

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE SHAHID BILAL HASSAN
MR. JUSTICE AAMER FAROOQ

CPLA No.2872-L OF 2022

[Against the judgment dated 15.06.2022 passed in W.P.No.63155 of 2019 by Lahore High Court, Lahore]

Naseem Mai and another

...Petitioner(s)

Versus

Malik Muhammad Shah Aalam and others

...Respondent(s)

For the Petitioner(s) : Mian Muhammad Nawaz, ASC

For the Respondent(s) : N.R.

Date of Hearing : 07.07.2025

ORDER

SHAHID BILAL HASSAN, J.- This petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 has been directed against judgment dated 15.06.2022 passed by learned Lahore High Court, Lahore while deciding W.P.No.63155 of 2019.

2. Succinctly, the petitioner(s) instituted a suit for recovery of maintenance allowance against he respondent No.1 at the rate of Rs.10,000/- each per month and the future maintenance allowance at the same rate alongwith the prayer that since they are still bachelors and their marriages are going to be arranged, therefore, their marriage expenses at the rate of Rs.2,000,000/- be also decreed against the respondent No.1. The suit was contested by the respondent No.1. Divergence in pleadings of the parties was summed up into issues and after recording evidence of the parties, the learned trial Court vide judgment and decree dated 30.11.2018 decreed the suit of the petitioner(s) to the extent of maintenance allowance at the rate of Rs.5,000/- each per month for the past and Rs.10,000/- each per month from the institution of the suit till their legal entitlement with 10% annual increase; the learned Judge Family Court also decreed Rs.1,000,000/- as marriage expenses to be recovered from the respondent No.1 at the time of marriage of the petitioners. The

respondent No.1 being aggrieved preferred an appeal but the same was dismissed on 13.09.2019 by the learned Appellate Court. Thereafter the respondent No.1 filed W.P.No.63155 of 2019 before the Lahore High Court, Lahore, which was partially accepted through the impugned judgment and decree to the extent of marriage expenses was set aside. Feeling dissatisfied with the same the instant leave petition has been brought by the petitioners.

3. Heard.

4. Considering the arguments, advanced at bar, and going through the record, we observe that undeniably a father holds a privileged and responsible position in Islamic society. Islam lays great emphasis upon the duties of a father including provision of maintenance and support to his children, especially daughters who rely upon him (father) for moral and material well-being. However, the law, while inspired by these moral foundations, must draw a line between what is desirable and what is judicially enforceable. The Family Courts Act, 1964 recognizes in Section 5 read with its Schedule-I certain categories of claims including maintenance, dower, recovery of dowry articles, restitution of conjugal rights, jactitation of marriage etc. but not prospective marriage expenses, unless a concrete cause arises or customarily settled contribution is denied when due. Thus, entertaining such speculative claims would open a floodgate of hypothetical litigation, undermining the procedural discipline and judicial economy. A suit for marriage expenses may lie if such expenses are immediate, certain, and unjustly denied, especially if customary contributions: *jahez or rukhsati* costs, are refused at the time of an actual engagement or marriage. However, law does not create a statutory obligation on a father to bear advance or indefinite marriage expenses, especially when: no marriage date is fixed; no engagement or preparation is underway and, the claim is speculative and indeterminate in nature. In the instant case, the petitioners have neither shown any arrangement for marriage(s) nor any evidence of finalized preparations. Their apprehension of financial need, though genuine and understandable, does not translate into a legal debt enforceable through court at this stage. Courts are forums of law and not speculation as well as supposition. Relief may only be granted on the basis of existing rights and actual infringement thereof, not of imaginary and hypothetical causes. It has time and again been held

by this Court that Courts must be cautious in entertaining claims which are premature, uncertain or not ripe for adjudication. Therefore, while this Court sympathizes with the petitioner(s) and recognizes the emotional and financial vulnerability daughters often face in such situations, the law does not empower the Courts to direct payments for future and indeterminate events. This Court held in judgment¹ as under:

'.....We are mindful of the fact that under constitutional jurisdiction the High Court is fully empowered for enforcement of the fundamental rights but it must be satisfied with such allegations which are well-founded, without any bias and based on concrete evidence. It may be kept in view that the main object of the provisions as contained in Article 199 of the Constitution is the enforcement of the rights and not the establishment of the legal rights and in such view of the matter the petitioners who seeks to enforce such legal rights must be specific, precise, clear and unambiguous and besides that there must be an actual infringement of the rights so asserted. State of Bombay v. United Motors Ltd. AIR 1953 SC 252, State of Orissa v. Ram Chandra AIR 1964 SC 685.'

5. Pursuant to the above, the claim of the petitioners as to marriage expenses, although based on understandable concerns, is found to be premature and not maintainable at this stage. The petitioner(s) shall be at liberty to seek appropriate legal recourse at a proper time, should their marriage(s) be fixed and expenses refused despite clear responsibility of the father/respondent No.1. However, at present, as observed above, the claim of the petitioner(s) as to marriage(s) expenses is not tenable and the learned High Court has rightly adjudged the matter on this point while observing that no suit can be instituted for future cause of action that may or may not arise, through the impugned judgment, which is proper appreciation of law on the subject and does not call for any interference by us in exercise of jurisdiction under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 by granting leave to appeal.

6. Compendium of the above is that no case for grant of leave is made out; consequent whereof the leave is refused and petition in

¹ Faiz Bakhsh and others v. Deputy Commissioner/Land Acquisition Officer, Bahawalpur and others (2006 SCMR 219)

hand stands dismissed, preserving the petitioners' right to approach the Court of competent jurisdiction afresh, when cause of action properly arises.

JUDGE

JUDGE

Lahore, the
7th July, 2025
'APPROVED FOR REPORTING'
M.A. Hassan