

Justice Dr. Khurshid Iqbal		
Key tags from selected judgments on women's rights		
S. #	Case Description	Key remarks of the court
1.	W.P No. 756-M of 2021 Mst. Sumera etc Vs Arshad etc 06-03-2023	As ordinary laws of procedure and evidence are not applicable in family matters, family courts have to work hard to resolve the dispute (including the use of reconciliation as a tool) rather than applying strict rules of procedures and burdensome principles of the law of evidence. A family Court is required to adopt a behavioural approach in the context of legal anthropology while resolving a family dispute with regard to psychological, social, and contextual explanations of human behaviour in matrimonial relationship.
2.	W.P No. 494-M of 2020 Mst. Nadia Bibi Vs Asad Khan and others 15-02-2023	The Family Courts are required to resolve rather than to adjudicate family disputes through a behavioural approach that involves psychological, social and contextual explanations of human behaviour in matrimonial relationship.
3.	B.A No. 878-M of 2022 Ameer Badshah Vs The State and another 02-12-2022	Attempt to commit a crime with reference to rape, if apparent in the circumstances of a case, may be a ground for declining a bail plea. Non-recording of statement of a victim of attempt rape, who is a mentally ill person, may be ignored for the purpose of bail, if there is otherwise a prima face case.
4.	Cr.Misc. BA No. 463-M of 2023 Rashid Ali Vs The State 14-07-2023	The victim, aged 16 years and 03 months, was given in nikah to the petitioner during her childhood. The petitioner abducted and kept her wandering in the jungles. He subjected her to sexual lust without her consent and after being recovered by the local police, she charged him for the offence. Record has shown that apart from the allegation of abduction for the purpose of compulsion in marriage (section 365-B, PPC), the offence of abduction with intent to secretly and wrongly confine the victim (section 365, PPC) has attracted. A close and critical reading of section 375, PPC, defining of the offence of rape makes no exception of marriage. The first and second descriptions—rape against will and consent of a victim—of the offence enunciated in the definition, apply here. Even if the allegation of rape in marriage is ignored, yet another question is the victim's juvenility. The victim, being just above 16 years of age, is still covered in the definition of 'child', being under 18 years of age. The petitioner being reasonably connected with the commission of the offence was declined bail in

		circumstances.
5.	Cr.Misc. BA No. 12-B of 2024 Azam Shah Vs The State 26.01.2024	While the offence of <i>Ghag</i> under section 4 under Khyber Pakhtunkhwa Elimination of Custom of Ghag Act, 2013 is not hit by restrictive clause of section 497 Cr.PC, this does not automatically entitle an accused to bail, especially when a <i>prima facie</i> case is established against him.
6.	W.P No. 136-D of 2021 Tafakhar Hasnain Vs Chancellor Gomal University and others 24.10.2023	The petitioner, a University teacher, was proceeded against, for sexually harassment of his female students. While converting his dismissal from service to removal, it was held that a teacher, as a spiritual father, plays a significant and influential role in a student's life similar to the way a father would be expected to guide and support his child. Teachers are often seen as figures of authority and guidance, helping students in navigating not only their academic pursuits, but also offering them mentorship and lessons for a successful life. Hence, teachers have much greater responsibilities in shaping character of and imbibing high moral values in their students; besides helping them chart a roadmap for their bright educational career. Indeed, they should be a great source of inspiration for their students. They are highly expected to act in a demonstrably responsible manner. In the face of such compelling circumstances, the manner in which the petitioner chatted with the complainant is highly deplorable [...].
7.	Cr.Misc.BA No. 425-B of 2023 Hidayat Ullah Vs The State 24.10.2023	In the case of honour killing, mere compromise does not make an accused person entitled to the concession of bail, as such offence has not been declared compoundable under section 345 Cr.P.C.
8.	W.P No. 655-M of 2021 Mst. Samrina and others Vs Ubaid Ullah and others 24.10.2023	The maintenance of children is a vested right that cannot be compromised or relinquished, even through agreement made by their mother in this regard. Under section 17 of the West Pakistan family Courts Act, 1964, the Qanun-c-Shahadat Order, 1984, does not apply to family disputes, and the family Court has the authority to adopt any dispute resolution procedure, as long as it is legal, not prohibited by the Family Court Act, and does not violate the rights of the parties. (Writ petition dismissed)
9.	J. Cr.A No. 84-M of 2022 Mst. Rainaz Vs The State (2024 PCrLJ 20	A Judicial Magistrate has a heavy duty to understand the material available on the record and circumstances in which a young illiterate woman, belonging to the vulnerable section of society, has been implicated for commission of an offence carrying capital punishment

	Peshawar) 08.03.2023	
10.	W.P No. 947-M of 2020 Mst. Saima and others Vs Hamid-ur-Rahman and others 19.12.2022	A Family Court has no jurisdiction to enter into this issue of allegation of adultery by a husband against his wife. Clothed with parental jurisdiction under the law (the preamble read with section 5 read with Part I of the Schedule of the West Pakistan Family Courts Act, 1964), a Family Court is highly expected to resolve matrimonial disputes with demonstrable parental empathy.
11.	CR No. 35-C of 2017 Riaz Ahmad Diwanbegi Vs Mst. Saeeda Fayaz etc 09.01.2023	The deprecation of common practice of depriving female legal heirs by the Supreme Court further elaborated. (Revision petition dismissed)
12.	C.R No. 33-M of 2017 Amir Zeb Vs Mst. Shamrozai and others 11.10.2022	Acquiescence is not a ground for depriving a female legal heir from her shari share. The non-recording of a female legal heir in the record of rights robs such record of the presumption of truth attached to it. Given the fact that female legal heirs are routinely deprived of their shari shares, the Courts, notably the trial Courts, are duty bound to appraise evidence carefully and cautiously in socio-cultural context.
13.	Cr.A No. 226-M of 2021 Farid Ullah Vs The State etc 18.10.2022	Delay in lodging the report is not fatal to the prosecution case in every instance, particularly in cases involving the honour of the family and the larger-than-life stigma on the victim. (Criminal appeal dismissed)
14.	W.P No. 1536-P of 2023 Mst. Amna and another Vs Federation of Pakistan through interior Secretary 09.08.2023	A foreigner man, having married a Pakistani woman, is entitled to the grant of POC.
15.	Cr.MBA.No.248-D/2024 Mst. Kiran Bibi	On merit, there exists a prima facie case against both the petitioners. However, the petitioner Mst. Nusrat Bibi is reported to be pregnant with a child as the jail authorities confirmed. Relying on Mst. Nusrat v. The State (1996

	and another v. The State 24.05.2024	SCMR 973), bail was allowed.
16.	C.R No. 104-B of 2018 Atta-ur- Rehman Vs Mst. Ghulam Bibi etc.	Under the Islamic inheritance law doctrine of <i>takharuj</i> , an inheritor may agree to take some portion and/or kind of property and stand excluded from other. However, it shall not be, most notably in the case of a woman inheritor, prompted by undue influence, coercion of customary practices. The rights of a woman being at issue, the application of the doctrine was explained and elaborated in the context of customary practice giving a woman only some portion of the property as her (Pashto: tekray or paroney, a piece of cloth women use to cover their heads. Symbolically, used for some portion of land in heritable property) as an alternative for due shari share. Takharuj was, held, not applicable.
17.	W.P NO. 93-M of 2018 Mst. Nizakat Bibi Vs Muabad Khan & others	A Family Court is bound to focus on “settlement” rather than “adjudication”. A Family Court clothed with parental jurisdiction has a duty to explain to the parties the importance of parting ways pursuant to dissolution of marriage in a pleasant manner and avoid agony to each other as directed by the Holy Qur’an in verses # 229 and 231 of Surah Al- Baqarah.