

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

*Constitutional Petition No. S-81 of 2026.*  
*(Meharban Ali vs Province of Sindh and others)*

Date of hearing	Order with signature(s) of Judge(s)
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*Before:-*

*Mr. Justice Ali Haider 'Ada'.*

**04.05.2026.**

Mr. Faiz Muhammad Brohi, Advocate for the Petitioner.  
Mr. Muhammad Ali Napar, Advocate for the Respondent No.4.  
Mr. Agha Athar Hussain Pathan, Assistant Advocate General.

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**Ali Haider Ada J:-** The petitioner was respondent in Family Suit No. 3840 of 2021 instituted by Respondent No. 4, the former wife of the petitioner, seeking recovery of dowry articles, dower amount, and maintenance.

2. The learned Family Judge Sukkur (trial Court), vide judgment and decree dated 05.04.2025, partly decreed the suit and held Respondent No. 4 entitled to dowry articles valuing Rs. 300,000/- excluding golden ornaments, whereas her claim for Rs. 676,780/- including golden ornaments was declined. The learned trial Court further held that Respondent No. 4 was not entitled to past maintenance except for the iddat period, for which Rs. 30,000/- was awarded.

3. Being aggrieved, Respondent No. 4 preferred an appeal. The learned Appellate Court, vide impugned judgment and decree, modified the findings of the trial Court and directed the petitioner to return dowry articles including golden ornaments to the extent of Rs. 676,780/-. The Appellate Court further awarded past maintenance at the rate of Rs. 5000/- per month from six years prior to divorce, and Rs. 10,000/- per month from the date of divorce till the expiry of the iddat period. It was also observed that the dower

amount had not been paid to Respondent No. 4. Being aggrieved by the judgment and decree passed by the learned Appellate Court, the petitioner has filed the instant constitutional petition.

4. The crux of the matter is that the marriage between the parties was solemnized on 11.10.2009 against dower amount of Rs. 200,000/-, which, according to Respondent No. 4, remains unpaid. The marriage was subsequently dissolved and the petitioner pronounced divorce on 31.07.2021. Respondent No. 4 instituted the family suit with prayers for (i) recovery of dower amount of Rs. 200,000/-, (ii) return of dowry articles valued at Rs. 676,780/-, and (iii) maintenance at the rate of Rs. 15,000/- per month from March 2010 till the iddat period, claiming maintenance for approximately eleven years. The petitioner filed written statement denying the allegations. After framing of issues and recording of evidence, the learned Family Judge Sukkur decreed the suit to the extent indicated above. The respondent No. 4, being dissatisfied, preferred appeal before the learned Additional District Judge-II, Sukkur who, after reappraisal of the entire evidence, passed the impugned judgment and decree with the modifications noted hereinabove, which are now under challenge before this Court.

5. Learned counsel for the petitioner contends that the learned Appellate Court failed to properly appreciate the evidence on record and decided the appeal without determining the material issues in their true perspective. It is further argued that the respondent No. 4 had left the matrimonial home of her own accord and there was no long-standing cohabitation, therefore the impugned judgment and decree is contrary to the record and based on misreading and non-reading of evidence, hence liable to be set aside.

6. Conversely, learned counsel for Respondent No. 4 submits that the Appellate Court has properly evaluated the entire evidence and rightly modified the judgment of the trial Court. It is contended

that entitlement of Respondent No. 4 to dower has been established, and mere non-issuance of a specific direction does not negate her lawful entitlement. It is further submitted that the respondent has been deprived of her legal and financial rights for the last 15-16 years, whereas the petitioner has failed to produce any credible evidence regarding payment of dower, return of dowry articles, or provision of maintenance. Reliance is placed upon *2026 SCMR 494*.

7. Learned Assistant Advocate General submits that once entitlement to dower is established in the impugned judgment, and in the absence of any cogent proof of payment by the husband, the presumption operates against him. It is further contended that this Court, being a court of reassessment in constitutional jurisdiction in appropriate cases, may finally adjudicate the matter rather than remanding it, particularly when the entitlement has already been determined by the Appellate Court. Reliance is placed upon *PLD 2026 SC 20*.

8. Heard. Record perused.

9. After perusal of the record, it transpires that the petitioner, on the basis of a mere formal denial, cannot claim exemption from his legal obligations regarding payment of dower, return of dowry articles, and maintenance. In matters of this nature, the initial burden lies upon the husband to establish the falsity of the allegations levelled against him; however, unless the same is disproved through cogent, convincing, and tangible evidence, the law leans in favour of the wife in respect of her lawful entitlements. At this juncture, it is pertinent to examine the statutory definition and legal character of dower. The Muslim Family Laws Ordinance, 1961, provides for the concept of dower. For ready reference, Section 10 thereof is reproduced as under: —

**10. Dower.**—~~Where~~ *Where no details about the mode of payment of dower are specified in the nikah nama, or the marriage contract, the entire amount of the dower shall be prescribed to be payable on demand.*

10. It is thus well-settled that where the mode of payment of dower has not been specified in the marriage contract, the same is presumed to be payable on demand, and consequently the wife becomes entitled to enforce such claim in accordance with law.

11. Dower (Mehr) is a mandatory incident of a valid and effective Muslim marriage contract. The validity of a marriage is not affected even if dower is not expressly stipulated in the Nikahnama; in such eventuality, reasonable dower is presumed in law. Dower is a consideration payable by the husband to the wife. It may be fixed either prompt or deferred.

12. It is further settled that dower becomes the exclusive property of the wife, and any unconditional stipulation of immovable property as dower confers immediate proprietary rights upon her upon execution of the Nikahnama, which cannot be taken away or diluted except in accordance with law. Reliance in this regard is placed upon the case of *Mst. Fakhra Jabeen and others vs. Wasif Ali and others* (PLD 2026 SC 20).

13. So far as the claim of dowry articles is concerned, it is equally a vested and enforceable right of the wife. In this regard, reliance is placed upon the case of *Muhammad Sajid vs. Mst. Shamsa Asghar and others* (PLD 2025 SC 461), wherein it has been held that all property given to the bride as dowry, bridal gifts, or presents vests absolutely in her. The use of the expression “shall vest absolutely” confers exclusive and unqualified proprietary rights upon the bride, thereby excluding any adverse claim by the husband or his relatives. Further reliance is placed upon *Shafqat Ali vs. Mst. Zaib un Nisa and others* (2026 SCMR 494).

14. Now, coming to the question of maintenance, it is noted that the learned Appellate Court has already granted maintenance not for the entire claimed period of eleven years, but has restricted the same to a period of six years prior to divorce, along with

maintenance during the post-divorce period till completion of iddat. The issue of maintenance has consistently been settled by the superior Courts in a number of pronouncements. Reliance is placed upon *Mst. Farah Naz v. Judge Family Court, Sahiwal* (PLD 2006 SC 457), *Bushra Qasim v. Abdul Rasheed* (1993 CLC 2063), *Shagufta Bibi v. Amanat Ali* (2018 YLR 645), and *Muhammad Sharif v. Additional District Judge* (2007 SCMR 49), wherein it has been held that:

6. *The aforesaid judgments along with section 278 of Muhammadan Law by D.F. Mullah were considered in Syed Mudassar Altaf's case PLD 1993 Lah. 810 and laid down a principle that wife was entitled to claim past maintenance for a period of 6 years in view of law laid down by this Court in Muhammad Nawaz's case PLD 1972 SC 302. The aforesaid proposition is supported by Muhammad Aslam's case 1990 CLC 934 and Muhammad Ibrahim's case 1991 CLC 1296. There is a contrary view in the following judgments in which the Court has laid down a principle that wife is entitled to past maintenance to the extent of three years:*

15. The question requiring determination is whether the grant of past maintenance allowance has been awarded in accordance with law. It is settled that a claim for past maintenance is governed by Article 120 of the Limitation Act, 1908, and accordingly, such claim is ordinarily restricted to a period of six years. Reliance in this regard is placed upon *Mihral and another vs. Mst. Zargul and another* (PLD 2024 Balochistan 158-DB), wherein it has been held that the claim for past maintenance must conform to the prescribed limitation period.

16. It is further well-settled that the right of a wife to maintenance accrues immediately upon the solemnization of a valid marriage, irrespective of its consummation. The husband is under a continuous legal obligation to maintain his wife unless he is able to establish, through cogent evidence, that she has repudiated the marital relationship or is otherwise disentitled under the law.

Reliance in this regard is placed upon *Ambreen Akram vs. Asad Ullah Khan and others* (2026 SCMR 1).

17. Further, the learned Appellate Court in paragraph No. 16 of the impugned judgment has elaborately discussed the issue of dower amount and recorded a categorical finding that the petitioner failed to produce any evidence in rebuttal to the claim of dower set up by the wife. However, in the concluding paragraph of the judgment, there appears to be some omission or silence on this aspect. In this regard, it is clarified that remand of a case is not to be ordered in a routine manner, particularly where the findings on record are clear and sufficient for adjudication.

18. It is a well-settled principle that remand is an exceptional remedy, to be exercised sparingly and only in cases where re-appraisal of evidence or re-determination of material issues is crucially required. Where the material on record is sufficient to adjudicate the controversy, the Court should itself decide the matter rather than remanding it, in order to ensure inexpensive, expeditious, and effective dispensation of justice and to avoid unnecessary prolongation of litigation. The power of remand, therefore, must be exercised with caution and caution. Reliance in this regard is placed upon *Messrs Shah Nawaz Khan and Sons vs. Government of N.W.F.P.* (2015 SCMR 945), *Mst. Shahida Zareen vs. Iqrar Ahmed Siddiqui* (2010 SCMR 1119), and *Abdul Majid vs. Syed Muhammad Ali Shamim* (2000 SCMR 1391).

19. It is further a settled principle of law, as reaffirmed by the Honourable Supreme Court in *M. Hamad Hassan v. Mst. Isma Bukhari and others* (2023 SCMR 1434), that once the trial and appellate forums have adjudicated upon a matter, the constitutional jurisdiction of the High Court remains supervisory in nature and does not extend to re-appraisal of evidence or substitution of its own

opinion for that of the forums below. The relevant observation is reproduced hereunder: –

*“7. .... Once a matter has been adjudicated upon on fact by the trial and the appellate courts, constitutional courts should not exceed their powers by re-evaluating the facts or substituting the appellate’s court opinion with their own – the acceptance of finality of the appellate’s court finding is essential for achieving closure in legal proceedings conclusively resolving disputes, preventing unnecessary litigation, and upholding the legislature’s intent to provide a definitive resolution through existing appeal mechanism ....”*

20. So, in view of the foregoing reasons and discussion, this Court finds no lawful ground to interfere with the impugned judgment and decree passed by the learned Appellate Court. However, paragraph No. 16 of the appellate judgment shall be read, treated, and deemed to be part of paragraph No. 18, thereby clarifying that the petitioner is liable to pay the dower amount accordingly. With these observations, the instant constitutional petition is hereby dismissed.

**JUDGE**