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ORDER SHEET  
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA  
Const. Petition No. S- 458 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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Direction  
For orders on maintainability of main case.

19.08.2019

Mr. Waqar Ahmed Chandio, Advocate for the petitioner.  
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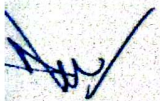
Learned counsel for the petitioner through a statement dated 19.08.2019 files attested copy of order dated 01.10.2018 passed by Family Judge, Larkana in suit No. 243/2018 which is taken on record.

Through this petition, the petitioner seeks the following relief(s):-

"(a) This Hon'ble Court be pleased to set aside the impugned order dated: 28-05-2019 passed by the learned trial Court remanding back to decide a fresh after hearing and recording evidence; or

(b) In the alternate, this Honourable Court may dissolve marriage of petitioner on above grounds and on the ground of Khulla as well."

Record reflects that the petitioner earlier also filed a family suit bearing No.243/2018 wherein she sought dissolution of marriage by way of *Khulla*. On 01.10.2018 the said suit was decreed and the *Nikah* / marriage between the plaintiff and respondent was dissolved by the Court by way of *Khulla*. Per stance of the present petitioner in the present case after the above said decree was passed in her earlier suit she rejoined the respondent No.1 as her wife and started living together. It has been further stated that after some time the petitioner again filed a family suit bearing No. 170 of 2019 before the Family Judge, Larkana *inter alia* for dissolution of marriage by way of *Khulla* however said suit was dismissed by the Family Court, Larkana through order dated 28.05.2019. Relevant portion whereof is reproduced s under:-

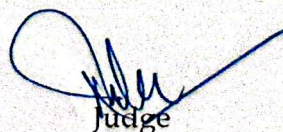




"The learned counsel has failed to quote law conferring right to plaintiff to file second suit for dissolution of marriage by way of Khulla after the first suit with same prayer has already been decreed. Hence the plaint is hereby rejected."

Against the said order the petitioner filed present petition before this Court on 21.06.2019. On 24.6.2019 the counsel was put on notice to satisfy this Court in respect of maintainability of this petition. Today i.e. 19.08.2019 when the matter came up for hearing, the counsel was also confronted with regard to the fact that after rejoining the respondent No.1 whether the petitioner either intimated the family Court or any other forum about reconciliation of the petitioner with the respondent No.1, he replied in negative. He however submits that some application was moved before the Union Council concerned however neither said application was filed in the family suit nor before this Court. With regard to the maintainability of this petition as the petitioner without resorting the remedy available to her by filing appeal against the said order dated 28.05.2019 directly approached this Court in constitutional jurisdiction, learned counsel also failed to reply the said query satisfactorily. In these circumstances since marriage/Nikah of the petitioner has already been dissolved by the family Court in suit No. 243/2018 which order is still in existence, the second suit for dissolution of marriage was not maintainable. The order impugned in the present petition does not warrant any interference by this Court under constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

In view of above, instant constitution petition is dismissed being not maintainable.



Judge

Abid H. Qazi/\*\*