

# IN THE HIGH COURT OF SINDH KARACHI

CP No.S-418 of 2020

*(Hina Batool and another v. Mr. Syed Asad Abbas and others)*

Petitioners : *Hina Batool and another* through Mr.  
Syed Ehsan Raza, advocate

Respondents : *Mr. Syed Asad Abbas and others* through  
M/s. Muhammad Jibran Nasir, Daniyal  
Muhammad Hussain and Rana Daniyal  
Akram, advocates

**Date of hearing and order:** 18.11.2025

**Date of reasons:** 24.11.2025

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## JUDGMENT

**Nisar Ahmed Bhanbhro, J.** Through the instant petition, the petitioner claims the following relief(s):

*"1. That this Honorable Court may graciously be pleased to call for the record and proceedings of the Family Suit No. 789 of 2018 from the Court of XX Civil Judge & Judicial Magistrate Karachi South and Family Appeal No 147 of 2019 from the Court of Addl. District & Session Judge XII/ Model Civil Appellate Court District South Karachi, thoroughly examine the record, set aside the impugned judgment and decree for petitioner No I and modify the judgment with respect to petitioner No. 2 dated 24.08.2019 & 15.02.2020 passed by Family Court & Addl. District & Session Judge-XII/Model Civil Appellate Court District South Karachi.*

*2. That this Honorable Court may graciously be pleased to pass a judgment and decree against the respondent, direct the respondent to pay the past maintenance expenses to petitioner No.1 and 2 amount Rs.22.50,000/- (Rupees Twenty Two Lacs Fifty Thousand) as given in the tabulated form hereinabove since January 2017 till May 2018 and to pay the monthly maintenance @ Rs.90,000/- per month since May 2018 when the aforesaid suit was filed and as*

*well as enhance the amount of monthly maintenance from Rs.90,000/- to 150,000/- by considering the rate of inflation and further direct the respondent to pay future monthly maintenance @ Rs.150,000/-with enhancement ( 20% per annum to the petitioner No. 1 and 2.*

2. Learned counsel for petitioner argued that she contracted marriage with respondent Asad Abass on 11.05.2016. After wedding ceremony, Petitioner travelled to Manchester, UK, with Asad Abass. He further argued that due to awkward behavior of husband, petitioner returned to Pakistan on 08.01.2017 when she was expecting child. Petitioner gave birth to baby boy Syed Ayyan Abbas on 18.07.201, maternity expenses were borne by her family. He further argued that petitioner in a hope for reconciliation went to UK on 20.05.2017 but due to absconding attitude of husband returned back promptly on 24.05.2017. He further argued that petitioner remained in hope that matter would be reconciled, but hopes wilted when marriage ended in a divorce in year 2018; thereafter, respondent contracted second marriage. He argued that petitioner filed Suit for maintenance for past and future maintenance of herself and minor son before the court of learned XXth Family Judge Karachi South; that Petitioner produced evidence before trial Court which remained unchallenged and ex parte judgment and decree dated 24.08.2019 was passed, whereby petitioner was granted Rs.100,000/- as medical expenses. For Ayaan Abass past maintenance of Rs. 15000/- per month and future maintenance of Rs. 30,000/- per month with 10% increase per annum from the date of decree till legal entitlement of minor was granted. He further argued that petitioner sought enhancement in maintenance through Family Appeal No 149 of 2019. Learned Appellate Court, vide judgment and decree dated 15.02.2020, dismissed the Family Appeal. He argued that petitioner was residing in the house of her father, she was looking after minor child, respondent was residing in UK, having offshore companies, he was capable of paying maintenance claimed by the petitioner. He further argued that petitioner was paying monthly fees of Rs. 54000/- to the Bay View Academy School; that Petitioner was also affording other expenses of child, which respondent is bound to pay under the law. He prayed to allow this petition.

3. Mr. Muhammad Jibran Nasir, learned counsel for respondent, argued that respondent was earning income of 850 pounds (eight hundred fifty pounds sterling) per month, he was having another family of two siblings, wife and an old aged mother, therefore, he cannot pay the amount demanded by petitioner. He stated that the impugned judgment and decree were passed in exparte, the respondent was condemned unheard and thus were not sustainable, a case for de novo trial would be in the dictates of justice. He further contended that there were concurrent findings of the facts by Courts below and this Court, under Article 199 of the Constitution, cannot disturb such well-reasoned findings. He, therefore, prayed that the Petition may be dismissed. He placed reliance on the cases of *Syed Raheel Ahmed v. Mst. Syeda Zona Naqvi and others* (PLD 2024 Supreme Court 902), *Muhammad Shamim Ali v. Mst. Asma Begum and others* (2024 SCMR 1642), *M. Hamad Hassan v. Mst. Isma Bukhari and 2 others* (2023 SCMR 1434), *Arif Fareed v. Bibi Sara and others* (2023 SCMR 413) and *Gul Taiz Khan Marwat v. the Registrar, Peshawar High Court, Peshawar and others* (PLD 2021 Supreme Court 391).

4. Heard arguments and perused material available on record.

5. World recognized that children have rights by virtue of being children. Rights of children were articulated in an international treaty "the United Nations Convention on the Rights of the Child, 1989" (the "UNCRC"), which sets out the rights of children. Pakistan ratified the UNCRC on 12.11.1990 conditionally that its Articles will be interpreted in the light of Islamic injunctions, however in 1997, this condition was withdrawn, thus, ratification became absolute. Article 27 of the UNCRC provides for right of children to a standard of living, physical, mental and social development, Article 27 of UNCRC sets out as below:

*i. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.*

*ii. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.*

*iii. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.*

*iv. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.*

6. From the perusal of clause ii of Article 27, it becomes clear that the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development rested on the shoulders of parents. Under the Islamic laws it is responsibility of father to maintain his children. The maintenance includes all the expenses necessary for upbringing the child.

7. It is pertinent to mention that Respondent avoided due process of law before Courts below so also before this Court. Respondent since institution of proceedings before trial court chose to remain absent, thus ex parte judgment and decree was passed against him. Petitioner who is divorced lady and mother of minor boy was crying for lack of resources to maintain minor. Looking to the compelling circumstances, this Court vide order dated 15.02.2023 directed Pakistan Mission in UK to file complaint against respondent before Child Maintenance Service-21 for maintenance of minor Syed Ayyan Abbas for tentative amount of Rs. 1,35,000/- per month. This Court vide order dated 27.05.2023 further directed respondent to pay Petitioner dower amount as per Nikahnama dated 12.05.2016. On 13.11.2023 this Court was apprised that respondent Syed Asad Abbas had deposited maintenance amount in favour of the petitioner with the Nazir of learned Family Court. It further transpired that on 30.05.2024, it was apprised to the Court that Solicitor General to

the Government of Pakistan has been designated as the transmitting agency for recovery abroad at UK.

8. On 07.08.2024 Respondent Syed Asad Abass effected appearance before this Court through learned Counsel Mr Zubair Ahmed Rajput. It was apprised by Learned Counsel that Respondent was residing in UK and earning monthly income of 2000 Pound Sterlings. Since Respondent did not volunteer to pay maintenance of minor, therefore, this Court directed that his CNIC and passport be blocked. On 11.02.2025 Learned Counsel submitted a deposit slip showing that an amount of Rs. 19,50,924/- was deposited in compliance to decree of learned trial Court. On 24.07.2025, learned counsel voluntarily offered to pay Rs. 70,000/- per month as maintenance allowance with an annual increase of 10%.

9. From record, it revealed that on dissolution of marriage between parties vide divorce deed dated 12.10.2018, respondent contracted second marriage whereas petitioner has chosen to remain single, which *prima facie* demonstrates that petitioner was attending minor with devotion and taking his tender care. For academic, minor was admitted to Bay View Academy School, where the monthly fees of School is Rs. 54000, which since admission of the minor was afforded by petitioner herself. Petitioner was feeding minor out of her own expenses, since birth. It is further the case of minor that since his birth he was completely ignored by father and at no times father desired a meeting with child and failed to show any kind of affection for him. This attitude of indifference and avoidance was sufficient proof that Respondent was not a responsible father.

10. Section 9 of the Muslim Family Laws Ordinance, 1961, provides that in case of failure by husband to maintain wife or children, the wife in addition to seeking any other remedy may apply to Chairman who shall constitute an arbitration Council to determine the amount of maintenance payable by husband. For the sake of convenience, Section 9 is reproduced below:

*“9. Maintenance.- (1) If any husband fails to maintain his wife adequately, or where there are more wives than one, fails to maintain them equitably, the wife, or all or any of the wives, may*

*in addition to seeking any other legal remedy available apply to the Chairman who shall constitute an Arbitration Council to determine the matter, and the Arbitration Council may issue a certificate specifying the amount which shall be paid as maintenance by the husband.*

*2 (1A) If a father fails to maintain his child, the mother or grandmother of the child may, in addition to seeking any other legal remedy, apply to the Chairman who shall constitute an Arbitration Council and the Arbitration Council may issue a certificate specifying the amount which shall be paid by the father as maintenance of the child.*

*(2) A husband or wife may, in the prescribed manner, within the prescribed period, and on payment of the prescribed fee, prefer an application for revision of the certificate, to the Collector concerned and his decision shall be final and shall not be called in question in any court*

*Provided that the Commissioner of a Division may, on an application made in this behalf and for reasons to be recorded, transfer an application, for revision of the certificate from a Collector to any other Collector, or to a Director, Local Government or to an Additional Commissioner in his Division.*

*(3) Any amount payable under sub-section (1) or (2), if not paid in due time, shall be recoverable as arrears of land revenue."*

11. This provision of law speaks for equitability of maintenance allowance in case of more than one wife. If this analogy is applied to the children, father is responsible to maintain children in equitable manner, in case he fails, mother can sue him for the grant of the maintenance of children. Section 17-A of the Family Courts Act, 1964, further empowers the Family Court to impose interim maintenance allowance upon father till the final adjudication of case. Under the scheme of both laws (the Muslim Family Laws Ordinance, 1961 and the Family Courts Act, 1964) the quantum of maintenance allowance which may be payable by the husband to the wife and children has not been provided, however, arbitration council has been saddled with a responsibility to fix the quantum of maintenance. Since parties hardly approach chairman of Union Council concerned for referring the matter to arbitration council,

therefore, Family Court when approached for the purposes, fixes the quantum of maintenance keeping in view the financial status of father.

12. Use of word “equitably” in Section 9 of the Muslim Family Laws Ordinance, 1961, demonstrated the intent and wisdom of legislature that all wives shall have equal rights for maintenance, in case of more than one wives. The same analogy applies to children from two or more wives. If marriage between parties is dissolved, all the children from either wife shall be entitled to equitable rights of maintenance. To decide quantum of maintenance, the Court has to look into the financial status of father. If he belongs to the salaried class then reasonable amount of salary has to be divided amongst the children keeping in view number of dependent children and expenses incurred on education, and other expenses.

13. Minor Ayaan Abass is residing in Karachi and other siblings of Respondent were residing in UK, there, was a huge difference in living standard of the two class of siblings, no comparison of living and education be made in between city of Manchester and Karachi. Under the doctrine of equality, it was the responsibility of father to treat minor Ayaan Abass at par with his two other sons and this equality demands that Ayaan Abass be allowed equal residential, educational and feeding facilities. Minor Ayaan Abass besides school fees will require conveyance for pick and drop from school to home, feeding and clothing expenses which in the present days of inflation costs heavily as such fixing an amount of Rs. 30,000/- towards maintenance was not an equitable amount and was never justifiable.

14. Contention of Mr Jibran Nasir that minor Ayaan Abass can be admitted in a school having standard fees of Rs fifteen to twenty thousand per month. This contention cannot be accepted, for the reason that Respondent father was residing in UK and, merely after four to five months of marriage ousted Petitioner to Pakistan along with expected baby in her womb. The Respondent pronounced divorce upon Petitioner while residing in UK when Ayaan Abass was hardly about aged about 20 months. Furthermore, the Respondent being father has neither seen his minor son since his birth nor made any effort to meet him; therefore, mother (Petitioner) was rightly placed to make a choice of educational

institution for minor. It is also an admitted fact that the minor is receiving quality education in a reputable private school and due to mother's exclusive efforts minor was showing academic excellence in school. At this delicate and formative stage of kidship when child was preparing to enter into elementary stage of education emotional security, proper moral upbringing, and strong educational foundation were of paramount importance for future growth and development, any unwarranted disturbance or displacement in his education environment would likely cause irreversible harm to his personality and career. It is in the best interests of child to have access to quality education, including early childhood education. All decisions on measures and actions concerning a specific child must respect the best interests of the child or children, with regard to education. Therefore, keeping in view the welfare, betterment, and best interests of the minor, it is imperative that he should continue studying in best of the best schools with the choice of mother as she has taken pains to upbringing him and she is for now suitable person who well understands and underscores the needs of child. Mother's choice of education purely at the expense of father can shape this little star an invaluable asset for tomorrow's world.

15. To fix reasonable amount of maintenance, the Court should look into the status of parties and should always adopt a child justice approach and generously grant maintenance to minor keeping in view expected expenses a minor in routine life. In all actions concerning children, the best interests of child should be a primary consideration that includes feeding, clothing, physical, educational, and emotional needs, as well as needs for affection and safety. The Courts while dealing with cases regarding custody and maintenance of minor must adopt a child justice approach. In this regard the guidelines rendered by Honorable Supreme Court of Pakistan in the case of **Malik Mahmood Ahmad Kahn Versus Malik Moazam Mahmood and others** reported as **P L D 2025 Supreme Court 247**, are of paramount considerations. For the ease of reference excerpts from the judgment are reproduced below:

*"2. Courts must approach cases involving children with a dedicated child justice approach, rooted in a legal and moral obligation to protect, nurture, and rehabilitate children, ensuring their rights and well-being within the justice system. Child justice*

*encompasses both children in conflict with the law, who require rehabilitative interventions rather than punitive measures, and children in contact with the law, who must be safeguarded and supported throughout judicial processes. As custodians of justice, courts must adopt a child justice approach that prioritizes the best interests of the child, recognizing their vulnerabilities, developmental needs, and potential. This approach demands sensitivity to their circumstances, ensuring access to education, shielding them from exploitation, and fostering an environment conducive to their growth and reintegration into society. As Nelson Mandela aptly said, "There can be no keener revelation of a society's soul than the way in which it treats its children."<sup>1</sup> By adhering to these principles, the judiciary not only fulfils its legal obligations but also demonstrates judicial sensitivity towards children, contributing to a just and compassionate society.*

*3. The Constitution of Pakistan, 1973, provides a robust framework for child justice. Article 25(3) empowers the State to enact special provisions for the protection of children, including measures that may favourably differentiate them from adults. Article 25A mandates free and compulsory education for children aged 5 to 16 years. Article 35 obliges the State to protect children, while Article 37(e) ensures just and humane working conditions, explicitly prohibiting the employment of children in vocations unsuitable to their age or sex. This constitutional framework underscores child justice, prioritizing the well-being, rehabilitation, and reintegration of children into society, while addressing their unique rights and vulnerabilities within judicial processes.*

*6. A child-centered approach in the judiciary is essential because it acknowledges that children, unlike adults, are still in their formative years and are particularly vulnerable to the psychological and emotional impacts of legal proceedings. Scholars such as Karl Hanson and Olga Nieuwenhuys have emphasized that a child-centered approach recognizes that "children shape, interpret, and practice what their rights are," and emphasizes "living rights" --- rights as dynamically experienced and realized by children.<sup>9</sup> This approach advocates for judicial processes that are rehabilitative rather than punitive, protecting the child's dignity*

*while fostering rehabilitation and reintegration into society. Such a framework aligns with both national and international legal standards, ensuring that children's voices are heard, their rights safeguarded, and their future prospects protected.*

*7. Courts, particularly at the district level, must adopt this approach to ensure that the justice system meets the unique needs, rights, and vulnerabilities of children. By prioritizing children's best interests in judicial decisions, the judiciary can promote long-term societal benefits, reduce recidivism, and support the development and well-being of future generations. As the saying goes, "In serving the best interests of children, we serve the best interests of all humanity."*

16. In the present age of inflation and looking at the living standards of parties under instant litigation, it can be safely held that minor required handsome amount to lead a reasonable life. The amount of maintenance granted by Courts below, even did not suffice to school expenses of minor. Learned Courts below while deciding issue of maintenance, did not consider the aspect that respondent was residing in UK, he was having sufficient source of earning and petitioner being house lady did not earn but was dependent upon the income of her parents. Under the Islamic law, it is responsibility of father to maintain children (offspring). Father cannot be absolved of this burden under any circumstances, admittedly Respondent was having children from another wife and reasonably maintaining them in UK, thus equity demanded that minor Ayaan Abass be given equal treatment.

17. From a cursory glance on impugned judgments, it can be safely held that learned Courts below failed to consider quantum of maintenance that might be payable by the father. It was emphatically asserted by petitioner that respondent was living in UK, earning handsome amount. Financial status of the respondent remained unchallenged even after his appearance before this Court. The Respondent did not challenge the judgment and decree of Courts below and himself voluntarily came forward to pay an amount of Rs. 70,000/- per month towards maintenance meaning thereby that Respondent conceded to the fact that maintenance allowance fixed by Courts below was not equitable and sufficient and minor required more money for better education,

accommodation, conveyance, feeding and clothing. If in the present case the quantum of maintenance be reassessed, it can be safely held that the minor's education, accommodation, conveyance, feeding, clothing expenses and other charges need reasonable amount of more than Rs. One Lac per month.

18. The striking feature of the present case is the contumacious failure of the Respondent to pay parental contribution towards the upbringing of minor. He attended the proceedings before Court pursuant to the coercive orders blocking his CNIC and Passport. Therefore, the readiness of petitioner to pay Rs 70,000 per month towards maintenance cannot be declared as final verdict even under the ground of sympathy as argued by the Counsel for Respondent.

19. In the present case, if the statement of learned counsel is believed to be true that respondent was getting monthly salary of 850 pounds, though it contradicts the statement dated 07.08.2024 wherein income of Respondent was stated to be Rs 2000 pounds per month by another learned Counsel, the equitable distribution of the said earning in between the children would be in a manner keeping in view the needs of children. It is also admitted position in the present case that respondent's second wife was salaried class person and earning handsome income of 5000 pounds per month, whereas petitioner had no such solid source of earning, she was a house lady, therefore, all the expenses of minor are to be borne by Respondent. Since respondent has himself admitted his income to be in between 850 and 2000 pounds. If this amount of earning is equitably distributed amongst children, then minor Ayaan Abass would be entitled to receive one third of earnings which becomes in between Rs. 1,30,000/ to Rs 150, 000 per month in Pakistani Rupees.

20. Contentions of learned counsel for respondent that there were concurrent findings of the fact by courts below and appellate court was final adjudication authority in the matters falling under the family laws as such this Court lacked jurisdiction to interfere into the concurrent findings of the fact was partially correct. The concurrent findings are not sanctified that the same cannot be disturbed. There is no cavil to the proposition that this court sparingly interfered with concurrent findings of the fact

tendered by Court below. Under its constitutional jurisdiction, this court exercises powers which are corrective and supervisory in nature and are exercised when there were serious misreading and non-reading of the evidence or the Courts below exercised powers not vested in them or failed to exercise powers vested in them. In absence of the said illegality this Court cannot interfere into the concurrent findings of the facts. Mr Jibran Nasir has rightly placed reliance on the cases of *Syed Raheel Ahmed v. Mst. Syeda Zona Naqvi and others* (PLD 2024 Supreme Court 902), *Muhammad Shamim Ali v. Mst. Asma Begum and others* (2024 SCMR 1642), *M. Hamad Hassan v. Mst. Isma Bukhari and 2 others* (2023 SCMR 1434), *Arif Fareed v. Bibi Sara and others* (2023 SCMR 413) and *Gul Taiz Khan Marwat v. the Registrar, Peshawar High Court, Peshawar and others* (PLD 2021 Supreme Court 391), wherein the guidelines have been rendered by Honorable Supreme Court to exercise the powers of judicial review. Since the issue involved in the present case was fixation of reasonable amount of maintenance, which can be assessed from the financial position of the Respondent, but the erstwhile judgment provide an exception for interference as discussed supra..

21. In the wake of above discussion, this petition is allowed, the judgment and decree passed by the Courts below are maintained, however, modified in the following terms:

- a) The Respondent (Judgment Debtor/J.D) shall pay an amount of Rs. 70000/- per month as was agreed by him during proceedings in the instant lis from the date of the institution of Suit before Family Court till the month of October, 2025. If J.D is not capable to pay amount in lumpsum, he shall apply to learned trial Court/ executing court for installments, learned trial Court may consider such request in accordance with law.
- b) The respondent shall pay an amount of Rs. 1,30,000/- per month from the month of November, 2025 until the legal entitlement of the minor with an increase of 10% per annum.
- c) The future monthly maintenance allowance shall be deposited with the Family Court on or before the 10<sup>th</sup> of every month.

- d) The amount if any already paid by J. Dt towards decretal amount shall be adjusted and J.D will be required to pay balance amount as directed by the Family Court/executing Court.
- e) Mother (Petitioner) shall be entitled to withdraw the said amount from family Court to bear the expenses of minor.
- f) The maintenance granted to the Petitioner herself shall remain unaltered and petition to that extent stands dismissed.
- g) The learned Family Court shall draft amended final decree in terms of order passed by this Court and shall intimate parties about the final amount payable by J.D. within a period of 15 days of receipt of this order.
- h) As far as order dated 20.03.2024 passed by this Court directing the authorities to block CNIC and Passport of Respondent Asad Abass are concerned. Once Respondent makes good arrears of maintenance and starts paying monthly allowance, his CNIC and Passport may be unblocked by NADRA and Ministry of Interior, for that purpose Executing Court is authorized to issue appropriate directions.

23. This petition was disposed of vide short order dated 18.11.2025, and these are the reasons for the same. Office is directed to send a copy of this order to the learned trial Court.

JUDGE

Nadir\*

Approved for reporting

Dated 24.11.2025