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JUDGMENT SHEET

LAHORE HIGH COURT

RAWALPINDI BENCH RAWALPINDI

JUDICIAL DEPARTMENT

W.P. No.3165 of 2026

Raheel Ahmad vs. Tayyaba Haq, etc.

J U D G M E N T

Date of Hearing:	17.09.2026
Petitioner by:	Mr. Sajid Mehmood, Advocate, alongwith father of petitioner.
Respondent No.1 by:	Rana Abdul Qayyum, Advocate.
Respondents No.2 and 3 by:	Barrister Muhammad Awais Arshad, Assistant Advocate General along with Shazia Mumtaz, Administrator, Union Council along with Muhammad Tanveer, Secretary, Union Council No.82, Morgah, District Rawalpindi.

الطَّلُقُ مَرَّتَانِ فَإِمَّا سَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٌ بِإِحْسَانٍ¹

“A divorce is only permissible twice; after that, the parties should either hold together on equitable terms, or separate with kindness.”

Anwaar Hussain, J. Brief facts of the case are that respondent No.1, namely, Tayyaba Haq (“**respondent**”), was married to the petitioner, Raheel Ahmad, whereafter they resided in England. Differences arose between the spouses, which reportedly also led to complaints before the law-enforcement agencies there. The respondent asserts that the petitioner communicated *Talaq* to her through an email dated 05.08.2024. She thereafter instituted a suit before the Family Court for recovery of maintenance allowance, dower and declaration regarding divorce on the basis of the said electronic communication.

¹ *Surah Al-Baqarah, (2:229)* -Translation by Allama Abdullah Yusuf Ali.

The petitioner appeared through his father and contested the suit by filing written statement. However, after failure of pre-trial reconciliation, the petitioner stopped appearing and was proceeded against *ex parte*. Through judgment dated 24.04.2025, the Family Court decreed the suit to the extent of maintenance allowance and dower but declined to determine the issue regarding divorce for want of jurisdiction and advised the respondent to approach the Union Council concerned. She accordingly approached Union Council No.82, Morgah, District Rawalpindi/respondent No.2, where proceedings were undertaken and the impugned divorce effectiveness certificate was ultimately issued on 17.01.2026.

2. Learned counsel for the petitioner assails the certificate dated 17.01.2026 primarily on the ground that the mandatory requirement of Section 7(1) of the Muslim Family Laws Ordinance, 1961 (“**Ordinance**”) was not fulfilled as no notice was given by the petitioner to the Chairman, Union Council. It is further contended that the communication relied upon by the respondent could not furnish lawful basis for issuance of the impugned certificate and that the petitioner was not afforded effective opportunity to participate in the reconciliation proceedings. The petitioner also seeks to characterize the pronouncement as having been made jokingly and invokes the statutory protection available, under Section 7(b) of the Ordinance, to a pronouncement made in such circumstances.

3. Conversely, learned counsel for the respondent contends that the petitioner approached the Union Council only after the Family Court declined to determine the issue concerning divorce. According to him, notices were repeatedly issued to the petitioner but he deliberately avoided the proceedings and cannot now derive an advantage from his own failure to perform the statutory obligation or participate in the proceedings. Learned Law Officer supports the issuance of the

impugned certificate and submits that the statutory scheme, envisaged under the Ordinance, cannot be interpreted so as to leave the wife indefinitely uncertain about her matrimonial status merely because the husband, after communicating *Talaq* to her, chooses himself not to report the same to the Chairman, Union Council concerned.

4. Arguments heard. Record perused.

5. The case presents an unsettling intersection of matrimonial law, statutory procedure and the human dignity in our society. A woman asserts that *Talaq* was communicated to her by the husband and the latter seeks to avoid its legal consequences; the Family Court, though seized of matrimonial claims between the spouses, declined to determine the controversy concerning the factum of divorce; and when the wife approached the Union Council concerned and the impugned certificate of effectiveness of divorce was issued, the husband questioned that process principally by relying upon his own failure to give the notice which the law required him to give. The result is a state of uncertainty in which the woman is left unsure whether, in law, she remains married or stands divorced.

6. Accordingly, the controversy gives rise to the following questions of law:

- i. Whether a Family Court, when seized of matrimonial claims and confronted with a dispute regarding the factum of *Talaq* pronounced or communicated by the husband, can decline to determine that controversy merely because the legal effectiveness of such *Talaq* is regulated by Section 7 of the Ordinance?
- ii. Whether Section 7 of the Ordinance, while mandatorily requiring the husband who has pronounced *Talaq* to give notice thereof to the Chairman, prohibits the wife from bringing that fact to the notice of the Chairman; and, in

the absence of any such prohibition, whether the statutory mechanism can be rendered incapable of activation solely because the husband himself has failed to perform the obligation cast upon him by law?

7. The above formulated legal questions are required to be examined in the light of the constitutional guarantees and Quranic Injunctions relevant to the marriage and its dissolution. Article 14 of the Constitution of Islamic Republic of Pakistan, 1973 (“**the Constitution**”) protects the dignity of man; Article 25 guarantees equality before law and equal protection of law and expressly permits special provision for the protection of women and children; while Articles 34 and 35 embody the constitutional commitment towards participation of women in national life and protection of marriage, family, mother and child. These provisions do not permit a Court to rewrite legislation; they nevertheless provide the constitutional framework within which a law governing family relations must be interpreted where the statutory language admits of more than one construction—one that protects dignity, promotes legal certainty and prevents one spouse from being placed indefinitely at the mercy of the other, accords more closely with that constitutional mandate.

8. The same concern is embedded in the Quranic scheme governing dissolution of marriage for the last more than fifteen hundred years. In addition to the Command² reproduced at the commencement of this judgment, the Quran contemplates a choice accompanied by the responsibility³: either retain the marital bond in an acceptable manner or release the spouse with kindness⁴. The

² *Supra* 1.

³ “**Surah Al-Baqrah, (2:231)** When ye divorce women, and they (are about to) fulfil the term of their (‘Iddat), either take them back on equitable terms or set them free on equitable terms: but do not take them back to injure them”-Translation by Allama Abdullah Yusuf Ali.

⁴ “**Surah Al-Ahzab (33:49)** O ye who believe! when ye marry believing women, and then divorce them before ye have touched them, no period of ‘Iddat have ye to count in respect of

Divine Injunction is reinforced in the succeeding verses.⁵ These Divine Injunctions leave little ambiguity as to the governing principle: the marital bond is either to be retained on acceptable terms or brought to an end with kindness and grace; what is expressly forbidden is its retention as a means of causing harm to the woman. The Quranic scheme thus accommodates reconciliation and preservation of marriage, but not the indefinite suspension of a woman's matrimonial status. A statutory process intended to afford an opportunity for reconciliation must, therefore, remain faithful to that purpose and cannot be allowed to become a means of prolonging the very uncertainty and harm which the Divine Command seeks to prevent.

9. It is against this normative background that Section 7 of the Ordinance is to be understood⁶. Sub-Section (1) commands a

them: so give them a present, and release them in a handsome manner.”- Translation by Allama Abdullah Yusuf Ali.

⁵ “**Surah Talaq (65:2)** Thus when they fulfil their term appointed, either take them back on equitable terms or part with them on equitable terms; and take for witness two persons from among you, endued with justice, and establish the evidence for the sake of Allah. Such is the admonition given to him who believes in Allah and the Last Day. And for those who fear Allah, He (ever) prepares a way out.”-Translation by Allama Abdullah Yusuf Ali.

⁶ “**7. Talaq.**—(1) Any man who wishes to divorce his wife shall, as soon as may be after the pronouncement of *Talaq* in any form whatsoever, give the Chairman notice in writing of his having done so, and shall supply a copy thereof to the wife 2 [:] 2 [Provided that where the parties belong to Fiqah-e-Jafria,—

- (a) the man may voluntarily and with his free will pronounce himself or through duly authorized attorney (Vakil) *Talaq* uttering in literal Arabic words (seegha) in the physical presence of at least two witnesses qualifying the requirements of clause (1) of Article 17 of the Qanun-e-Shahadat, 1984 (P.O. No. 1 of 1984);
- (b) the pronouncement of *Talaq* shall be ineffective if it is done jokingly or under anger, intoxication, insanity, duress or coercion of any kind and from any corner whatsoever; and
- (c) in case of dispute, with reference to clauses (a) or (b) arising due to difference of opinion, the parties or any of the parties may have recourse to a court of competent jurisdiction or by approaching the “Mujtahid-e-Alam” and the decision of Mujtahid-e-Alam shall have a status of an award and the same shall be dealt with in accordance with the provisions of the Arbitration Act, 1940 (X of 1940).

Explanation.—The expression “Mujtahid-e-Alam (Faqih-e-Azam)” means a juris-consult, religious scholar or doctor of Shia school of thought well versed with Shariah having international repute and of such recognition. The Council of Islamic Ideology shall maintain a panel of Mujtahide-Alam having aforesaid qualifications.

(1A) As enshrined in Article 227 of the Constitution of the Islamic Republic of Pakistan, the divorce and matters connected therewith or ancillary thereto shall be decided according to the personal law interpreted by Fiqah-e-Jafria (Shia school of thought).

husband who has pronounced *Talaq* “in any form whatsoever” to give written notice thereof to the Chairman and supply a copy to the wife. Sub-Section (2) makes breach of that obligation punishable. Sub-Section (3) regulates the point at which *Talaq* becomes legally effective, while sub-Section (4) requires constitution of an Arbitration Council for bringing about reconciliation. The statutory architecture thus distinguishes between pronouncement, notice, reconciliation and effectiveness: pronouncement is the foundational act; notice brings that act within the statutory process; the intervening period provides space for reconsideration and reconciliation; and effectiveness follows in accordance with law. The distinction between pronouncement and legal effectiveness is, therefore, central to Section 7.

10. The Supreme Court of Pakistan⁷ held that, where no notice is given to the Chairman, the pronouncement of *Talaq* does not dissolve the marriage. A more flexible approach was subsequently adopted by a Five-Member Bench, which held that failure to give notice does not, by itself, mean that the *Talaq* stands revoked⁸. The Supreme Court thus emphasized a practical and purposive application of Section 7 rather than a merely mechanical application of form. The Supreme Court⁹ has also authoritatively held that the

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with simple imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both.

(3) Save as provided in sub-section (5), a *Talaq* unless revoked earlier, expressly or otherwise, shall not be effective until the expiration of ninety days from the day on which notice under sub-section (1) is delivered to the Chairman.

(4) Within thirty days of the receipt of notice under sub-section (1), the Chairman shall constitute an Arbitration Council for the purpose of bringing about a reconciliation between the parties, and the Arbitration Council shall take all steps necessary to bring about such reconciliation.

(5) If the wife be pregnant at the time *Talaq* is pronounced, *Talaq* shall not be effective until the period mentioned in sub-section 2 [(3)] or the pregnancy, whichever be later, ends.

(6) Nothing shall debar a wife whose marriage has been terminated by *Talaq* effective under this section from re-marrying the same husband, without an intervening marriage with a third person, unless such termination is for the third time so effective.

⁷ Syed Ali Nawaz Gardezi v. Lt. Col. Muhammad Yusuf (PLD 1963 SC 51)

⁸ Mst. Kaneez Fatima v. Wali Muhammad and another (PLD 1993 SC 901)

⁹ Muhammad Hassan Sultan V. Chairman Union Council, Cantonment Board Office, Karachi and another (2025 SCP 449) available on the website of the Supreme Court of Pakistan.

expression “*Talaq* in any form whatsoever” is comprehensive and that *Talaq*, irrespective of its form, does not become legally effective until expiry of the period prescribed by Section 7. The intervening period serves the important legislative purpose of providing the spouses a reasonable opportunity for reconsideration, reconciliation and revocation before dissolution of the matrimonial bond acquires legal finality.

11. From above analysis of Section 7 of the Ordinance, two propositions emerge. First, the obligation under Section 7(1) rests squarely upon the husband who pronounces *Talaq*. It is not optional. The legislature has reinforced the command by attaching penal consequences to its breach. Secondly, the requirement exists to regulate the consequences of an already pronounced *Talaq*; it is not designed to confer upon the husband a unilateral power to decide whether the statutory machinery should ever become aware of his pronouncement. This distinction is central to the present case. The obligation imposed upon the husband to give notice and the means by which the factum of an already pronounced *Talaq* may come to the knowledge of the Chairman, Union Council are conceptually distinct. Nothing in Section 7 expressly prohibits the wife from bringing that fact to the notice of the Chairman. Such intimation neither substitutes the husband’s statutory obligation nor absolves him of its breach. The obligation remains his and so do the consequences of non-compliance. The intimation merely places before the statutory forum the fact which the husband was himself legally bound to report.

12. The distinction finds further support from the case of Mst. Kaneez Fatima, *supra* wherein it has been held that failure to send notice to the Chairman does not, by itself, establish revocation of *Talaq*. Therefore, Section 7 is to be approached from a practical and

purposive perspective, having regard to the facts of each case. The statutory text itself reinforces that approach. While sub-Section (1) places the obligation of giving notice upon the husband, sub-Section (3) makes effectiveness dependent upon expiry of ninety days from the day on which the notice “is delivered to the Chairman”; it does not separately prescribe by whose hand such delivery must take place. Thus, the husband’s statutory duty and the Chairman’s acquisition of authentic information concerning the pronouncement are related, but not necessarily identical, questions. To conflate the two would enable breach of the former to disable the latter and thereby convert a statutory obligation into an instrument for perpetuating uncertainty in the wife’s matrimonial status.

13. To hold otherwise would produce an anomalous result. A husband could pronounce and communicate *Talaq* to the wife, deliberately withhold the notice to the Chairman as required by Section 7(1), decline to participate when the wife brings the matter before the competent forum, and thereafter contend that the statutory process is void precisely because he himself disobeyed the law. His default would thereby become a veto over the statutory process and, ultimately, over the legal status of his wife. A statutory obligation enacted to regulate *Talaq* cannot reasonably be converted into a procedural weapon in the hands of the person upon whom that obligation is imposed.

14. This does not diminish the importance of the ninety-days statutory period or the reconciliation mechanism. On the contrary, allowing the Chairman, Union Council, to act upon reliable intimation of the pronouncement ensures that the statutory opportunity for reconciliation is not defeated by unilateral non-compliance. Reconciliation under Section 7(4) is substantive, not ceremonial, but the process necessarily presupposes *bona fide*

participation. A spouse who, despite notice and opportunity, deliberately avoids the proceedings cannot ordinarily complain that reconciliation failed because he chose not to participate in the very process designed to achieve it.

15. The role of the Family Court stands on a different footing. Its jurisdiction and the statutory functions of the Chairman, Union Council are distinct, though complementary. The Family Court determines justiciable matrimonial controversies entrusted to it by the West Pakistan Family Courts Act, 1964 (“**Act**”), whereas the Chairman, Union Council perform the functions assigned under the Ordinance. The existence of the latter statutory mechanism does not justify abdication by the former of a controversy otherwise falling within its adjudicatory domain.

16. In the present case, the respondent had specifically asserted before the Family Court that the petitioner had divorced her through an electronic communication and sought declaration, accordingly. The petitioner appeared through his father, filed written statement and contested the proceedings. The factum of the communication and its character had thus become a contested matrimonial fact. Whether such communication had been authored and sent by the petitioner and constituted a pronouncement of *Talaq* was one question; whether that pronouncement had thereafter acquired statutory effectiveness under Section 7 was another. By treating the second question as a reason not to determine the first, the Family Court conflated two distinct legal inquiries and left unresolved the very controversy which had brought the respondent before it.

17. The consequences of such institutional reluctance—or, rather, abdication—are not merely procedural. The Act determines rights and obligations concerning maintenance, divorce/dissolution, remarriage and numerous incidents of personal and marital life of the

spouses. Section 5 of the Act vests exclusive jurisdiction in the Family Court regarding matters enumerated in the Schedule appended thereto. Entries No.1 and 10 of the Schedule include “dissolution of marriage” and “any matter arising out of the *Nikahnama*”, respectively. The refusal of the Family Court to adjudicate the disputed factum of *Talaq*, and its referral of the matter to the Union Council, therefore, amounted to abdication of its jurisdiction. Legal uncertainty regarding matrimonial status bears directly upon individual dignity and autonomy of the woman who cannot be left indefinitely suspended between the legal status of wife and divorcee merely because one statutory forum declines to determine a matter within its adjudicatory sphere and the husband thereafter seeks to disable the other by relying upon his own statutory omission. The petitioner’s conduct must be assessed in this setting. When the respondent, acting upon the direction of the Family Court, approached the Union Council, notices were issued. One such notice was received by the petitioner’s father—the same person who had represented him before the Family Court and through whom the present proceedings have also been initiated. The plea of want of opportunity for reconciliation is, therefore, difficult to reconcile with a record demonstrating opportunity followed by avoidance.

18. Similarly, the plea that the pronouncement was made merely jokingly does not assist the petitioner on the facts before this Court. On a pointed query, learned counsel for the petitioner asserted that the *Talaq* was pronounced jokingly, but could not substantiate that the parties belong to *Fiqah-e-Jafria*; nor did he deny that out-of-court efforts at reconciliation were made but remained unsuccessful. An attempt at reconciliation, standing alone, may not establish *Talaq*, but in the cumulative setting of this case it is difficult to reconcile with the characterization of the entire episode as an inconsequential jest. The statutory proviso relating to a pronouncement made

jokingly serves an important protective purpose: a matrimonial bond ought not to be dissolved by a pronouncement which the law itself recognizes as lacking the requisite seriousness or voluntariness. The safeguard, however, cannot be invoked merely by subsequently describing the pronouncement as a “joke”. Its character must be assessed in the light of the surrounding circumstances and subsequent conduct. Here, the plea appears to be an afterthought. Once the respondent asserted the divorce before the Family Court and the petitioner filed his written statement through his father, he was fully aware of the serious consequences attributed to the communication. Yet he neither pursued the proceedings nor took any timely step consistent with his present assertion. His subsequent avoidance cannot be permitted to place a premium upon his own omission or prolong uncertainty regarding the respondent’s matrimonial status.

19. The law must, therefore, guard against two competing risks. It cannot dispense with the safeguards of Section 7 merely because *Talaq* is alleged; equally, it cannot permit those safeguards to be manipulated so that the person upon whom the statute imposes an obligation acquires the power to frustrate the entire mechanism by refusing to perform it. Section 7 exists to introduce deliberation, reconciliation and certainty into the dissolution of marriage—not to manufacture uncertainty. An interpretation producing prolonged uncertainty in matrimonial status would also unsettle the rights and obligations, including inheritance and remarriage, which flow from that status.

20. In light of the above discussion, the first legal question is answered in the terms that the Family Court ought not to have declined determination of the disputed factum of *Talaq* merely because its legal effectiveness was governed by Section 7 of the

Ordinance. At this belated stage, however, the petitioner cannot be permitted to reopen that process by taking advantage of his own conduct. As regards the second question, Section 7 undoubtedly places the mandatory obligation of giving notice upon the husband, and intimation by the wife neither substitutes that obligation nor absolves him of its breach. The provision, however, contains no prohibition against the wife bringing an already pronounced and communicated *Talaq* to the notice of the Chairman. Where the husband thereafter receives due opportunity to participate in the statutory process but deliberately avoids it, he cannot invoke his own initial non-compliance as a jurisdictional veto over proceedings undertaken by the Union Council to determine the legal consequences of the pronouncement.

21. This Court, in exercise of its constitutional mandate, cannot countenance such epicaricacy, whether reflected in the conduct of a spouse who seeks to prolong and derive advantage from matrimonial uncertainty created by his own acts, or in an institutional response which, through inaction or jurisdictional deflection, permits that uncertainty to persist. Viewed against this background, the respondent approached the Union Council only after the Family Court declined to determine the issue and directed her towards that forum. The petitioner was afforded an opportunity to participate in the proceedings but elected not to avail it. The prescribed process thereafter ran its course without reconciliation or revocation. Viewed in the peculiar factual setting of the case, no jurisdictional defect or procedural illegality of such magnitude has been demonstrated as would justify interference with the impugned divorce effectiveness certificate in exercise of constitutional jurisdiction. Consequently, this petition, being devoid of merit, is **dismissed**. No order as to costs.

22. Before parting with this judgment, this Court considers it appropriate to observe that the present case exposes a legislative and procedural gap capable of generating avoidable uncertainty in matrimonial status. The Act provides a specialized forum for adjudication of family disputes, while Section 7 of the Ordinance regulates the statutory consequences of *Talaq*. Yet contemporary modes of communication, coupled with non-compliance by the spouse upon whom the duty of notice is imposed, may leave the other spouse to navigate overlapping processes before the Family Court and the Union Council. Such uncertainty sits uneasily with the Quranic Command of *Tasrihun bi-ihsan*—release with kindness—and with the legislative objective of certainty in matrimonial relations. The Legislature may, therefore, consider suitable amendment(s) in Section 7 regarding the right of a wife to intimate the competent authority of a *Talaq* already pronounced or communicated to her, without relieving the husband of his statutory obligation under sub-Section (1). The Registrar of this Court shall forward a certified copy of this judgment to the Secretary, Law and Justice, Government of Pakistan for information, consideration and further necessary action. A copy shall also be circulated to the Family Courts within the Province for guidance in matters involving the distinction between determination of the factum of *Talaq* and its statutory effectiveness under Section 7 of the Ordinance.

(ANWAAR HUSSAIN)
JUDGE

Approved for reporting

Judge

*Announced in open court and,
dictated on the same date, however,
finalized on 06.10.2026.*

*Maqsood**