

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

C.P No. S-105 of 2024
[*Mst. Sara Shaikh v. Zain-ul-Abdin and others*]

Petitioner: Mst. Sara Shaikh through
Mr. Aslam Pervaiz Sipio,
Advocate.

Respondent No.1: Zain-ul-Abdin through
Mr. Vicky Kumar Katri,
Advocate.

Respondents No.2&3: Formal party.

Date of Hearing: **11.02.2026.**

Date of Judgment: **11.02.2026.**

JUDGMENT

RIAZAT ALI SAHAR, J: - Through the instant constitutional petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner seeks indulgence of this Court against Judgment & Decree dated 11.10.2023 passed by the learned Judge, Family Court-IX, Hyderabad and Judgment dated 10.02.2024 and Decree dated 14.02.2024 passed by Revisional Court/Model Civil Appellate Court/IX-Additional District Judge, Hyderabad.

2. Background of the case is that the petitioner, Mst. Sara Shaikh, instituted Family Suit No.1971 of 2022 before the learned Judge, Civil & Family Court-IX, Hyderabad, seeking dissolution of marriage by way of *khula*, recovery of maintenance for herself and minor son, dower amount, dowry articles and medical expenses. The marriage between the parties was solemnized on 14.10.2021 against Haq Mehr of Rs.15,000/-, which, according to the petitioner, remained unpaid. It was alleged that after *rukhsati* she resided with respondent No.1 but was subjected to maltreatment and was ultimately compelled to reside with her parents during

pregnancy, where she delivered a male child. The respondent contested the suit, denying allegations of cruelty, asserting payment of dower and claiming limited financial capacity as a daily wages worker. Pre-trial reconciliation having failed, the marriage was dissolved by way of *khula* in lieu of unpaid dower. After recording evidence of both sides, the learned trial Court partly decreed the suit, granting iddat maintenance at Rs.4,000/- per month for three months, minor's maintenance at Rs.5,000/- per month with 10% annual increase, dowry articles (excluding gold and gifts), alternate value of Rs.1,80,000/-, and medical expenses of Rs.30,670/-. The petitioner's Family Appeal was dismissed by the learned 9th Additional District Judge, Hyderabad, vide judgment dated 10.02.2024, maintaining the trial Court's decree. Hence, the instant constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, has been filed challenging the concurrent findings of the Courts below.

3. Learned counsel for the petitioner contends that the Courts below have failed to proper evaluate the evidence available on record and failed to properly consider the respondent's financial capacity and social status. He contends that the maintenance awarded to the minor is grossly inadequate in view of prevailing inflation and rising educational and medical expenses. Learned counsel further submitted that the petitioner's un-rebutted testimony regarding dowry articles and medical expenses was sufficient in family proceedings where strict rules of evidence are not applicable. He contends that the impugned judgments suffer from material irregularity and legal infirmity, warranting interference by this Court.

4. Conversely, learned counsel for respondent No.1 supports the concurrent findings of the Courts below and submitted that both Courts have passed well-reasoned judgments after proper appraisal of evidence. He contends that the respondent is a daily wages earner with limited means and the maintenance fixed is commensurate with his financial capacity.

The respondent denied concealment of income and maintained that no illegality or jurisdictional defect has been pointed out to justify constitutional interference.

5. After hearing learned counsel for the parties and perusing the record, it is observed that both the learned trial Court and the appellate Court have concurrently evaluated the evidence and assigned cogent reasons for their findings regarding *khula*, dowry articles, dower and medical expenses. No jurisdictional defect, misapplication of law, or patent illegality has been demonstrated which would warrant interference in constitutional jurisdiction under Article 199 of the Constitution. However, with regard to the quantum of maintenance of the minor, this Court cannot lose sight of the prevailing economic conditions, persistent inflation and the ever-increasing cost of living, which directly impact the upbringing, nutrition, healthcare and future educational needs of the child. The father, being under a legal as well as moral obligation to maintain his minor son in accordance with his means, must ensure provision of reasonable and dignified sustenance. The amount of Rs.5,000/- per month, though justified at the relevant time, appears insufficient to meet the present-day necessities of the minor.

6. For what has been discussed above, while maintaining the impugned judgments and decrees in all other respects, the quantum of maintenance of the minor by modifying is enhanced from Rs.5,000/- to **Rs.10,000/- per month**, payable from the date of this order, subject to the same terms and conditions regarding payment, 10% annual increment and adjustment as determined by the trial Court. The constitutional petition stands **disposed of** in the above terms.

JUDGE

Abdullahchanna/PS