

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 2557 of 2026**

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IRFAN PYARASAHEB RANA**Versus****SONAL @ MAHENOOR VIJAYSINH RANA.**

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Appearance:**MR.MINHAJ M SHAIKH(6847) for the Appellant(s) No. 1**

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CORAM:HONOURABLE MR. JUSTICE ILESH J. VORA**and****HONOURABLE MR. JUSTICE R. T. VACHHANI****Date : 22/06/2026****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE ILESH J. VORA)**

1. This appeal, under Section 19 of the Family Courts Act, 1984, is directed against the judgment and decree dated 24.12.2024, passed by the learned Judge, Family Court, Vadodara in Family Suit No.783 of 2023, whereby the Family Court rejected the suit for declaration under Section 7 of The Family Courts Act, filed by the appellant-husband Irfan Rana.

2. The brief facts giving rise to file present appeal are that, the parties, by caste, are Muslim. They got married on 05.03.2009 as per the Islamic Shariyat and a girl namely Aleena out of the wedlock was born out. After the birth of the daughter, the husband went to Dubai for job and after some time, the respondent-wife also went there and thereafter, they came back to Vadodara. Their married life was not cordial and smooth and there were differences in lifestyle of both the parties. As a result, quarrel used to take place on trivial issues and

since 13.12.2018, the parties were living separately. They convinced themselves that, it is not possible for them to live together, as a result, as per the Islamic Law, the husband given first Talaaq in the presence of two witnesses on 02.09.2021, thereafter on 23.11.2021 and third Talaaq was given on 25.01.2022 and same was accepted by the respondent-wife. In addition to that, there was also a notarized Talaaqnama executed between the parties dated 21.02.2022. The amount alimony was also honoured by the husband. In such circumstances, in order to obtain a decree of declaration regarding marital status under Section 7 of The Family Courts Act, the appellant-husband filed a suit before Vadodara Family Court. The respondent-wife before the Family Court, admitted all the contents of the petition and by written statement, she has declared her no objection and disputes regarding the facts of divorce.

3. In such circumstances, after hearing the parties, the Family Judge, Vadodara, held and observed that, the Triple Talaaq which was not in accordance with Islamic Law and therefore, the plaintiff-husband is not entitled to get decree for declaration under Section 7 of The Family Courts Act. As a result, the suit came to be rejected.

4. Feeling aggrieved and dissatisfied with the order of the Family Court, the appellant-husband has preferred this appeal, for setting aside the impugned judgment and decree.

5. We have heard learned counsel Mr. Minhaj Shaikh for the appellant.

6. The issue raised in the appeal is covered by our judgment delivered in the case of Shahnawaz Siddqui vs. Marufa Siddiqui (First Appeal No.768 of 2026 decided on 16.06.2026.) Thus, on the admission stage, without hearing the other side, the appeal has been disposed of.

7. Mr. Minhaj Shaikh, while assailing the impugned judgment and decree, has submitted that, the Family Court has himself misdirected and failed to appreciate the object and scope of Section 7 of The Family Courts Act, 1984 as the provision provides a judicial mechanism for a declaration as to the validity of a marriage or to the matrimonial status of any person. In the facts of the present case, the dissolution of marriage by mutual acts in the form of “Mubara’at” by notarized agreement came to be executed and such dissolution of marriage is extra judicial in nature for which formal judicial declaration having been sought by invoking Section 7 of The Family Courts Act and therefore, having regard to the settled principles of law, the Family Court is duty bound to accept the agreement of the parties and declare the dissolution of marriage as agreed.

8. After hearing the learned counsel for the appellant and upon perusal of the case records and observations made by the Family Court in the impugned judgment, we find considerable force in the submissions made by the learned counsel. The family Court has committed an error while dismissing the family suit on the ground that, the Triple Talaaq was not properly executed. In our opinion, when

parties agreed to dissolve the marriage and the same has been reduced in writing, then the Family Court has no option but to pass a decree for declaration as sought for.

9. We may quote para-10, 11 and 12 of the judgment of Shahnawaz Siddiqui (supra) which reads as under:

“10. In the facts of the present case, the parties belonged to Muslim community and as per Shariyat Law, vide agreement dated 15.07.2024, by consent marriage dated 21.02.2015 was dissolved. The respondent wife has accepted and admitted the Talaaq and Rs.25 lakhs being received from the husband as a permanent alimony. Since then, the parties are residing separately. It is relevant to note that under the provision of Dissolution of Muslim Marriage Act, 1937 and Muslim Personal Law (Shariat), Application Act 1939, divorce took place by mutual consent by appellant husband and respondent wife. There are four major forms of dissolution of marriage, as recognized under Islamic Law and protected under the Shariat Act, they are – (i) Talaq-i-tafweez;, (ii) Khula;, (iii) Mubara’at; and (iv) Faskh. In the present case, the mode of dissolution of marriage – Mubara’at would be applicable, because, there was consent of both the parties. The word ‘Mubara’at’ is a form of extra-judicial divorce based on mutual consent and same is valid as it remains untouched by the Dissolution of Muslim Marriage Act. Thus, the only prayer in the suit is to the effect that under explanation (b) of Section 7(1) of Family Courts Act, to declare that, the marriage solemnized is dissolved in terms of MOU dated 15.07.2024.

11. In such circumstances, we find some force in the submission of the learned counsel appearing for the appellant as well as respondent for the reasons that, when the marriage between two persons, who are governed by the Shariat Law, is dissolved by Mubara’at Agreement, the Family Courts are duty bound to accept the agreement of the parties and to declare the dissolution of the marriage as agreed between the parties. The

High Court of Karnataka and other High Courts (Shabnam Parveen Ahmad vs. Mohammed Saliya Shaikh (Miscellaneous First Appeal No.4711 of 2022 dtd 26.03.2024), (Mohamed Saif Pasha vs. Madiha Arif (2021 SCC OnLine Madras 16570), on the identical issue, held and observed that, the Family Courts are duty bound to accept the agreements of the parties and declare the dissolution of the marriage as agreed.

12. *Having considered the submissions advanced and in view of the settled position of law, we are of the opinion that, the findings of the Family Court that, the defendant should have denied the factum of divorce as required under Section 34 of The Specific Relief Act. It is the misconception on the part of the Family Court that under explanation (b) of Section 7(1) of The Family Courts Act, the parties cannot approach before the Family Court to get affirmation in the form of declaratory decree with regard to Talaaq executed under the Islamic Law. The explanation (b) of Section 7(1) of the Family Courts Act authorize the Family Court to pass any decree for a declaration as to the validity of the marriage or as to the matrimonial status of any person. In the facts of the present case, the plaintiff-appellant has neither prayed to adjudicate, nor called upon to dissolve the marriage by decree of divorce. The prayer is to declare the marital status by endorsing the “Mubara’at” invoking jurisdiction under Section 7 of The Family Courts Act. The respondent-wife by way of pursis, admitted the pleadings and other things with respect to divorce. Thus, the requirement of denial of the opposite party as a condition precedent for cause of action under Section 34 of The Specific Relief Act, does not apply to matrimonial declaration sought under the special jurisdiction conferred under The Family Courts Act. Thus, in our opinion, the Family Court erred in dismissing the suit under Order 7 Rule 11 of the CPC.”*

10. For the discussions made hereinabove, the judgment and decree dated 24.12.2024 rejecting the plaint is set aside. The suit is allowed. The marriage between the appellant and respondent which already

dissolved by “Mubara’at” agreement, is declared to be dissolved from the date of agreement. Registry is directed to draw the necessary decree. Direct service is permitted.

(ILESH J. VORA,J)

TAUSIF SAIYED

(R. T. VACHHANI, J)