

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. S – 58 of 2024

(Muhammad Ihsan Qureshi v. Mst. Iram Rajput & another)

Date of hearing : 14.03.2025

Date of decision : 14.03.2025

Mr. Mian Mumtaz Rabbani, Advocate for petitioner.

## ORDER

**Zulfiqar Ahmad Khan, J.** – Through this petition, the petitioner has challenged the concurrent findings of the lower Courts, including the judgment and decree dated 01.08.2023, passed by learned Civil & Family Judge / Judicial Magistrate-I, Rohri in Family Suit No.50 of 2023, and the judgment and decree dated 24.01.2024, passed by learned Model Civil Appellate Court / Additional District Judge-II, Sukkur in Family Appeal No.42 of 2023. An *ex parte* decree was passed in the suit, and the same decision has been upheld in the appeal.

2. The facts of the case are that respondent No.1 (plaintiff) filed the Family Suit, seeking divorce by way of *khulla*, maintenance and dowry articles. The summons was issued to the petitioner (defendant) through a bailiff, who reported that he contacted the petitioner by phone, but the petitioner switched off his phone subsequently. As a result, the bailiff served the summons by pasting at the petitioner's residence. The Family Court's record shows that the petitioner's mother also appeared in the Court and requested for time, but the petitioner intentionally avoided attending the proceedings. Because of this, the case was proceeded with *ex parte*, and the Family Court decreed the suit in favour of respondent No.1. The learned Family Judge dissolved the marriage by way of *khulla* and ordered the petitioner to pay past maintenance for seven months, as well as ongoing maintenance at the rate of Rs.8,000/- per month until the final disposal of the suit. The petitioner was also directed to pay maintenance for the *iddat* period at the same rate and return the dowry articles, excluding the gold ornaments. The petitioner, dissatisfied with this decision, filed an appeal, which was dismissed, and the Family Court's

judgment was upheld. Therefore, this petition has been filed, challenging the decisions of the lower Courts.

3. Heard learned Counsel for the petitioner and perused the material available on record.

4. It is clear from the record that the petitioner's claim of improper service is without basis. The trial Court's record and the bailiff's report clearly show that proper service of summons was made. The summons was issued to the petitioner, and the bailiff attempted to contact the petitioner by phone. The bailiff's report confirms that he successfully reached the petitioner and informed him about the proceedings. However, the petitioner deliberately switched off his phone, leaving the bailiff with no choice but to serve the summons by pasting at the petitioner's residence.

5. The argument that the petitioner was not properly served is not supported by any credible evidence. The fact that the petitioner's mother appeared before the trial Court and requested for time further confirms that the petitioner was aware of the proceedings but deliberately chose not to engage with them. Both the trial Court and the appellate Court were correct in concluding that the petitioner had adequate notice of the suit and he intentionally decided not to participate.

6. Upon reviewing the Family Court's judgment, it is evident that the learned Family Judge acted in accordance with the law and the evidence presented. The Family Court correctly dissolved the marriage between the petitioner and respondent No.1 by way of *khulla*, a decision made in line with the legal framework based on the petitioner's failure to contest the suit. The learned trial Court has rightly granted the respondent past maintenance for seven months, ongoing maintenance until the final disposal of the suit and maintenance during the *iddat* period at the rate of Rs.8,000/- per month, and dowry articles (excluding gold ornaments). The trial Court considered the claims made by the respondent, and there is no indication of any legal error in the judgment passed. Learned Counsel for the petitioner did not point out any specific legal or procedural errors in the Family Court's judgment or in the appellate Court's decision to uphold it.

7. In view of the above, this petition lacks merit and cannot be sustained. The petitioner has not demonstrated any error or injustice in the proceedings of the lower Courts that would justify interference by this Court. Consequently, this petition is **dismissed in *limine***.

These are the reasons of the short order dated 14.03.2025.

J U D G E

Abdul Basit