ORDER SHEET

THE HIGH COURT OF SINDH, SUKKUR BENCH

C. P. No. S – 346 of 2026
[Ghulam Murtaza Farooqi v. Mst Rozina Farooqi]

For petitioner	:	Mr. Shewak Ram Valecha, Advocate
For Respondent	:	*Nemo*
Date of hearing	:	20.11.2026
Date of decision	:	20.11.2026

O R D E R

Adnan Iqbal Chaudhry J. – The petitioner, who was the husband of the respondent and the defendant in Family Suit No. 51/2023 filed by respondent for maintenance, has challenged the judgment and decree dated 10.04.2026 passed by the Family Judge-I, Mirpur Mathelo, the dismissal of his Family Appeal No. 14/2026 and judgment on Respondent's Family Appeal No. 20/2026 by the Additional District Judge-I, Mirpur Mathelo *vide* common judgment dated 25.09.2026.

2. The Family Judge awarded the respondent maintenance from 16.06.2021 till dissolution of marriage on 22.12.2023 at the rate of Rs. 5,000/- per month. On the respondent's appeal, the Appellate Court enhanced the maintenance to Rs. 10,000/- per month.

3. For invoking the writ jurisdiction against the decree of maintenance, learned counsel for the petitioner confines himself to the argument that the respondent was not entitled to maintenance for the reason that after the *nikah*, the *rukhsati* did not take place and the respondent continued to live with her parents till the marriage came to be dissolved. That argument was considered by the Courts below, but was rejected while relying on the case of *Ambreen Akram v. Asad Ullah Khan* (2026 SCMR 1), where it was held by the Supreme Court of Pakistan that:

> "19. A holistic reading of contemporary Islamic jurisprudence, statutory enactments, constitutional protections, and judicial precedents affirm that a wife's right to maintenance is neither contingent upon consummation or rukhsati, nor subject to the discretion of the husband. It flows unconditionally from the solemnization of a valid marriage and constitutes a binding legal duty. In essence, the only legitimate ground for suspending this obligation arises where the husband discharges a

high burden of proof to establish that the wife has wholly and without justification withdrawn from the marital relationship, understood not merely as physical access but encompassing the full spectrum of emotional, residential, and relational life. Absent such proof, the obligation to provide maintenance persists. This understanding not only gives effect to the egalitarian spirit of Islamic law but also reinforces the constitutional commitment to dignity (Article 14), equality (Article 25), and protection of the family unit (Article 35). In a patriarchal society, where economic dependence often fuels systemic injustice, the right to maintenance must be safeguarded as an essential constitutional, legal, and ethical entitlement. Any attempt to curtail it must therefore be subjected to the strictest constitutional and jurisprudential scrutiny.

20. In the present case, there is no dispute that the parties entered into a valid marriage. Nor is there any allegation, much less evidence, that the petitioner refused consummation or cohabitation without reasonable cause. On the contrary, the record reveals that the respondent failed to provide a marital abode, made no arrangements for rukhsati, and did not take steps to fulfill his basic obligations under the marital contract. There is similarly no factual or legal basis in the record to invoke the narrow exception to the respondent's obligation of maintenance. No credible evidence has been led to suggest that the petitioner willfully withdrew from the marital relationship or refused cohabitation without valid cause. The wife's inability to cohabit due to the husband's own failure to facilitate rukhsati does not defeat her claim to maintenance. She cannot be penalized for non-consummation that resulted from the respondent's own inaction. To suggest otherwise would allow men to weaponize the absence of consummation often caused by their own neglect as a mean to escape financial responsibility, thereby trapping women in marriages devoid of both rights and dignity. In view of these settled principles, the Court finds that the petitioner's right to maintenance accrued upon the solemnization of marriage and continued throughout the subsistence of the marital bond."

4. Therefore, the argument that the wife's right to maintenance is contingent upon rukhsati, stands rejected by the Supreme Court. Here also, the petitioner was unable to bring credible evidence to demonstrate that rukhsati was withheld due to her refusal. The case of *Ambreen Akram* discussed by the Courts below, is a complete answer to the petitioner's contention. The impugned judgments do not warrant interference. The petition is **dismissed in *limine***.

J U D G E

Abdul Basit