

IN THE HIGH COURT OF SINDH AT KARACHI

Present: **Yousuf Ali Sayeed** and **Agha Faisal, JJ.**

CP D-1487 of 2020 : Slamuddin vs.
Federation & Others

For the Petitioner : Mr. Mohammad Rashid
Advocate

For the Respondents : Mr. Kafeel Ahmed Abbasi
Deputy Attorney General

Date of hearing : 16.09.2020

Date of announcement : 16.09.2020

ORDER

Agha Faisal, J. The present petition, instituted on 27.02.2020, emanates from the Judgment of the learned Additional Sessions Judge 10 Karachi West dated 14.10.2017 rendered in Family Appeal 25 of 2017 (“Impugned Judgment”) whereby the petitioner was *inter alia* directed to maintain his wife.

2. On the first date of hearing¹ the petitioner did not press his prayer clauses assailing the Impugned Judgment and was required to satisfy the Court on maintainability of the petition with respect to his sole remaining prayer, i.e. seeking a declaration that clauses 17 and 19 of a *nikahnama* are contrary to the injunctions of Islam.

3. The matter was heard today and petitioner’s counsel confined his arguments to assailing the character of his wife and seeking to voice the petitioner’s injury at being subjected to execution proceedings pursuant to the Impugned Judgment. The learned DAG submitted that the Impugned Judgment was an appealable order and instead of availing the appropriate remedy the petitioner has wrongly opted to institute this petition almost three years after the judgment had been rendered there against.

4. We have noted the respective arguments and eschew any observation with regards to the Impugned Judgment since the petitioner has already forgone his challenge thereto, as recorded vide the Order dated 16.03.2020. The sole question that remains for determination is whether the petitioner’s challenge to clauses in a *nikahnama*, on the ground of repugnancy to the injunction of Islam, can be entertained by this Court.

5. It is observed that the petitioner’s sole argument, pleaded yet not articulated during the hearing, was that certain clauses in a *nikahnama*

¹ Being 16.03.2020.

violated the principles of Islamic law. Article 203D² categorically vests the Federal Shariat Court with jurisdiction to examine and determine such questions and Article 203G³ bars this Court from exercising any jurisdiction in such regard. No justification was articulated as to how this Court could exercise jurisdiction in view of the prevailing law.

6. In view of the reasoning and rationale herein contained, we are of the considered view that the petitioner has been unable to set forth a case for the exercise of extra ordinary Constitutional jurisdiction by this Court, hence, this petition is hereby dismissed.

JUDGE

JUDGE

Khuhro/PA

² 203D. (1) The Court may, 2 [either of its own motion or] on the petition of a citizen of Pakistan or the Federal Government or a Provincial Government, examine and decide the question whether or not any law or provision of law is repugnant to the Injunctions of Islam, as laid down in the Holy Quran and the Sunnah of the Holy Prophet, hereinafter referred to as the Injunctions of Islam.

³ 203G. Save as provided in Article 203F, no court or tribunal, including the Supreme Court and a High Court, shall entertain any proceedings or exercise any power or jurisdiction in respect of any matter within the power or jurisdiction of the Court.