

**ORDER SHEET.**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD,**  
**JUDICIAL DEPARTMENT.**

**Writ Petition No.464 of 2022**

Faraz Ali Bhatti

***Versus***

Senior Civil Judge, Islamabad, etc.

| S.No. of order/ proceeding | Date of order/ proceeding | Order with signature of Judge and that of parties or counsel where necessary. |
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| 10.02.2022 | Syed Zawed ul Hassan Najam, Advocate for the Petitioner. |
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Through the instant petition, the petitioner has impugned order dated 19.01.2022, passed by learned Senior Civil Judge-III (Guardian Judge), West-Islamabad, whereby, application filed by the petitioner for submitting evidence / record of SMS messages and application to Rescue-15 was dismissed with cost of Rs. 5,000/-

02. Learned counsel for the petitioner, *inter alia*, contends that impugned order has not been passed by learned trial Court in accordance with law and dictum laid down by the superior courts of the country and the impugned order is erroneous, hence liable to be set aside.

03. Arguments heard, record perused.

04. Admittedly, the petitioner contracted marriage with respondent No.2; respondent No.2 being legally wedded wife filed a suit for recovery of dower, dowry articles including jewelry and maintenance. The suit was contested by the petitioner; written statement was filed; issues were framed by the learned trial Court; evidence of both the parties was recorded and the case was fixed for final arguments.

05. In the meanwhile, the petitioner submitted an application for producing evidence of SMS record of respondent No.2 alleging that his ex-wife / respondent No.2 had extra marital relationship with some other person and wanted to bring copies of SMS messages on record.

06. As evidence of both the parties has been recorded, the matter will be decided on the basis of evidence in light of the issues framed by the learned trial Court. Bringing on record the indecent and immoral messages will not be beneficial / fruitful for the petitioner rather it will cause huge damage to

respondent No.2. When confronted, learned counsel for the petitioner has not produced any judgment / law on the subject on the basis of which he claims that impugned order be set aside.

07. As the impugned order is an interlocutory / interim order, it is mentioned in Section 14(3) of the West Pakistan Family Courts Act, 1964 that:

***"No appeal or revision shall lie against an interim order passed by a Family Court."***

08. It has been held by the Hon'ble Supreme Court of Pakistan in a case titled as **Syed Saghir Ahmad Naqvi Vs. Province of Sindh (1996 SCMR 1165)**, that:

***"The statute excluding a right of appeal from the interim order cannot be passed by bringing under attack such interim orders in Constitutional jurisdiction. The party affected has to wait till it matures into a final order and then to attack it in the proper exclusive forum created for the purpose of examining such orders."***

Reliance is also placed on cases reported as **1976 SCMR 450 & 2020 SCMR 260.**

09. Learned counsel for the petitioner has failed to point out as to how the impugned / interim order passed by the learned Judge Family Court was the consequence of an error of law or without jurisdiction or in excess of jurisdiction.

10. In view of the above prospective, instant writ petition has no merits and the same is **dismissed in limine.**

**(TARIQ MEHMOOD JAHANGIRI)**  
**JUDGE**

Ahmed Sheikh