

IN THE HIGH COURT OF SINDH AT KARACHI

**Constitutional Petition No.04/2019**

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DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)  
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**Before: Mr. Justice Nazar Akbar**

Petitioner: Irfan Khan through  
Mr. Muhammad Nawaz, Advocate.

**Versus**

Respondent No.1: Mst. Aisha Iqbal,  
Respondent No.2: Civil and Family Judge, Thatta  
Respondent No.3: Ist Additional District Judge, Thatta

Date of hearing: **12.02.2020**

Date of Judgment : **21.02.2020**

**JUDGMENT**

**NAZAR AKBAR, J.** The petitioner through this constitutional petition has challenged the order dated **29.07.2017** passed by Family Judge & Judicial Magistrate Thatta in Family Suit **No.162/2016** whereby her suit for maintenance and recovery of dower filed by Respondent No.1 was decreed. The petitioner filed an appeal against the said order bearing Family Appeal **No.08/2017** and even Respondent No.1 also filed an Appeal bearing Family Appeal **No.11/2017**.

2. Briefly stated the facts of the case are that Respondent No.1 filed Suit No.162/2016 for maintenance, recovery of dowry articles and dower in the Family Court, Thatta. On service the petitioner filed written statement denying the 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 **29.07.2017** decreed the suit of Respondent No.1 in the following terms:-

Suit of plaintiff is decreed accordingly. *Firstly*, plaintiff is entitled for the recovery of dowry articles, the amount of total rupees of 308,600/- ,same amount be paid by defendant to plaintiff within one month after date of decree of this judgment.

*Secondly*, plaintiff is entitled for the Hak Muhar fixed in Nikah Nama. Same be paid by defendant to plaintiff within one month after the date of decree of this judgment.

*Thirdly*, the plaintiff is entitled for her past maintenance from the date of leaving his/defendant's home to the date of divorce with total rupees 10,000/-. And the maintenance from the date of divorce deed to the completion of Iddat period with total rupees of 20,000/- and these total amount of rupees 30,000/- be paid by defendant to plaintiff within one month after the date of decree of this judgment.

*Fourthly*, plaintiff is entitled for the past maintenance of her one child namely Master Shazil Khan at the rate of Rs.2000/- per month from July, 2016 to January, 2017. The total amount of these past seven months will be of rupees 14,000/- and same be paid to plaintiff within one month after date of decree of this judgment. Besides, plaintiff is entitled for the future maintenance of her one child namely Master Shazil Khan at the rate of Rs.5000/- per month from August, 2017 and onward till the minor son namely Master Shazil Khan attains the age of majority with 10% increase per annum to be paid by defendant on or before 10<sup>th</sup> of every month with the Nazir of this Court.

Both the parties filed appeals which were disposed of by the appellate Court. Learned Ist Additional District Judge, Thatta, dismissed the Family Appeal **No.08/2017** filed by the petitioner and partly allowed Family Appeal **No.11/2017** filed by Respondent No.1 by order dated **06.04.2018**. The Appellate order was more or less the same with certain modifications of the claim raised by the

Respondent in her plaint. The petitioner has preferred instant petition against the two judgments.

4. I have heard learned counsel for the petitioner and perused the record

5. Learned counsel for the 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 of either side has been referred to by the learned counsel 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 applications being not maintainable.

JUDGE

Karachi  
Dated:21.02.2020

SM