

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

**C.P No.S-258 of 2024**

[Ali Imran Khokhar v. Ld District Judge Hyderabad and others]

Petitioner : Ali Imran Khokhar through  
Mr.Abdul Qadeer Mirjat, Advocate.

Respondent No.1&2 : Formal party.

Respondent No.3 : Mst. Uzma Zareen Mr. Jairam Da,  
Advocate.

Date of Hearing : **28.01.2026.**

Date of Judgment : **13.04.2026**

**JUDGMENT**

**RIAZAT ALI SAHAR. J,** - Through this constitutional petition, the petitioner has called in question the legality and propriety of (i) Judgment and Decree dated 26.02.2024 passed by the learned Civil/Family Judge-VII, Hyderabad in Family Suit No.1306 of 2022, (ii) Order dated 17.05.2024 passed by the learned District Judge, Hyderabad in Family Appeal No.65 of 2024 whereby the appeal was dismissed as time-barred with the following prayers:-

- a) That this Honourable Court after calling R&Ps of both AL the learned courts of the Family Suit No. 1306/2022 (Re: Uzma Zareen V/s Ali Imran Khokhar) and after perusal, hearing the parties may be pleased to set aside the impugned Judgment & decree dated: 26.02.2024 passed by Family/Civil Judge VIIth Hyderabad and impugned Judgment & Decree dated: 17.05.2024 passed by District Judge Hyderabad in the larger interest of justice.
- b) That this Honourable Court may be pleased to remand back the Family Appeal No.65 of 2024 (Ali Imran Khokhar Versus Uzma zareen) with direction to District Judge Hyderabad to consider application U/S 5 (2) of limitation Act 1965 and condone the delay of 53 days to file the aforesaid appeal and give chance to the

petitioner and decide the appeal on merit after hearing both parties.

- c) That this Honourable Court may kindly be pleased to recall the Judgment decree passed by Trial Court of Civil & Family Judge No. VII Hyderabad and modify the maintenance order from Rs.20,000/- to Rs,5000/- with annual enhancement 20% to 5%.
- d) Any other relief which deemed fit and proper in view of the above facts be awarded to the petitioner.

**2.** The background of the case is that respondent No.3 instituted Family Suit No.1306 of 2022 for dissolution of marriage, recovery of maintenance for herself and minor daughter and other ancillary reliefs, alleging cruelty, neglect and failure of the petitioner to maintain her and the minor since March 2020. The learned trial Court, after passing an interim maintenance order, struck off the defence of the petitioner under Section 17-A of the West Pakistan Family Courts Act, 1964 due to non-compliance and partly decreed the suit on 26.02.2024, granting maintenance of Rs.20,000/- per month to the minor with 20% annual increase and iddat maintenance to the respondent. The petitioner filed Family Appeal No.65 of 2024 along with an application for condonation of delay of 53 days, which was dismissed by the learned District Judge on 17.05.2024 being time-barred. Subsequently, execution proceedings were initiated and allowed on 27.09.2024. Hence, the present constitutional petition has been filed.

**3.** Learned counsel for the petitioner contended that the impugned orders are illegal, arbitrary and passed without proper appreciation of law and facts. He contended that the learned trial Court wrongly struck off the defence without considering the petitioner's circumstances and partial compliance of maintenance, thereby depriving him of the right to fair trial. Counsel further contended that the appellate Court erred in dismissing the appeal on technical grounds of limitation without deciding it on merits, despite sufficient cause being shown, including the petitioner's official posting outside Hyderabad. He further contended that the maintenance awarded is excessive and disproportionate to the petitioner's income and that the Courts below failed to exercise jurisdiction vested in them in a lawful manner.

**4.** Conversely, learned counsel for respondent No.3 supported the impugned orders and argued that the petitioner deliberately avoided compliance with the interim maintenance order, thereby attracting penal consequences under Section 17-A of the Family Courts Act. He contended that the striking off defence was lawful and justified in view of admitted non-payment of maintenance for several months. Regarding the appeal, he contended that the petitioner failed to explain each day's delay as required under settled principles of law and the learned District Judge rightly dismissed the appeal as time-barred. Learned counsel further contended that the maintenance fixed is reasonable considering the petitioner's status and the needs of the minor and that subsequent payment during execution do not cure earlier defaults nor invalidate the impugned judgments.

**5.** After hearing learned counsel for the parties and perusing the record, it is evident that the core controversy revolves around the dismissal of the petitioner's appeal on limitation as well as the consequences of his non-compliance with interim maintenance orders. The order dated 17.05.2024 passed by the learned District Judge clearly reflects, particularly in paragraph 2 thereof, that the petitioner had obtained the certified copy of the impugned judgment on 04.03.2024 but filed the appeal after an unexplained delay of 46 days thereafter, totaling 53 days from the date of judgment. The explanation furnished was found to be vague and unsupported by record and the settled principle requiring explanation of each day's delay was not satisfied.

**6.** Furthermore, the record demonstrates that the petitioner persistently failed to comply with the interim maintenance order, which lawfully led to striking off his defence under Section 17-A of the Family Courts Act. The subsequent deposits made during execution proceedings do not absolve the earlier default nor render the impugned order illegal. The learned trial Court exercised its jurisdiction strictly in accordance with law and no jurisdictional defect or material illegality has been pointed out. In constitutional jurisdiction, this Court does not act as a Court of appeal to reappraise evidence or substitute findings unless there is patent illegality or miscarriage of justice. No such ground has been established in the present case.

7. For what has been discussed above, the instant constitutional petition is **dismissed**, being devoid of merit. All impugned orders are maintained. No order as to costs.

**JUDGE**

\*Abdullah Channa/PS\*