

Form No.HCJD/C-121  
**ORDER SHEET**  
**IN THE LAHORE HIGH COURT, RAWALPINDI BENCH**  
**JUDICIAL DEPARTMENT**

. W.P.No.2801-2014

Amir Iqbal Khan Vs. Maria Nargis etc

Sr.No.of Order/ Proceeding.	Date of Order/ Proceeding.	Order with signatures of Judge and that of parties or counsel, where necessary.
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13.01.2015. Mrs. Sarkar Abbas, Advocate for petitioner.  
Ch.Javed Khalid, Advocate for respondent No.1.

Resume of facts, forming background of instant petition is that the respondent No.1/ plaintiff (“***Respondent No.1***”) filed a composite suit before the learned Judge Family Court Gujar Khan regarding (i) recovery of maintenance amount from January 2011 to November 2011 (ii) recovery of maintenance amount of two years before January 2011 (iii) recovery of articles valuing 644289/- as mentioned in the list. The petitioner/defendant (“***Petitioner***”) contested the suit by filing written statement and raising certain legal as well as factual objections. After hearing the arguments advanced by both the parties, the learned Judge Family Court proceeded to decided the suit through Judgment & Decree dated 31.01.2014 in the following terms:

- (i) In view of above findings on the above issues, the suit of the plaintiff for the recovery of maintenance allowance for the two years prior to January 2011 is

hereby dismissed however her suit for the maintenance allowance from January 2011 to November, 2011 is hereby decreed @ Rs.3000/- per month.

(ii) The suit of the plaintiff for recovery of dowry articles and gold ornaments is hereby decreed and she is entitled to recover the same as per list Ex.P-2.

(iii) The suit of the plaintiff for recovery of gold ornaments which were given to the plaintiff is hereby dismissed.

2. Feeling aggrieved, both the parties filed appeals and learned Additional District Judge vide Judgment & Decree dated 04.09.2014 accepted the appeal of respondent No.1 with a slight modification about dowry articles and with the addition of jewelry given as bridal gift while the appeal of petitioner was dismissed.

3. Being dissatisfied with the judgment and decree of learned Additional District Judge, the petitioner filed the instant Constitutional Petition and challenged the validity of judgments and decrees of both the learned courts below.

4. I have heard the learned counsel for the parties who reiterated their respective arguments and perused the available record as well as have minutely gone through both the impugned judgments.

5. To prove her case, respondent No.1 and her witness supported the contents of the plaint before the learned trial court. The witnesses were cross-examined by the petitioner. The respondent No.1 proved that petitioner turned her out of his house in wearing clothes, snatched children in January, 2011 and divorced her without any reason in November, 2011. He is a man of means and can easily make the payment of requisite maintenance allowance.

6. Admittedly, after the effectiveness of divorce, respondent No.1 received the maintenance allowance for the Iddat period i.e Rs.10,500/- as is evident from Ex. D-4. While the petitioner stated that he tried his level best for the reconciliation of the matter between the parties even through Jirga but was unable to lead the evidence of any member of alleged Jirga in his favour. The petitioner admitted in cross-examination that he neither maintained his wife during the period of January 2011 to November, 2011 nor filed a suit for conjugal rights. Respondent No.1 and petitioner submitted their respective lists of dowry articles as Ex. P-2 & Ex. D-2 but during cross-examination, the petitioner admitted the absence of certain items

in his list while the Respondent No.1 or her witness never faltered in evidence regarding the items of her list. Hence both the courts below have rightly accepted the claim of maintenance allowance of respondent No.1 from January 2011 to November, 2011 @ Rs.3000/- per month & the claim of recovery of dowry articles as per list Ex. P-2. Reliance is made to Abdul Razzak Vs Shabnam Noonari and others ( 2012 SCMR 976).

7. During the cross examination, respondent No.1 admitted that gold ornaments were gifted to her by the petitioner at the time of marriage but asserted the contents of plaint as well as her affidavit with the support of Pw-2 that in January, 2011, petitioner tortured and turned her out of his house in wearing clothes, retained dowry articles as well as gold ornaments, snatched children and divorced her without any reason in November, 2011. Credibility of respondent No.1 or her witness could not be shaken despite cross-examination. Such ornaments being bridal gifts became personal property of the respondent No.1. Thus, respondent No.1 was/is entitled to recover the same. The appellate court's finding about the gold ornaments

being bridal gifts is based on cogent reasons and convincing arguments.

8. In view of above stated legal as well as factual discussion, I observe that the judgment of learned lower appellate court is strictly in accordance with law, justice, equity and would warrant no interference by this Court in exercise of its extra-ordinary constitutional jurisdiction under Article 199 of the Constitution. Consequently, this petition is **dismissed**.

(MASUD ABID NAQVI)  
JUDGE

**Approved for reporting**

JUDGE