

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P No. 3530/2014

Mst. Haleema Sadia

Versus

Abdul Qayyum etc.

Petitioner by: Sh.Muhammad Khizar-ur-Rashid,
Syed Asghar Hussain Sabzwari, Ms.
Shahina Shabuddin, Advocates.

Respondents No. 1 by: Mr. Arshad Mehmood, Advocate

Date of decision: 18.12.2019.

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MOHSIN AKHTAR KAYANI J. Through this writ petition,
the petitioner has prayed for the following relief:-

"It is, therefore, respectfully prayed that this Honourable Court may very graciously be pleased to issue certiorari writ so as to address and redress the Petitioner's grievance."

2. Learned counsel for the petitioner contends that petitioner had filed suit for recovery of dowry articles, gifts worth Rs. 57,39,975/- and maintenance against the respondent No.1 on the basis of Nikah dated 15.01.2007. He further contends that *Rukhsati* took place on 26.07.2008 and parties only lived together for two (02) months, whereafter respondent left for Barcelona (Spain) and failed to arrange the visa of the petitioner; that petitioner was tortured and abused by respondents parents, whereas respondent/husband gave oral *Talaq* to the petitioner in July, 2009, but later on, he reconciled with petitioner again in November, 2009. However, divorce proceedings were concluded in February, 2010 before the Union Council Gangal. He further contends that petitioner is seeking maintenance as well as dowry

articles referred in the list of articles, but both the Courts below have not considered the factual aspect and granted the maintenance at the rate of Rs. 10,000/- p.m for a period starting from 01.08.2009 to 01.05.2010 and even not granted the dowry articles as per list. It has lastly been contended that the respondent No.1 has not produced any evidence to contradict the stance of the petitioner, even the father of the respondent Muhammad Azam Shahid put appearance through Exh.D1, who has not uttered a single word while appearing as witness in favour of his son/respondent, therefore, the appreciation of facts recorded by the Courts below are contrary to record.

3. Conversely, learned counsel for the respondents contends that all the dowry articles claimed by the petitioner have already been handed over to her, even the maintenance till the *Iddat* period has been paid on the basis of judgment passed by the Court while considering the available evidence on record.

4. Arguments heard, record perused.

5. From the perusal of record, it reveals that the question of maintenance and dowry articles have been settled by the learned Trial Court as well as learned Appellate Court concurrently in the following manner:-

"As a nutshell to my above discussion, suit of the plaintiff for maintenance is hereby decreed for a period from 01.08.2009 to 01.05.2010 with three months Iddat period @ Rs. 10,000/- per month and to the extent of dowry articles decreed as per list produced by the defendant. Parties are left to bear their own costs. Decree sheet be prepared accordingly. File be consigned to the record room after due completion."

6. Both the Courts below have discussed each and every aspect of the case, however, the question relating to the period of maintenance till expiry of *Iddat* period has been appreciated by the Courts below. As per the record, the petitioner submitted her evidence through affidavit as Ex.P1, in which she claims that she

was divorced orally in July, 2009 and she reconciled with her husband on 07.11.2009, but subsequently she was divorced in February, 2010. The relevant extract of the evidence is reproduced as under:-

(۴) "یہ کہ جولائی 2009 میں مدعیہ کا خاوند اسلام آباد آیا اور مدعیہ کو طلاق دے دی۔"

(۶) یہ کہ 7-11-09 کو جب مدعا علیہ واپس اسلام آباد آیا اور مدعیہ سے دوبارہ رجوع کر لیا مسکان کو گیسٹ ہاؤس لے گیا اور وعدہ کیا کہ مدعیہ کو گھر واپس لے جائیگا اسکے بعد disappear ہو گیا مجھے علم ہوا ہے کہ دوبارہ شادی کر رہا ہے مختلف طریقوں سے رابطہ کرنے کے کوشش کی لیکن مدعا علیہ تسلی بخش جواب نہ دے سکا۔

(۹) فروری 2010 میں مدعا علیہ نے طلاق بھیج دی جسکی کارروائی کامران خان مجسٹریٹ فرسٹ کلاس پوینین کونسل سیکڑال میں ہوئی جہاں مدعا علیہ رجوع سے منکر ہو گیا اور وہاں سے غائب ہو گیا۔"

7. This aspect has not been rebutted by respondent in Exh.D1 (represented through his father), who was cross-examined at length, wherein he did not disclose the date on which his son has pronounced *Talaq* upon the petitioner, however, he acknowledged that his son entered into second marriage on 08.04.2010.

8. The minute scanning of pleading of the parties reflects that petitioner has claimed that Chairman, Arbitration Council has issued divorce confirmation certificate on 02.05.2010, referred in para-13 of the suit. Whereas respondent No.1 has acknowledged in para-9 of the written statement (preliminary objections) that Chairman Arbitration Council has issued divorce confirmation certificate on 02.05.2010, which was attached as annexure-D, therefore, nothing is left to contradict the written stance taken by the respondent No.1.

9. The above referred stance was verified from the judgment of the learned Trial Court as well as learned Appellate Court, which was rightly appreciated, when the similar question relating to dowry articles has also been discussed at length by both the Courts below while appreciating the stances and pleas taken by the parties.

10. In view of above reasons, this Court is not persuaded by the arguments rendered by the petitioner side regarding enhancement of maintenance rate as the evidence led by the parties had already been critically appreciated by the Courts below and same cannot be altered, varied in judicial review, therefore, instant writ petition is misconceived and same is hereby **dismissed.**

(MOHSIN AKHTAR KAYANI)
JUDGE

RAMZAN