

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

**Const. Petition No. S-932 of 2024**  
Syed Firzooq Ali Jaffri – v – Faiza Ashraf

Date	Order with signature(s) of Judge(s)
Hearing/Priority	

- 1. For hearing of Misc. No.6970/24
- 2. For hearing of main case.

**20.11.2025.**

Mr. Nadir Khan Burdi, Advocates for the Petitioner.  
Mr. Shujaat Ali, Advocate for the Respondent.  
Mr. Muhammad Kamran Khan, Assistant Advocate General Sindh,

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*Nisar Ahmed Bhanbhro, J.* This petition arises out of a family suit filed by Faiza Ashraf, the ex-wife of the petitioner Syed Firzooq Ali Jaffri, seeking maintenance of minor son Motahir Ali Jafferi. The suit was decreed and the respondent was directed to pay maintenance of Rs.20,000 per month, with a 10% increase per annum. The petitioner preferred Appeal No. 14 of 2024, which was declined vide judgment dated 17.05.2024 by the Court of the IV Additional District Judge, East Karachi, hence this petition.

2. Per learned counsel for the petitioner, the main grievance of the petitioner is that the evidence led by the parties was not discussed while deciding the family suit No. 10/2022. The petitioner was directed to pay maintenance allowance of Rs. 20,000 per month from the date of institution of the suit, which, according to him, is harsh and beyond his capacity. He submits that earlier petitioner was earning Rs.92,000 per month, but he has now obtained a new job where his monthly salary is Rs. 45,000. He further argued that petitioner has another wife and one child; therefore, the maintenance allowance fixed by the courts below be reduced. He argued that under Section 14 of the Family Courts Act, 1964, the right of appeal exists in cases where the court imposes maintenance of Rs. 1,000 or more. He further contends that both the above-referred orders were passed by misreading and non-reading of the evidence available on record; therefore, the concurrent findings of the fact require interference by this Court.

3. Learned counsel for the respondent submits that the petitioner is the father, and under Shariah he is obligated to maintain his wives equally. He submits that the parties have separated and their marriage has broken; despite this, the responsibility of the petitioner to bear the expenses of the child continues. He further submits that there is no illegality or infirmity in the impugned orders on the contrary, the judgments passed by the courts below are reasonable; otherwise,

the minor would be entitled to 50% of the salary earned by the petitioner. He prayed for dismissal of the petition.

4. Mr. Muhammad Kamran Khan, learned Assistant Advocate General Sindh, contends that although Rs. 20,000 is a substantial amount, it was fixed keeping in view the financial position of the petitioner; therefore, the impugned judgment does not require any interference.

5. Heard arguments and perused the material available on record.

6. The issue No. 1 regarding entitlement of the minor for the past and future maintenance is reproduced hereunder:-

*"I have heard learned counsel for both the parties and scrutinized the material available on the record. The record reveals that admittedly Plaintiff No:02 minor namely Motahir Ali Jafri is real offspring of defendant and father/defendant of minor is morally and legally bound to maintain his children till their legal entitlement. In this regard I am fortified by the dictum laid down by the Honourable apex reported at 2003 YLR 3261 court wherein it has been clearly held that, that "Maintenance of children by father person who is of sound mind, able bodied and capable to undergo and undertake any job or not, shall be deemed to be able to maintain his dependent and pay for their maintenance, unless it is brought on record by him that he is not capable of earning anything on account of disease, body infirmity or any other act beyond his control If a man does not work or does not earn enough to support his children, that in itself is no ground to justify his omission to supply them with reasonable maintenance because having brought them forth in the world, it is his bounden duty to provide for their maintenance father is therefore bound to maintain his children so long as they are unable to maintain themselves".*

*Besides the obligation discussed above, the family court is also required to look into financial condition of the defendant as provided in case law reported at 2011 MLD 571 and relevant placitum of judgment is cited as under:*

*"It is duty of family judge to determine the financial status of the husband while deciding the amount of maintenance of wife and children. Social status of Jather and legitimate financial sources would constitute an eminent factor while determining the maintenance payable by him."*

*So for deciding monthly income of defendant I have gone through pleadings as well as evidence led by both the parties, whereby it is revealed that defendant in his evidence during cross examination has admitted that his monthly salary is Rs.92,000/- per month and he works in a private textile company as deputy manager. Hence looking into attending circumstances of the case, expenses regarding food, clothing, education, other expenses of minor/plaintiff No: 02 and dearness/inflation rising in country day by day I deem it reasonable to fix Rs. 20,000/- (Twenty thousand rupees) per month maintenance of minor/plaintiff No: 02, with 10% annual increment since filing of the suit till his legal entitlement accordingly. In the light of cove discussion, I hereby decide this issue in affirmative."*

7. The parties led evidence in support of their respective claims. Respondent Faiza Ashraf was cross-examined, wherein a suggestion was put to her that during the period when the petitioner was jobless, he had paid a monthly allowance of Rs. 15,000 to the respondent/plaintiff. It is also a matter of record that the plaintiff

filed an affidavit in evidence, wherein in paragraph 10 she specifically stated that the petitioner was earning Rs. 80,000 per month, and in paragraph 11 she claimed that the petitioner was capable of paying Rs. 30,000 as maintenance for the minor. This piece of evidence, produced through her affidavit, was not confronted by the petitioner to the extent that he was not capable of paying the said amount. The only question put to the plaintiff/respondent was that she had failed to provide details or justification for the claim of Rs. 30,000 as maintenance; no suggestion was made that the petitioner lacked the financial capacity to pay the claimed amount. In the cross-examination of respondent Mst. Faiza Ashraf, at page 105 of the Court's file, it was admitted that the defendant/petitioner had not provided maintenance to her, and no suggestion was made that such maintenance had ever been paid. However, a suggestion was made that the respondent/plaintiff had refused to accept the maintenance for the minor. The petitioner appeared in the witness box. As per his cross-examination recorded at page 121, he admitted that his salary was Rs. 92,000 per month. In his affidavit in evidence, produced as examination-in-chief, he stated in paragraph 10 that he was paying miscellaneous household expenses to his mother amounting to Rs. 20,000 per month and was paying Rs. 15,000 to the plaintiff.

8. From the evidence reappraised by this Court, it appears that the petitioner, since the very date of separation of the parties, has been capable of paying Rs. 15,000 per month, and his refusal to pay Rs. 20,000 is nothing but an attempt to victimize the minor, who is none other than his own son. Though this Court, under its constitutional jurisdiction, is not supposed to undertake a re-appraisal or re-evaluation of the evidence, it was the claim of the petitioner that the courts below had failed to consider the evidence on record in its true perspective. This Court is not convinced by the arguments advanced by the learned counsel for the petitioner and is of the view that, considering the financial position of the petitioner, the maintenance should have been more than Rs.20,000.

9. Under Section 9 of the Family Courts Act, 1964, the claim for maintenance is not restricted to what has been voluntarily provided by the husband, as he is otherwise legally bound to maintain his child. The evidence that has been adduced further establishes that the petitioner would also be obligated to provide accommodation, as he has done for his other child, as well as food and other necessary expenses, none of which have been imposed by the courts below.

10. This petition appears to be nothing but an act of umbrage against the respondent/mother, Faiza Ashraf, who is residing with her father and maintaining the child, even though she is under no legal obligation to bear the expenses of the child as the mother. This Court is of the view that the judgment and decree should have been enhanced; however, since no appeal was preferred by Faiza Ashraf and

the decree stands accepted by her, the question of modification or alteration of the maintenance allowance does not arise at this stage.

11. This Court, under its writ jurisdiction, cannot undertake a task beyond its lawful scope by re-appraising the evidence of the parties, nor can it extend the balance of convenience in favor of either party when such convenience is not borne out from the record. While exercising powers of judicial review under Article 199 of the Constitution of the Islamic Republic of Pakistan, a party aggrieved with the orders of the forums below is required to demonstrate that the courts below either exercised jurisdiction not vested in them, failed to exercise jurisdiction vested in them, or committed misreading or non-reading of the evidence on record, however, this is not the case in the present petition as dismissed above.

12. In view of what has been discussed hereinabove, no case for interference is made out. Consequently, this petition fails and is accordingly dismissed along with all pending applications, with no order as to costs.

JUDGE

Karachi:  
Dated:20.11.2025.  
Approved for reporting.