated under Article 76 of the Qanun-e-Shahadat Order, 1984.

9. So far as the claim of maintenance and dowry articles is concerned, the petitioner has failed to produce any convincing material to dislodge the respondent's claim. The respondent supported her claim of household dowry articles through purchase receipts, whereas the petitioner merely denied their receipt without producing any evidence in rebuttal.

10. The Trial Court, in fact, exercised due care by excluding personal ornaments, jewelry and clothes from the decree and restricting the relief to essential household articles or their alternate value of Rs.100,000/-. Similarly, the direction for transfer of house is founded upon the express stipulation contained in Column No.17 of the Nikahnama, duly corroborated by the testimony of Nikahkhuwan. Once such an obligation was established, the petitioner could not avoid its performance through a mere denial unsupported by convincing evidence.

11. It is settled that this Court, in its constitutional jurisdiction, does not ordinarily undertake reappraisal of evidence merely because another view may be possible. Interference with concurrent findings of fact is warranted only where the same are shown to be perverse, arbitrary, based on misreading or non-reading of material evidence, or suffer from patent illegality or jurisdictional defect.

12. In the present case, both the Courts below have examined the rival pleadings, framed appropriate issues, recorded evidence, considered the relevant documentary material and assigned cogent reasons for their conclusions. The petitioner has failed to demonstrate any material misreading or non-reading of evidence, perversity or legal infirmity warranting interference. The mere repetition of pleas already considered and rejected by the Courts below does not furnish a valid ground for invoking the constitutional jurisdiction of this Court.

13. For the foregoing reasons, I find that the impugned judgments and decrees are based on proper appreciation of evidence and are neither arbitrary nor contrary to law. The petitioner has failed to make out any exceptional circumstance justifying interference by this Court under Article 199 of the Constitution. Consequently, the instant constitutional

petition is dismissed, and the judgments and decrees passed by both the Courts below are maintained. There shall be no order as to costs.

JUDGE

Sajjad Ali Jessar