Form No: HCJD/C-121

ORDER SHEET
IN THE LAHORE HIGH COURT
MULTAN BENCH, MULTAN.
(JUDICIAL DEPARTMENT)

Writ Petition No.14118 of 2025.

Muhammad Irfan. **Versus** Judge Family Court, etc.

S. No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of Parties or counsel, where necessary

21.11.2025 Mr. Shakeel Javed Chaudhry, Advocate for the petitioner.

The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, challenging the order & decree dated 24.09.2025 passed by learned Judge Family Court pursuant whereto the suit of respondent No.2 for dissolution of marriage on the basis of Khula was decreed.

2. Tersely, necessary facts forming background of the proceedings in hand are that respondent No.2 instituted a suit for dissolution of marriage against the petitioner. The petitioner contested the suit by filing written statement in contrast whereby he maintained that at the time of marriage with him respondent No.2 concealed her earlier marriages and no valid Talaq or decree for dissolution of marriage was obtained by her, hence, the marriage between the parties was void ab initio, therefore, no question of dissolution on

the basis of Khula arises. During the pre-trial reconciliation proceedings, respondent No.2 got recorded her statement that she had developed extreme hatred against the defendant (petitioner) and not intended to rehabilitate with him, therefore, suit for dissolution of marriage may be decreed. Similarly, petitioner also got recorded his statement whereby he deposed that he did not want to reconcile with the plaintiff (respondent No.2). Learned Trial Court, in the light of statements of the parties, dissolved the marriage on the basis of Khula vide order/decree dated 24.09.2025. Being dissatisfied, the petitioner has filed instant Constitutional Petition.

3. Heard. Record perused.

4. After hearing learned counsel for the petitioner and going through the record, it has been observed that the respondent No.2 prayed for dissolution of marriage on the basis of Khula as she had developed severe hatred against the petitioner, whereas, contrarily, stance of the petitioner was that the marriage was void ab initio as the respondent No.2 was earlier married and she contracted marriage with the petitioner without getting any decree for dissolution of marriage/Khula from her previous husband.

5. In the absence of any documentary proof furnished by the petitioner to substantiate the allegation that respondent No.2’s earlier marriages were subsisting at the time of their marriage, the learned Family Court proceeded

on the basis that the marriage between the parties was duly solemnized, a fact admitted by both sides. The petitioner neither produced certified copies of any alleged previous Nikahnamas nor any evidence showing that respondent No.2 remained legally bound in any earlier wedlock. A mere bald assertion, unsupported by documentary or oral evidence, cannot displace the strong legal presumption of validity that attaches to an admitted marriage. It is also well-settled that the pendency of a separate declaratory suit, filed by the petitioner to challenge the validity of the nikahnama, does not bar the jurisdiction of the Family Court to dissolve a marriage that continues to subsist unless and until set aside by a competent court. As long as the relationship of husband and wife exists on record, the wife's statutory and Islamic right to seek dissolution on the basis of khula remains intact and enforceable.

6. It is now firmly entrenched in Pakistani jurisprudence, particularly after the landmark judgment in *"Khurshid Bibi v. Baboo Muhammad Amin"* ***(PLD 1967 SC 97)***, that when a wife states on oath that she cannot live with her husband within the limits prescribed by Allah and that she has developed aversion or hatred towards him, the Court is obliged to accept her statement and grant khula. Such a statement, especially when made before the Court during reconciliation proceedings, leaves no scope for judicial discretion to deny relief. In the present case,

respondent No.2 expressly stated that reconciliation was impossible and that she could not live with the petitioner. This, in itself, was sufficient grounds for the Family Court to dissolve the marriage.

7. A more compelling factor is that the petitioner himself stated that he did not wish to reconcile with respondent No.2. Once both parties have categorically refused reconciliation, the very basis of matrimonial life i.e. mutual willingness, companionship, and harmony has collapsed. A court of law is not expected to keep alive a matrimonial tie that both spouses have rejected. The institution of marriage in Islam is based on tranquility, affection, and mercy. When these essential elements are absent, and when the wife asserts extreme aversion while the husband is also unwilling to keep her, compelling continuation of such a union would amount to perpetuating emotional and psychological hardship. No principle of Islamic law, statutory law, or equity permits forcing a wife to remain in a marriage she no longer wishes to continue, particularly when the husband also expresses unwillingness to live with her. To insist on continuation of such a marriage would not only defeat the objectives of matrimonial life but would also contradict Islamic jurisprudence, which emphasizes ease, justice, and prevention of harm.

8. In light of these factors, the learned Family Court committed no legal flaw or jurisdictional error in dissolving the marriage on the basis of khula subject to surrender of whole prompt and deferred dower, particularly when both parties agreed that reconciliation was not possible and when the petitioner failed to substantiate his allegations regarding previous subsisting marriages of respondent No.2. The impugned judgment reflects correct appreciation of law, established jurisprudence, and the factual matrix of the case.

9. So far as the contention of the petitioner that he has challenged the Nikahnama by instituting a declaratory suit is concerned, it suffices to observe that the said suit is pending adjudication before the Court of competent jurisdiction, which shall determine the validity or otherwise of the Nikahnama strictly in accordance with law and on the basis of evidence that may be produced before it. The pendency of that suit has no bearing upon the present proceedings, nor does it suspend the subsisting marital status of the parties for the purposes of deciding the question of khula, especially when the marriage has been admitted and no competent forum has yet declared it void.

10. For the foregoing reasons, learned Family Court has rightly passed order dated 24.09.2025 by dissolving the marriage on the basis of Khula. Learned counsel for the petitioner remained unable to point out any illegality, irregularity, jurisdictional defect or infringement of

fundamental right. Hence, this petition is ***dismissed-in-limine***, being devoid of any force/substance.

(AHMAD NADEEM ARSHAD)
JUDGE

APPROVED FOR REPORTING.

JUDGE

*M. Arsalan**