

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**C.P No.S-543 of 2023**

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Order with signature of Judge(s)

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Fresh case

1. For orders on CMA No.3686/2024 (Urgent Application)
2. For orders on CMA No.3707/2024 (Exemption Application)
3. For orders on CMA No.3708/2024 (U/O XXXIX Rules 1 & 2 R/w 151)
4. For hearing of main case

**08.04.2024**

Mr. Umar Khan, Advocate for the petitioner  
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1. Urgency granted.
  2. Exemption granted subject to all just exceptions.
- 3&4. This petition challenges concurrent findings of the courts below, where the trial court has held that the condition 19 of *Nikahnama* was enforceable and pronounced that as admittedly the petitioner divorced the respondent, she is entitled to recover five Tola gold or its present market value and amount of Rs.500,000/-. Counsel states that enforceability of condition 19 is shadowed by the judgments of the Hon'ble Supreme Court and he has placed reliance on PLD 2011 SC 260 (Syed Mukhtar Hussain Shah v. Mst. Saba Imtiaz and others) and 2008 SCMR 186 (Muhammad Bashir Ali Siddiqui v. Mst. Sarwar Jahan Begum and another). However, the judgment PLD 2011 SC 260 pertains to condition 17 and not condition 19 and 2008 SCMR 186 that again was in different circumstances, where a constrain was placed on the rights of the wife to seek separation by way of *Khulla*. Counsel's wish that the petitioner wants to respondent to join him, cannot be granted through constitutional petition, *Sharia* provides mechanism for doing it, if petitioner is inclined to do so. With regard to claim that condition 19 of the *Nikahnama* is not enforceable, I do not see anything on record to show or any case law to prove that such condition cannot be fulfilled.

The fact is that if such condition was left as blank, may be the respondent lady might not have chosen to enter into *Nikahnama* with the petitioner, therefore, the petitioner who promised the respondent through condition 19 cannot now deviate from such undertakings dishonestly.

Petition being meritless is thus dismissed with pending applications.

JUDGE

B-K Soomro