

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS**

Constitutional Petition No.S-36 of 2025

Present:

Mr. Justice Amjad Ali Sahito.

Petitioner: Harchand Rao son of Chano Mal,
Through Mr. Mir Muhammad Nohri,
Advocate

Respondent No.1: Sht. Sonari Bai W/o Harchand Rai,
Through Mr. Muhammad Ayoub Shaikh,
Advocate.

Official Respondents: Through Mr. Muhammad Shareef Solangi,
Assistant A.G Sindh.

Date of hearing: 07.10.2025

Date of Judgment: 07.10.2025.

J U D G M E N T

Amjad Ali Sahito, J: Through this Judgment, I intend to dispose of the above-captioned Constitutional Petition.

2. The petitioner has filed this petition challenging the impugned judgment dated 10.01.2025 and decree dated 11.01.2025 passed by learned Additional District Judge-II/MCAC, Umerkot, in Family Appeal No.08 of 2024, whereby the judgment and decree dated 05.07.2024, passed by the Family Judge, Umerkot, in Family Suit No.87/2023, was maintained.

3. The brief facts of the case are that, respondent/plaintiff was married with the petitioner/defendant on 01-05-2023 as per Hindu customs. At the time of marriage, the parents of the respondent/plaintiff had given her dowry articles viz. 1-08 tola golden necklace and earrings of Rs.3,10,500/-, 14-00 tola silver leg karas (Nawer) of Rs.30,000/-, 18-00 Tola leg payal (Cherr) of Rs.42,000/-, one iron trunk full size of Rs,24,500/-, household crockery items of Rs.27,730/-, household crockery items of Rs. 38,750/-, one wooden table and cot of Rs.11,000/-, one room set

three pieces matres of Rs.48,500/-, one pedestal fan of Rs.6,000/-, one washing machine of Rs.26,000/-, 20 bedding articles of Rs.32,000/-, 200 Kg cotton + cot nawar of Rs.17,600/-, clothes and Lehenga and 03 Sahrees of Rs.31,000/-, 37 Ralees (each Rs.2,000/-), Total Rs.74,000/-, 37 pillows Rs.37,000/-, 20 suits clothes gifts of Rs.40,000/-, one blanket woolen of Rs.6,000/-, bridal gifts items, Rs.15,000/-, total articles of Rs.8,17,580/- which are lying in the house of petitioner/defendant. After rukhsati, respondent/plaintiff started residing in the house of the petitioner/defendant. During stay at the house of appellant the respondent found him indulged in intoxications, tranquilizers, Chars and is regular user of ice drugs used filthy language with her. The respondent tried to understand the appellant to leave such drug activities, on which he maltreated the respondent. The respondent/plaintiff made such complain to the parents of the appellant/defendant, but they did not pay any attention to her and directed her to remain silent as the appellant/defendant will mend his attitude and habits in future. Then the respondent/plaintiff also made such complain to her parents, who severally times advised the appellant/defendant but all in vain. Being an eastern lady the respondent/plaintiff bore such attitude of appellant/defendant on the pretext that he will change his activities and attitude but all in vain. About 15 days prior to filing this suit the appellant/defendant mercilessly maltreated her and ousted her from his house in three clothes and since then she had taken the shelter in the house of her parents. The elders of respondent/plaintiff tried to understand the appellant/defendant but he was not ready to mend his attitude and leave such bad habits. During stay of respondent/plaintiff at her parents' house, the petitioner/defendant never turned up to see the respondent/plaintiff. The respondent/plaintiff has prayed as under:

- a) To this Honourable Court that Dissolve/Terminate the marriage of the plaintiff with the defendant on the ground of maltreatment and ill-attitude of the defendant who is indulged in habit of using hazardous drugs. The plaintiff does not want to live with the defendant as his wedded wife.

- b) Direct the defendant to return all dowry articles as per mentioned in para No.03 or in lieu of the same cash amount of dowry articles be paid to plaintiff.
- c) Costs of the suit be borne by the defendant.
- d) Any other relief this Honourable Court may deem fit and proper may be awarded to the plaintiff.

4. After admission of the suit, the summons were issued against the defendant which were served. On 31-08-2023 the defendant filed his written statement through his counsel wherein he admitted the factum, but denied the adverse allegations. The defendant stated in his written statement that the respondent/plaintiff wrongly mentioned the list and slips which are bogus and fabricated, as at the time of marriage no such dowry articles were given by her parents to respondent/plaintiff. He further mentioned that the respondent/plaintiff lived only 10 days at his house, therefore her allegations hazardous dug's against him are baseless and concocted as he is calm and cool person, young man and student and he is not indulged in such type of bad habits, while the respondent/plaintiff always misbehaved with him on petty matters. He further mentioned that he did not oust the respondent/plaintiff from his house, but she left his house without his permission and consent without any reason. He tried to understand the respondent/plaintiff but she was under pressure of her parents and was not ready to live with him, while he is very much ready to keep her in his house with love and affection, as he several times approached to the respondent/plaintiff for taken her back, but she was under the influence of her parents. No any dowry articles of respondent/plaintiff are lying at the house of appellant/defendant, because at the time of marriage of respondent/plaintiff no any dowry articles were given by her parents. On failure of pre-trial/reconciliation proceedings, the learned trial Court framed following issues:-

Issue No.01: Whether the plaintiff Sht. Sonari Bai is entitled to the dissolution of her marriage with defendant Harchand Rai by way of Termination?

Issue No.02: Whether the plaintiff is entitled to the recovery of her dowry articles or its alternate value from the defendant?

Issue No.03: What should the decree be?

5. In order to prove her claim, the plaintiff has examined herself at Ex-11 and she produced different purchased receipts at Ex-11/A to 11-L respectively. Then her father namely Fatu was examined as PW-02 at Ex-12. PW-03 Navo Kolhi was examined at Ex-13. Then the learned counsel for respondent/plaintiff closed her side of evidence at Ex-14. Then the matter was fixed for defendant's side evidence but despite providing sufficient opportunities he remained fail to record his evidence, therefore on 04.07.2024 closed the side defendant's evidence.

6. Thereafter, the learned Trial Court after hearing the learned counsel for the parties passed the Judgment and suit of the plaintiff was partly decreed and partly dismissed. Thereafter, the petitioner/defendant filed Family Appeal No.08/2024 before learned Additional District Judge-II, Umerkot, which was dismissed vide judgment dated 10.01.2025 (the "impugned judgment").

7. The learned counsel for the petitioner argued that the dispute has been settled amicably through the intervention of Nekmards, therefore, impugned judgment be set-aside.

8. Learned counsel for the respondent confirmed that the parties have joined each other and are living together. He stated that the respondent has no objection if the impugned judgments are set aside in view of the compromise and reconciliation between the parties.

9. Heard the learned counsel for the petitioner, respondent and learned Assistant A.G and perused the record.

10. From perusal of record, it reflects that the Family Judge, Umerkot, through judgment dated 05.07.2024 decreed *judicial separation* between the parties, which was maintained by the learned Additional District Judge-II/Model Civil Appellate Court, Umerkot, vide judgment dated 10.01.2025. However, during the pendency of the present petition, both the petitioner and

respondent appeared before this Court and stated that all the disputes between them have been amicably settled and they have rejoined each other as husband and wife. It further appears that both parties have voluntarily decided to live together and have withdrawn all previous allegations and claims against each other.

11. In view of the above, the instant petition is allowed and impugned judgment and decree dated 10.01.2025 and 11.01.2025, passed by the learned Additional District Judge-II/Model Civil Appellate Court, Umerkot, and the judgment and decree dated 05.07.2024, passed by the Family Judge, Umerkot, are hereby set-aside.

JUDGE

****Faisal****