

**JUDGMENT SHEET**  
**ISLAMABAD HIGH COURT, ISLAMABAD,**  
**JUDICIAL DEPARTMENT**

**W.P.No.1336/2021**

Usama Farooq

*vs.*

Additional Sessions Judge (MCAC) (West), Islamabad & 03 others

Petitioner by: Mr. Mazhar Akram Awan and Mirza Irfan  
Ghazanfar, Advocates.

Respondents by: Mr. Shahzad Saddiqui Alvi, Advocate for  
respondents No.3 & 4

Date of Decision: 24.02.2022.

**MOHSIN AKHTAR KAYANI, J:** Through the instant writ petition, the petitioner has called in question judgment and decree of the learned Additional District Judge (MCAC) (West), Islamabad, dated 06.01.2021, whereby appeal filed by the petitioner against judgment and decree of the learned Judge Family Court (West), Islamabad, dated 30.09.2020, has partially been allowed.

2. Succinctly, Mrs. Naida Usama and Ms. Elaya Fatima (minor) i.e. respondents No.3 and 4, respectively, filed a suit for recovery of maintenance allowance, dower and gold ornaments contending therein that Mrs. Naida Usama (respondent No.3) and Usama Farooq (petitioner) married on 02.12.2016 against a deferred dower of Rs.200,000/- and the petitioner gifted 04 tolas of gold ornaments, which were allegedly taken back after few days of the marriage. The parties were blessed with a daughter Ms. Elaya Fatima (respondent No.4) on 14.10.2017, but the relationship between the parties became strained with the result that the petitioner expelled respondent No.3 from his house and thereafter did not turn back to meet the respondent or minor or pay any maintenance. The suit was contested by the petitioner by filing written statement, whereafter issues were framed, as such, after recording of pro and contra evidence, the learned

trial Court partially decreed the suit vide impugned judgment and decree dated 30.09.2020. Feeling aggrieved thereof, the petitioner preferred an appeal, which was partially allowed vide impugned judgment and decree dated 06.01.2021. Hence, instant writ petition.

3. Learned counsel for petitioner contends that the petitioner herself left the abode of petitioner without any reason and proved to be Nashiza, even she herself admitted during the course of cross-examination that she lived in the house of one Athar, who is otherwise *Ghair Mehram* to respondent No.3; that both the Courts below have misconstrued the facts while fixing the maintenance allowance, even they have wrongly exercised the jurisdiction vested in them while passing the impugned judgments and decrees.

4. Conversely, learned counsel for respondents No.3 & 4 stressed that the petitioner is serving in a private bank earning a handsome salary, therefore, maintenance allowance of Rs.5000/- per month is justifiable; that the petitioner maltreated respondent No.3 and expelled her from his abode leaving her and their daughter at the mercy of no one, as such, both the Courts below have rightly appreciated the overall circumstances of the case and passed the impugned judgments and decrees in accordance with law.

5. Arguments heard, record perused.

6. Perusal of record reveals that the petitioner has only argued his case to the extent of maintenance awarded to respondent No.3 Mrs. Naida Usama, who has now been divorced by the petitioner but no such proof has been placed on record by both the parties. Family Court has awarded maintenance @ Rs.5,000/- to respondent No.3 w.e.f. date of institution of suit i.e. 05.03.2018 till subsistence of marriage. The judgment of Family Court fully explains each and every aspect and circumstance in this case, even the concept of maltreating respondent/wife

is apparent. The petitioner though based his arguments on the basis of Nashiza (disobedient wife) but failed to substantiate any such fact in the trial court and at this stage, he tried to malign the character of respondent No.3 by referring a portion of evidence in which respondent No.3 conceded that "*she lived in the house of one Athar, who is family friend*", such aspect is depreciable and the ground raised by the petitioner is an afterthought. The concurrent findings of fact recorded by the courts below could not be interfered in constitutional jurisdiction based upon contrary view. Even there is no misreading or non-reading of evidence demonstrated by the petitioner in any manner. In such circumstances, concurrent findings require no interference, therefore, instant writ petition is misconceived and the same is hereby *dismissed*.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

Zahid.