

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

C.P No.S-39 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on M.A No.111/19.

For orders on M.A No.112/19.

For orders on M.A No.113/19.

For hearing of main case.

17.01.2019

Mr. Pervaiz Iqbal Butt, Advocate for Petitioner.

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1. Urgent application is granted.
2. Exemption granted subject to all just exceptions.
- 3&4. This petition challenges the warrant of arrest issued by the Executing Court in Family Execution Application No.01 of 2018, against the petitioner.

Learned counsel for the petitioner states that the Family Court through its Judgment dated 28.04.2017, allowed the plaint of respondent No.2, in respect of the dowry articles except one gold ring of 9 grams and declined Haq Mahar i.e 4 Tola of Gold. Learned counsel states that vide order dated 15.10.2018, the trial Court valued the dowry articles in the sum of Rs.4,26,000/-. Learned counsel further states that the petitioner has already made an application before the trial Court to make the payment of dowry articles through installments. Learned

counsel while referring the Section 13 of Sub-section 5 of West Pakistan Family Court Ordinance, 1964, states that the Family Courts are empowered that money payable under the decree could be made payable in installments as the Court deem fit. Learned counsel states that when the application of the petitioner was pending before the Family Court for making the payment of dowry articles through the installments, by the issuance of warrant of arrest, serious injustice is caused to the petitioner. He states that the petitioner is inclined to make payment of the dowry amount, however, in installments at the rate of Rs.20,000/- per month and such request has not been considered by the Family Executing Court. In this regard reliance on the Provision of Section 51 of CPC is made, where before arrest and detention of a person, the court has to the first considered that whether the judgment debtor is given an opportunity of showing cause as to why he should not be committed to prison by attaching any of his properties, however, such provision has not been followed by the Executing Court.

Let notice be issued to the respondents, as well as, learned A.A.G for 07.02.2019. However, petitioner is directed to immediately approach the Executing Court by moving an application for making payment of dowry articles in installments of Rs.20,000/- per month. Meanwhile, operation of the impugned order is suspended till the next date of hearing.

JUDGE

Fahad Memon