

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No.S-368/2020

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

Before: Mr. Justice Nazar Akbar

Petitioner: Muhammad Ishaq
(in person)

Versus

Respondent No.1: Mst. Kanwal (Nemo)

Respondent No.2: IVth Addl. District & Sessions Judge,
Karachi Central.

Respondent No.3: XVIIIth Civil & Family Judge, Karachi
Central.

Date of hearing: **13.03.2020**

Date of Judgment : **13.03.2020**

JUDGMENT

NAZAR AKBAR, J. The petitioner through this constitutional petition has challenged the order dated **28.01.2020** passed by IVth Addl. District Judge, (MCAC) Central Karachi, in Family Appeal **No.03/2020**, whereby the order dated **27.11.2019** passed by XVIII-Civil & Family Judge, Central Karachi in Family Suit **No.1021/2017** was maintained in favour of Respondent No.1.

2. Briefly stated the facts of the case are that Respondent No.1 filed Family Suit **No.1021/2017** for dissolution of marriage by way of khula, recovery of dowry articles and maintenance in the Family Court. On service the petitioner filed written statement wherein he admitted the factum of marriage and fixation of dower amount and the birth of two children. However, he has denied the claim of plaintiff No.1/Respondent No.1 as to the dowry articles contending

that the list of dowry articles is fabricated and forged one and denied all claims and allegations and raising dispute of factual nature.

3. After framing of issues, recording of evidence and hearing the parties, learned trial Court by order dated **27.11.2019** decreed the suit of Respondent No.1 in the following terms:-

“In the light of above findings, the suit of the plaintiffs stands decree to the extent that the marriage between the plaintiff No.1 and defendant has been dissolved by way of khula vide order dated 02.12.2017, she is entitled for her maintenance from the defendant w.e.f 22.11.2016 till completion of her iddat period at the rate of Rs.5000/- per month, and that the plaintiff No.2 and plaintiff No.3 are also entitled for their maintenance from the defendant at the rate of Rs.5000/- per month, each, w.e.f. 22.11.2016 till their entitlement as per law with annual increase at the rate of 10%. It may be clarified that the amount of interim maintenance, if paid, in pursuance to order dated 13.12.2017 same is hereby ordered to be adjusted in the light of final decree in this case. Plaintiff No.1 is also entitled to recover her dowry articles as per list produced by her along with her affidavit-in-evidence except gold ornaments and the articles mentioned under the heading “BRIDEGROOM ARTICLES”.

Petitioner filed appeal and the appellate Court in appeal again examined the facts of the case and the evidence and maintained the judgment dated **27.11.2019** in the following terms:-

“In view of my above discussion, I am of the humble opinion that the observations of learned trial Court on the issues involved in family suit are just and proper and needs no interference, consequently, instant family appeal stands dismissed. There is no order as to costs”.

The petitioner has preferred instant petition against the two judgments.

4. I have heard petitioner and perused the record.

5. Petitioner has assailed both the orders but unfortunately he has not identified any misreading and non-reading of evidence in coming to the conclusion by both the Courts below, not a single sentence from the evidence has been referred to by the petitioner to assert that the two judgments suffer from any illegality on account of misreading of evidence.

6. It is settled law that constitution petition does not lie against concurrent findings of facts and therefore, this petition is dismissed alongwith listed application being not maintainable.

JUDGE

Karachi
Dated:13.03.2020

SM