

JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 428/2019.

Farhat Bibi

Versus

Abdul Hameed Qureshi, etc.

Petitioner by: **Mr. Tasleem Abbasi, Advocate**
Petitioner in person.

Respondent No.1: **Mr. Ajmal Khan Khattak, Advocate.**
Respondent No.1 in person.

Date of Decision: **16.10.2019.**

MOHSIN AKHTAR KAYANI, J:- Through this writ petition, the petitioner has assailed the judgment & decree dated 02.01.2018, passed by learned Judge Family Court (East), Islamabad alongwith judgment & decree dated 06.12.2018, passed by Additional District Judge (East), Islamabad, whereby petitioner was directed to return the dower amount of Rs.50,000/- in terms of Section 10(4) of the Family Court Act, 1964.

2. Learned counsel for the petitioner contends that petitioner had entered into nikkah with respondent No.1 on 13.11.2016 against dower of Rs.50,000/- and due to strained relationship she was forced to file suit for dissolution of marriage by way of *khulla* in which she recorded her statement on 02.01.2018 in terms of Section 10(4) of the Family Court Act, 1964; that Family Court did not record her stance in a proper manner and passed the decree for *khulla* subject to return of dower, although the said dower was never paid to the petitioner and both the Courts below have not considered this aspect in proper manner; that petitioner was hospitalized at the time of recording of her statement and due to

her medical condition she was not able to understand the effect of the statement which was incorrectly recorded.

3. Conversely, learned counsel for respondent No.1 contends that statement recorded by the trial Court is clear as the same was recorded in presence of petitioner's counsel and no mistake was committed by any of the parties and the same was correctly understood by the Court concerned and at this stage no somersault is permissible under the law.

4. Arguments heard, record perused.

5. From the perusal of record, it reveals that petitioner entered into *nikkah* with respondent No.1 on 13.11.2016 in accordance with Muslim rites and ceremonies against the dower of Rs.50,000/-, however, petitioner subsequently filed suit for dissolution of marriage on the basis of *khulla*, whereby reconciliation effort in the Family Court failed and parties were directed to appear before the Judge Family Court and to record their statements.

6. The statement of petitioner and respondent No.1 was recorded on 02.01.2018, whereby petitioner claimed the decree of *khulla* and has also acknowledged that she has received the dower amount in shape of gold jewelry. The said statement was recorded in presence of her counsel and she signed the statement and put her thumb impression. In view of the said statement learned Judge Family Court has passed the decree dated 02.01.2018 and considered the admission on the part of petitioner as valid acknowledgment of receiving dower and granted *khulla* in terms of Section 10(4) of the Family Court Act, 1964 subject to *zar-e-khulla* of Rs.50,000/- in shape of gold jewelry referred in column No.13 of the *nikkahnama*.

7. The petitioner has challenged the said order before learned Additional District Judge (East), Islamabad in appeal which was dismissed being time barred vide judgment & decree dated 06.12.2018, as such concurrent findings of

fact recorded by the Courts below on the basis of admission on the part of petitioner by way of her statement is duly acknowledged by both the Courts and no illegality has been observed in the said proceedings.

8. The plea raised by the petitioner qua her health and medical condition at the time of recording of her statement is not justified. It is trite law that dower which was received at the time of *nikkah* has to be returned in case of *khulla* in terms of Section 10(4) of the Family Court Act, 1964, therefore, instant petition is misconceived and the same is hereby dismissed.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid