

**IN THE HIGH COURT OF SINDH, CIRCUIT
COURT HYDERABAD**

C.P No. S-13 of 2025

[Mst. Haleema v. Sarfaraz Nawaz and others]

C.P No. S-23 of 2025

[Sarfaraz Nawaz v. Mst. Haleema]

Petitioner : Mst. Haleema (petitioner in C.P. No.S-13 of 2025 and respondent in C.P. No.S-23 of 2025) through Mr. Shoaib Ali Narejo, Advocate.

Respondent : Sarfaraz Nawaz (petitioner in C.P. No.S-23 of 2025 and respondent in C.P. No.S-23 of 2025) through Mr. Ghulam Mustafa Abbasi, Advocate.

Date of Hearing : 02.02.2026

Date of Judgment : 04.05.2026

JUDGMENT

RIAZAT ALI SAHAR. J. - By this common judgment, I intend to dispose of the above-captioned two constitutional petitions filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, as both petitions arise out of one and the same consolidated judgment dated 07.12.2024 passed by the learned IXth Additional District Judge/MCAC-I, Hyderabad in Family Appeal No.147 of 2023 and Family Appeal No.149 of 2023, whereby the appeal filed by Sarfaraz Nawaz was dismissed and the appeal filed by Mst. Haleema was partly allowed to the extent of enhancement of maintenance of minor. The petitioner Mst. Haleema has impugned the concurrent findings of the Courts below to the extent of Issues No.1 and 3, seeking modification and grant of full relief regarding maintenance and dowry articles as claimed in the suit, whereas the petitioner Sarfaraz Nawaz has challenged the said appellate judgment primarily on the ground of enhancement of minor's maintenance and seeks

reduction thereof as well as setting aside of the impugned judgment. Since common questions of law and facts are involved, both petitions are being decided together through this single judgment to avoid conflicting findings and for the sake of convenience. Mst. Haleem is hereinafter referred to as **“petitioner/plaintiff”** while Sarfaraz Nawaz is referred to as **“respondent/defendant”**.

2. The background of the case is the petitioner/plaintiff Mst. Haleema was married to respondent/defendant Sarfaraz Nawaz on 24.08.2019 according to Sunni Muslim Law against dower of Rs.50,000/-, which remained unpaid. At the time of marriage, dowry articles allegedly worth Rs.926,743/- including gold ornaments, household items and furniture were given and shifted to the husband's house. Out of the wedlock, one minor daughter namely Ume Haniya was born. According to the plaintiff, after a brief period of cordial relations, she was subjected to maltreatment, deprivation of maintenance and ultimately ousted from the matrimonial home on 24.06.2021. Consequently, she instituted Family Suit No.938 of 2022 seeking maintenance, recovery of dowry articles, dower, delivery expenses and enforcement of an alleged agreement.

3. The respondent/defendant contested the suit and denied the allegations. After recording evidence of both sides, the learned Family Judge vide judgment dated 13.11.2023 partly decreed the suit by granting iddat maintenance, minor's maintenance, partial dowry articles, dower and delivery expenses, while declining other claims.

4. Both parties preferred separate appeals; the appellate Court vide judgment dated 07.12.2024 dismissed the appeal filed by respondent/defendant and partly allowed the appeal of petitioner/plaintiff only to the extent of enhancing minor's maintenance to Rs.8,000/- per month with increment.

5. Now both parties have invoked constitutional jurisdiction challenging concurrent findings. The petitioner/plaintiff Mst. Haleema in her petition has prayed as under:-

- a)** That this Honourable Court may kindly be pleased to declare that Issue No.1 & 3 decided by learned trial Court and appellate Court are not based on evidence and are liable to be modified.
- b)** That this Honourable Court may kindly be pleased to allow Issues No.1 & 3 and modify the same as prayed.
- c)** That this Honourable Court may pass any appropriate order/judgment as deemed fit and proper case.
- d)** That any other relief which is needful or proper.

While the respondent/defendant Sarfaraz Nawaz prayed in his petition as under:-

- a)** That this Honourable Court may be pleased to set aside the impugned judgment dated 07.12.2024 passed by the learned appellate Court which is null, void and ab-initio and decided the matter on merits.
- b)** That this Honourable Court may be pleased to an appropriate order/judgment for allowing the petitioner for making maintenance of minor of Rs.5,000/- in future and after the disposal of the family suit on the consideration that the petitioner is unemployment/jobless.
- c)** May be pleased to grant any other relief which the Honourable Court deems fit and proper under these circumstances.

6. Learned counsel for the petitioner/plaintiff contended that both the Courts below have failed to properly appreciate the evidence available on record, particularly with regard to Issues No.1 and 3. He contended that the learned trial Court adopted a cursory and slipshod approach and did not discuss material evidence, especially documentary receipts of dowry articles and admissions made by the respondent/defendant during cross-examination. Counsel

contended that the petitioner/plaintiff had produced original receipts and corroborative oral evidence, yet the Courts below arbitrarily disbelieved the claim relating to gold ornaments and certain dowry items without assigning cogent reasons. He further contended that the respondent/defendant himself admitted that the dowry articles were lying in his house and that the petitioner/plaintiff left without gold ornaments, which clearly established her entitlement. The learned counsel contended that the appellate Court also failed to exercise its jurisdiction judiciously, as it only enhanced the maintenance of the minor but ignored other material issues without proper reappraisal of evidence. He also contended that the findings are perverse, based on misreading and non-reading of evidence and thus liable to be modified by this Court in exercise of constitutional jurisdiction.

7. Learned counsel for the respondent/defendant contended that the impugned appellate judgment dated 07.12.2024 is illegal and unsustainable, particularly to the extent of enhancement of minor's maintenance. He contended that the appellate Court enhanced the maintenance to Rs.8,000/- per month without any specific prayer or justification and without considering the financial capacity of the petitioner, who is allegedly unemployed. Counsel further contended that the respondent/defendant had taken contradictory stances regarding dowry articles in earlier and subsequent suits, which undermined her credibility. He further contended that material evidence, including prior litigation, WhatsApp communication and restitution proceedings, was not properly appreciated by the Courts below. The learned counsel also challenged the grant of delivery expenses and other reliefs, asserting that the receipts were fabricated and not proved in accordance with law. He further contended that the respondent/defendant had maintained the petitioner/plaintiff to the best of his ability and that the enhanced maintenance is excessive, arbitrary and

beyond his means. Hence, it was prayed that the impugned judgments be set aside or suitably modified.

8. After hearing learned counsel for the parties and carefully examining the record, it appears that both the learned trial Court and the learned appellate Court have concurrently appreciated the evidence in a comprehensive and judicious manner. The findings recorded are based on proper evaluation of oral as well as documentary evidence and do not suffer from any patent illegality or material irregularity warranting interference by this Court.

9. With regard to the claim of maintenance of the petitioner/plaintiff, it is an admitted position that the marriage between the parties has been dissolved. In such circumstances, the entitlement of the petitioner/plaintiff is confined to maintenance during the iddat period, which has rightly been granted by the learned trial Court. The said finding is in consonance with settled principles of Muslim personal law and does not call for interference. In respect of maintenance of the minor, both the Courts below have rightly held that it is the absolute obligation of the father to maintain his minor child irrespective of the custody. The appellate Court, while enhancing the maintenance from Rs.5,000/- to Rs.8,000/- per month, has taken into consideration the prevailing economic conditions, inflation and basic needs of the child. The enhancement is neither arbitrary nor excessive; rather, it is justified and reasonable in the given circumstances. The plea of unemployment raised by the respondent/defendant is not sufficient to absolve him of his legal and moral responsibility towards his minor child.

10. Concerning the dowry articles, the learned trial Court has undertaken a detailed analysis of the evidence and has granted only those articles which were found to be proved and consistent with societal norms. The discrepancies in the lists of dowry articles between the earlier and present suits

have been rightly taken into account. The disallowance of certain items, including gold ornaments, is based on sound reasoning, particularly in light of the absence of specific evidence regarding their entrustment or alleged snatching. The appellate Court has concurred with these findings, and no perversity has been pointed out. The grant of dower amount and delivery expenses is supported by evidence on record. The respondent/defendant failed to produce any proof of payment of dower or medical expenses, whereas the petitioner/plaintiff substantiated her claim through documentary evidence. The findings on these issues are thus well-reasoned and legally sustainable. While, the claim based on the non-judicial stamp paper has rightly been declined on the ground of lack of jurisdiction of the Family Court, leaving the petitioner at liberty to seek remedy before the appropriate forum. This finding also does not suffer from any legal infirmity.

11. It is a settled principle that concurrent findings of fact recorded by the Courts below cannot be interfered with in constitutional jurisdiction unless the same are shown to be perverse, arbitrary, or based on misreading or non-reading of evidence. In the present case, no such ground has been established. The arguments advanced by learned counsel for both petitioners essentially seek reappraisal of evidence, which is not permissible.

12. It is also well settled that while exercising jurisdiction under Article 199 of the Constitution, this Court does not sit as a Court of appeal. The constitutional jurisdiction is supervisory in nature and is confined to examining the legality, jurisdictional defects, or procedural irregularities in the impugned orders. This Court cannot substitute its own findings for those recorded by the Courts below merely on the basis of a different possible view of the evidence. In the instant case, both the impugned judgments are speaking, well-reasoned and based on proper appreciation of evidence. The appellate Court has already extended relief to

the extent justified by enhancing the maintenance of the minor. No illegality, perversity, or jurisdictional defect has been demonstrated which may warrant interference by this Court.

13. For what has been discussed above, both constitutional petitions are found to be devoid of merit and are hereby **dismissed**. The impugned consolidated judgment dated 07.12.2024 passed by the learned IXth Additional District Judge/MCAC-I, Hyderabad is **maintained**. Parties shall bear their own costs.

JUDGE

Abdullah Channa/PS