

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD,
(JUDICIAL DEPARTMENT).

Writ Petition No. 2153 of 2023

Khurram Razzaq

Versus

Learned Additional District Judge, Islamabad (West) and 02 others.

S.No. of order/ proceeding	Date of order/ proceeding	Order with signature of Judge and that of parties or counsel where necessary.
	06.07.2023	Mr. Khurram Jamshed Chughtai, Advocate for the petitioner.

Through the instant writ petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has impugned Judgments / decrees dated 02.02.2023 and 15.06.2023, passed by learned Senior Civil Judge-I (Admn), West Islamabad and learned Additional District Judge-XI, West-Islamabad, whereby suit filed by respondent No.3 was partially decreed and appeal filed by the petitioner was partially accepted and rest of the claims were dismissed.

02. Brief facts of the case are that marriage between the parties was solemnized on

05.02.2018, according to Muslim Rites & Ceremonies against dower of Rs.10,000/-; relations between the parties did not remain cordial from the very beginning. After a few days of marriage the petitioner left for Saudi Arabia on 20.03.2018. Soon after his departure, in-laws of respondent No.3 physically tortured, beaten and locked her. Later on the petitioner pronounced divorce upon respondent No.3 on 15.07.2019 but the petitioner did not pay her any maintenance since marriage, although he has been earning handsome salary. Suit filed by respondent No.3 was contested by the petitioner. Out of divergent pleadings of the parties, issues were framed. Learned trial Court partially decreed the suit of respondent No.3 and directed the petitioner to:

- i. pay maintenance of Rs.20,000/- per month as committed by him according to Column 17 of the nikahnama w.e.f 21.03.2018 till completion of her iddat period with 10% annual increase till realization.
- ii. Deliver 12 tola gold ornaments to respondent No.3 or pay its value at the market rate at the time of recovery.

iii. Pay Rs.10 Lac to respondent No.3 with 10% annual increase w.e.f the date of filing of the suit till realization.

03. Being aggrieved, the petitioner filed an appeal which was partially accepted by the Court of learned Additional District Judge-XI, West-Islamabad, impugned judgment / decree dated 02.02.2023 was modified to the extent that respondent was held entitled to recover Rs.20,000/- per month w.e.f 21.03.2018, till completion of her iddat and recovery of Rs.10,00,000/-, whereas rest of claims were dismissed vide impugned judgment / decree dated 15.06.2023, hence the instant writ petition.

04. Learned counsel for the petitioner, *inter alia*, contends that impugned judgments / decrees have been passed by mis-reading and non-reading of the evidence, based on surmises and conjectures; both the impugned judgments / decrees are against law and facts of the matter and not sustainable in the eyes of law, hence are liable to be set-aside.

05. Arguments heard, record perused.

06. Impugned judgments / decrees have been passed on the basis of terms and condition mentioned in column 17 of the *nikahnama*. It is well settled provision of law that contents of *nikahnama* always have the presumption of truth.

07. As far as contention of learned counsel for the petitioner that content mentioned in column 17 of the *nikahnama* are fake / incorrect, he has not produced any evidence in support of his contention, neither there is any cutting nor any overwriting in the said column.

08. Nikahnama is a registered document, signed and witnessed by many persons, therefore, its contents deem to be considered as "*true*".

09. There are concurrent findings of both the learned Courts below against the petitioner. In case of concurrent findings of the learned Courts below, scope of the constitutional petition becomes very limited. The petitioner has failed to point out any misreading or non-reading of the evidence. It

has been laid down in a case titled as "**Syed Arif Ali Sabri Vs. Abdul Samad through L.Rs. and 2 others" (2008 YLR 2309)** that:

"When there are concurrent findings of Courts below, the scope of the constitutional petition for interference is very limited and it can only be interfered when the orders of the Courts below are fanciful or based on misreading or non-reading of the evidence".

The same view has also been taken in cases titled as "**Sadruddin Vs. Aslam Madad Ali and others" (PLD 2008 Karachi 2005)** & **"Khuda Baksh Vs. Muhammad Sharif and another" (1974 SCMR 279).**

10. The High Court while issuing a writ of certiorari acts in exercise of supervisory and not appellate jurisdiction. The High Court in exercise of its writ jurisdiction will not review the findings of facts reached by the inferior Court or a tribunal. Reliance may be made to the following case laws:

- (i) "*Amjad Khan Vs. Muhammad Irshad (Deceased) through LRs*" (*2020 SCMR 2155*)
- (ii) "*President All Pakistan Women Association, Peshawar Cantt Vs. Muhammad Akbar Awan and others*" (*2020 SCMR 260*)
- (iii) "*Jurist Foundation through Chairman Vs. Federal Government through Secretary, Ministry of Defence and others*" (*PLD 2020 SC 1*),
- (iv) "*Chief Executive MEPCO and others Vs. Muhammad Fazil and others*" (*2019 SCMR 919*)
- (v) "*Chairman, NAB Vs. Muhammad Usman and others*" (*PLD 2018 SC 28*)
- (vi) "*Shajar Islam Vs. Muhammad Siddique and 2 others*" (*PLD 2007 SC 45*).

11. Learned counsel for the petitioner has not made any submissions on the point as to how the concurrent judgements passed by both the learned Courts below are not in consonance with law or without jurisdiction or in excess of jurisdiction.

12. In view of above, instant writ petition is not maintainable, hence the same is **dismissed in limine** being meritless.

(TARIQ MEHMOOD JAHANGIRI)
JUDGE

Ahmed Sheikh