

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 3326 of 2022

Bilal Ahmed

Vs.

Mst. Sanna Masood Aslam and others

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(1)	09.09.2022.	Mr. Azeem-ul-Quder, Advocate for the Petitioner.

Through the instant petition, the Petitioner has assailed the Order dated 26.04.2022 (“**Impugned Order**”) passed by the learned Judge Family Court-East, Islamabad whereby the Petitioner’s application for reduction of interim maintenance fixed vide order dated 28.09.2020 as Rs.40,000/- per month for Respondent No.2 & 3 each has been dismissed.

2. Facts, in brief, are that the Petitioner and the Respondent No.1 were married on 09.02.2012. From the wedlock, two children were born i.e. Respondents No.2 & 3. Subsequently, the Petitioner pronounced divorce upon the Respondent No.1. The Respondents No.1 to 3 filed Suit for Recovery of Past, Present and Future Maintenance of Minor Plaintiffs No.2 &3 and Recovery of Past and Present Maintenance of Respondent No.1 along with her maintenance for the period of *Iddat* and Recovery of Dowry Amount, along with Retention of Custody of Minors.

3. The learned Judge, Family Court, East-Islamabad, vide the Impugned Order rejected the application of the Petitioner for reduction of interim maintenance fixed for Respondents No.2 & 3 as mentioned above. The Petitioner has assailed the Impugned Order through instant petition.

4. The learned counsel contended that the Impugned Order is not tenable inasmuch as the interim maintenance fixed by the learned trial Court is beyond the financial status of the Petitioner. He further submitted that the purported evidence based on which the interim maintenance was fixed is false and concocted, which fact has not been considered by the learned Family Court and as such prayed on behalf of the Petitioner for setting aside of the Impugned Order and for reduction of the interim maintenance from Rs.80,000/- to Rs.10,000/- for both minors.

5. Arguments heard and record perused.

6. The order dated 28.09.2020 whereby maintenance of the Respondents No. 2 and 3 was fixed has been passed in pursuance of Section 17-A of the West Pakistan Family Courts Act, 1964, where under the Family Court has the jurisdiction to pass interim order for maintenance at any stage of the proceedings in a suit for maintenance. The purpose behind the provision of interim maintenance is to ensure

that during the pendency of the legal proceedings, the minors are not faced with financial challenges.

7. Section 14 (3) of the West Pakistan Family Courts Act, 1964, bars an appeal or revision against an interim order passed by a Family Court with the obvious purpose to avoid delays.

8. The learned Family Court has correctly observed vide the Impugned Order that reduction of maintenance as prayed for by the Petitioner would amount to a review of the order dated 28.09.2020, which is beyond the mandate of the Family Court. No illegality has been pointed out by the learned counsel for the Petitioner in such order.

9. The interim maintenance fixed is only temporary. The quantum of maintenance may be modified after appraising the evidence produced at trial. An aggrieved party will have a right to agitate his grievance before the appellate Court when the interim order merges into a final order. Even otherwise, quantum of interim maintenance as well as the alleged erroneous reliance placed upon photographs submitted by the Respondents in determining such amount constitute factual disputes, which cannot be made grounds for invoking the Constitutional jurisdiction of this Court.

10. I am guided by the consistent view taken by different Honorable Benches of the Islamabad High Court, Islamabad in various matters including the reported cases of *Dr. Aqueel Waris Vs. Ibrahim Aqueel Waris*, 2020 CLC 131; *Minhaaj Saqib Vs. Najam Us Saqib*, 2018 CLC 506; *Mashkoor Ahmed Khokhar versus The Family Judge (East), Islamabad*, 2019 CLC 1635; *Muhammad Touseeq Danial Bhatti versus Ayesha Naeem*, 2021 MLD 337; and *Aamir Munir Puri versus Mst. Saima Naeem*, 2021 YLR 2166, wherein it has been held that interlocutory orders by the Family Court cannot be assailed in Constitutional jurisdiction even though they may be harsh in some instances.

11. Thus, in the light of above said discussion and keeping in view the above said observations by this Court in the aforementioned cases the Impugned Order dated 26.04.2022 passed by the learned Judge, Family Court, East-Islamabad, does not call for interference in writ jurisdiction. Consequently, this Writ Petition is hereby **dismissed in limine.**

**(SAMAN RAFAT IMTIAZ)
JUDGE**