

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Bench-II:

Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Aqeel Ahmed Abbasi

C.P.L.A.1107-L/2015 and C.A.247-L/2017

Ambreen Akram
(in both cases)

... Petitioner

Versus

Asad Ullah Khan, etc.
(in C.P.L.A.1107-L/2015)
Additional District Judge Faisalabad, etc.
(in C.A.247-L/2017)

... Respondent(s)

For the petitioner: Rana Rashid Akram Khan, ASC.
(Through V.L. Lahore Registry)

For the respondent(s): Syed Riffaqt Hussain Shah, AOR.

Date of hearing: 05.05.2025

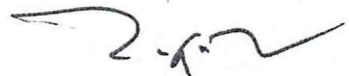
ORDER

Learned counsel for the petitioner submits that Nikah was solemnized between the parties on 02.11.2012, however, *rukhsati* did not take place due to the respondent who kept delaying the matter for one reason or another and finally the respondent divorced the petitioner on 02.05.2014. During the subsistence of the marriage for a period of almost two years, *rukhsati* did not take place. As a result, the petitioner filed a suit for maintenance on 11.10.2013. The respondent No.1 filed written statement but did not attend to the proceedings and was proceeded against *ex-parte* on 30.01.2014 and *ex-parte* decree was passed against the respondent on 12.03.2014 entitling the petitioner maintenance @ Rs.3,000/- per month. Thereafter both the parties preferred their appeals. The appeal of the petitioner was partially allowed vide order dated 27.10.2014 to the extent of enhancement of maintenance to Rs.5,000/- per month, whereas the appeal of respondent No.1 was dismissed. Thereafter, the parties approached the High Court and the High Court held that in the absence of *rukhsati* and consummation of marriage the petitioner was not entitled to maintenance. Hence this petition for leave to appeal.

2. Learned counsel for the petitioner has referred to plaint (page 39-44 para 6) to submit that it is clearly stated by the petitioner that *rukhsati* never took place because of the respondent. He also referred to affidavit filed by the petitioner (at page 50 of the paper book), which states the same. Thereafter he referred to the contents of the appeal filed by the respondents, which do not categorically state anything regarding the fact that *rukhsati* has taken place. Learned counsel further submits that even if *rukhsati* did not take place, the petitioner is still entitled to maintenance and in support of this contention learned counsel placed reliance on *Najam-ur-Rehman v. Masooma Hassan and 2 others* (2023 CLC 991), *Muhammad Arif v. Additional Sessions Judge-VIII, Karachi West and 2 others* (2020 YLR 1586) and *Mst. Shamim Akhtar v. Additional District Judge, Sialkot and another* (1991 CLC 1142).

3. The question that requires authoritative answer by this Court is whether the maintenance is connected with Nikah or with the consummation of marriage. This question needs to be examined in the light of key principles of Islamic Law, which requires further deliberation. Therefore, we hereby appoint Dr. Muhammad Zubair Abbasi, Lecturer, Royal Holloway, University of London, (e-mail address zubair.abbasi@rhul.ac.uk) and Ms. Fatima Yasmin Bokhari, Advocate High Court/CEO, Musawi (e-mail address fatima.bokhari@musawi.org) as amici curiae to assist the Court. Office will transmit the record of the case to the learned amici curiae through email. We are hopeful that learned amici curiae will send their response in writing through email at sadaqat@scp.gov.pk or appear in person.

4. To come up for arguments of learned amici curiae, as well as, learned counsel for the respondents on 12.05.2025.



Judge


Judge

Islamabad,
05.05.2025.
Iqbal