

Form No: HCJD/C-121.
ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 3962 of 2021

Bilal Arshad Butt
Versus
Sadia Naz, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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03.12.2021. M/s Mian Tahir Iqbal and Shakir Javaid,
Advocates for the petitioner.

The petitioner has impugned judgment and decree passed by the learned Judge Family Court dated 19.04.2021 and judgment and decree dated 16.09.2021 passed by the learned Additional District Judge pursuant to which appeal filed against the judgment and decree passed by the learned Judge Family Court was dismissed.

2. Learned counsel for the petitioner contended that the maintenance granted for each minor child of the petitioner in the amount of Rs.50,000/- and maintenance granted to petitioner's former spouse/respondent No.1 in the amount of Rs.50,000/- per month for Iddat period was excessive and beyond the means of the petitioner. Learned counsel for the petitioner submitted that the judgment and decree passed by the learned Additional District

Judge suffered from infirmity as the income of the petitioner was determined on the basis of a visiting card of the petitioner produced by respondent No.1 which indicated that he was working as General Manager Allied Services at Shifa International Hospital. He submitted that the learned Family Court and the learned Additional District Judge ought to have decided the quantum of maintenance on the basis of an affidavit sworn by the petitioner and filed before the learned Judge Family Court dated 22.09.2020 which was exhibited as Exh.D1, which reflected that the petitioner had resigned from Ali Medical Centre and was not drawing salary and other benefits as claimed by respondent No.1.

3. When asked by the Court as to the present occupation and source of income of the petitioner, the petitioner filed a break-up of his salary as of November 1, 2021 through C.M No. 4918/2021, Which reflected that his gross salary per month was Rs.470,000/-. The petitioner has also placed on record an appointment letter dated 21.09.2020 titled "Change of responsibilities & Contract Extension" which states that the title of the petitioner has been changed from Hospital Director, Shifa City Hospital (Sialkot) to

“General Manager-Allied Services” and that his contract period stood extended to June, 2021 with a salary of Rs.400,000/-. The petitioner further submitted that he joined Ali Medical Centre on 07.08.2017 and resigned on 15.10.2019. He subsequently joined Shifa Sialkot Project on 01.11.2019, which was a project of Shifa International Hospital and was formally employed by Shifa International Islamabad through aforementioned employment letter (titled “Change of responsibilities and contract extension”) dated 21.09.2020. In view of the continued employment of the petitioner with Ali Medical Centre and subsequently with a project of Shifa International, the learned counsel has failed to make out a case that the amount of maintenance ordered by the learned Family Court and upheld by the learned Additional District Judge is beyond the means of the petitioner. The learned counsel for the petitioner has also failed to point out any legal infirmity in the impugned judgments and decrees that calls for intervention by this Court in its extraordinary constitutional jurisdiction.

4. While exercising its discretionary and equitable jurisdiction a key consideration for

this Court is that the petitioner comes to the court with clean hands. In view of the conduct of the petitioner, it appears that the petitioner has not been truthful. The affidavit sworn by the petitioner before the learned Family Court dated 22.09.2020 in relevant part at para.5 states the following:

"Now I am no more serving at Ali Medical as Plaintiff No.1 along with her brother namely Bilal Taj created problems in job of Defendant as well and he had to resign (Relevant record available with the Hon'ble Court) and Defendant nor drawing the claimed salary or other benefits. At present, Defendant is earning just Rs.25,000/- per month which comes as a rental amount of one bed room flat owned by Defendant in Bahria Town. Defendant is residing with his father in his house as he cannot afford to live independently, running his day to day expenses by taking money from father, wife and piece meal compensation received from Advisories."

5. Thus, what the petitioner swore before the learned Family Court was that he did not have a job and his only source of regular income was Rs.25,000/- which came in the form of rental income of one bed room flat owned by the petitioner. And that in order to meet his day to day expenses he was dependent on his father who supported him financially. The petitioner presented a

different story before the learned appellate Court, which recorded the following regarding the income of the petitioner:

"The learned counsel for the appellant contended that the appellant is non practicing MBBS Doctor and at the present he is engaged as consultant in a private organization and drawing salary of Rs.70,000/-"

6. Thus the representation made to the learned Family Court was that the petitioner's means were Rs.25,000/- in rental income, the representation to the learned Additional District Judge at the time of hearing of appeal was that the petitioner was earning an amount of Rs.70,000/- per month. In the statement filed before this Court through C.M No. 4918/2021, the petitioner submitted that his gross salary is Rs.470,000/- per month and in the list of expenses he has listed Rs.50,000/- attributable to the care of his father even though his affidavit dated 22.09.2020 stated that he was financially dependent of his father from whom he took money to meet his day to day expense.

7. In view of the record produced before this Court by the petitioner, he was never unemployed and was earning a salary of Rs.400,000/- as reflected in the letter issued

by Shifa International Hospital dated 21.09.2020, at the time when he swore the affidavit dated 22.09.2020 produced before the learned Family Court as part of his own testimony to establish that his only income was rental income in the amount of Rs.25,000/-. From the aforementioned account it seems that not only did the petitioner come to this Court with unclean hands, he may *prima facie* have rendered himself liable for perjury and for giving and fabricating false evidence in terms of sections 191 and 192 of PPC punishable under section 193 of PPC.

8. In view of the above, this petition is **dismissed** for being without merit. Let a copy of this order be sent to the learned District and Sessions Judge, West Islamabad for initiating appropriate proceedings against the petitioner to determine if he is liable for giving and fabricating false evidence.

(BABAR SATTAR)
JUDGE