

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.S-2199 of 2018

Date	Order with Signature of Judge
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Munazza Fasib *Petitioner*

Versus

Yasir Afzal Ahmed Farooqui and others..... *Respondents*

Date of hearing :20.05.2025

Date of order :20.05.2025

Syed Fazal-ur-Rehman, Advocate for the Petitioner.
None for the Respondent.

JUDGMENT

1. Instant petition has been preferred against the judgment and decree dated 12.05.2018 and 19.05.2018 respectively, passed in Family Appeal No.10/2017, preferred by the Respondent. The said Family Appeal emanated from the judgment and decree dated 12.01.2017 of the learned Family Court passed in Family Suit No.2161/2012, which was preferred by the Petitioner. Thereafter, Respondent No.1 has preferred the above noted appeal and the same was allowed by decreasing the quantum of the maintenance and dowry articles as stipulated by the learned Family Court.

2. Learned counsel for the Petitioner has contended that the learned Appellate Court without any application of mind and/or cogent reason has significantly reduced the maintenance of the minor. Further the learned Appellate Court has also without any cogent reason decreased the amount pursuant to the dowry articles granted by the learned Family Court. Learned counsel has stated that it is unfathomable as to how the minor, who is now 15 years of age can be maintained for a paltry sum of Rs.15,000/- per month. Learned counsel has also invited my attention to the school fees of the minor, which is at least double of the

maintenance, which is being paid by the Respondent No.1. Learned counsel has stated that in addition to school fee there are other expenses which primarily ought to be paid by the Respondent No.1. Lastly, he has averred that these factors have not been taken into any consideration by the learned Appellate Court.

3. Instant petition was filed on 11.10.2018, the Respondent No.1 was served repeatedly by all modes and lastly on 23.09.2024 Respondent No.1 was declared ex-parte.

4. I have heard the arguments advanced by the learned counsel for Petitioner and perused the record. I agree with the contention of the learned counsel for the Petitioner that the Appellate Court in modifying the judgment and decree passed by the learned Family Court has erred as no cogent reason has surfaced for reduction of the maintenance as well as dowry articles. It is also admitted that the Respondent No.1 works in Saudi Arabia and is not a person of limited means. Therefore, I agree with the learned counsel that the amount of maintenance as stipulated by the learned Appellate Court is not sufficient to meet the expenses of the minor. Learned counsel has also placed on record the judgment in the case of **Muhammad Asim and others vs. Mst. Samro Begum and others**¹, whereby, it was held as under: -

“Where a husband was required to maintain his wife, former wife during her iddat period or child and was required to pay maintenance, including the arrears of maintenance, his present and past earnings must be disclosed by him, because his financial status determined the amount of maintenance that should be awarded. In case of non-disclosure an adverse inference could be drawn against him. Family judges should try to ascertain the salary and earnings of the husband/father who is required to pay maintenance.”

5. I agree with the contention of the learned counsel for the Petitioner that the learned Appellate Court erroneously placed the burden on the Petitioner to prove the income of the Respondent and the significant reduction, as noted above, was contrary to the dicta laid down in the case of **Muhammad Asim** (supra).

¹ PLD 2018 Supreme Court 819

6. In the light of what has been held above, instant petition is allowed. Consequently, the Impugned judgment is hereby set-aside and Respondent No.1 is directed to pay the maintenance of the minor as well as dowry articles in accordance with the decree of the learned Family Court with arrears from the date of the decree.

Petition stands disposed of in the above terms.

Judge

Nadeem