



HIGH COURT OF SINDH

Case Law Review



Fortnightly Bench Update



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FORTNIGHTLY BENCH UPDATE

(16-07-2026 to 31-07-2026)

An Overview of Recent Judgments of the Federal Constitutional Court of Pakistan, Supreme Court of Pakistan, Lahore High Court and High Court of Sindh, Latest Legislative Amendments and Important Articles, Compiled and Published by the Legal Research Cell, High Court of Sindh, Karachi

NOTABLE JUDGMENTS

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11		Whether the concurrent findings of the Rent Controller and Appellate Court on fair rent under Section 8 SRPO suffered from jurisdictional error, patent illegality, or misreading/non-reading of evidence warranting interference under Article 199 of the Constitution. Whether the landlord discharged the burden of proving the statutory factors for enhancement to Rs. 201 per sq. ft. Whether a compromise decree from another suit or judgments regarding other buildings could serve as evidence of market rent for the subject premises. Whether the petitions were maintainable in view of concurrent findings, delay/laches, and alleged lack of board resolution authorizing the rent applications.		16
12	Lahore High Court	Whether the petitioner, Umer Farooq alias Ahtisham, was entitled to post-arrest bail in a murder case where he was not nominated in the FIR or initial statements and was subsequently implicated through a belated supplementary statement based on an undisclosed source, along with an alleged police confession and recovery of a pistol.	Criminal Law	17

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14	The Emergence of Constitutional Courts in Pakistan: Restructuring Judicial Power and Constitutional Adjudication (Policy Research Journal) By Tahir Mahmood, Hijab Batool, Najam Ali, Gouhar Ali, LLM Scholars, University of Lahore (UOL), Lahore, Pakistan and Dr. Bakht Munir, Postdoctoral Fellow, University of Kansas School of Law https://doi.org/10.5281/zenodo.20665930	20
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State through P.G. National Accountability Bureau, Islamabad and another (In Cr.PLA.No.1553/25)
Cr.PLA.No. 316/18 & Cr.PLA.No.1553/25

- Present:** *Mr Justice Muhammad Ali Mazhar, Justice Ms Musarrat Hilali and Mr Justice Shahid Bilal Hassan*
- Source:** https://www.supremecourt.gov.pk/downloads_judgements/crl.p.316.2018.r1.pdf
- Facts:** The case arose from two NAB-related criminal petitions before the Supreme Court. In Criminal Petition No.316 of 2018, NAB challenged the Peshawar High Court's judgment dated 18.10.2017, whereby the respondent's conviction by the Accountability Court was set aside and he was acquitted. In Criminal Petition No.1553 of 2025, the petitioner challenged the Islamabad High Court's order dated 10.09.2025 refusing his post-arrest bail. During proceedings, after the **27th Constitutional Amendment, 2025** and the **National Accountability (Amendment) Act, 2026**, a preliminary objection was raised that the Supreme Court no longer had appellate jurisdiction in NAB matters and that such matters now fell within the jurisdiction of the **Federal Constitutional Court (FCC)**. The Supreme Court therefore examined the question of its jurisdiction over pending NAB appeals and bail matters.
- Issue:** Whether, after the establishment of the Federal Constitutional Court under the 27th Constitutional Amendment, 2025, and insertion of Section 32A in the National Accountability Ordinance, 1999, the Supreme Court continued to have appellate jurisdiction over NAB cases, including bail, suspension of sentence and other ancillary matters.
- Rule:** Under Article 175(2) of the Constitution, no court can exercise jurisdiction unless it is conferred by the Constitution or law. Article 175-F vests specified appellate jurisdiction in the Federal Constitutional Court, while Article 185 makes the Supreme Court's appellate jurisdiction subject to Article 175-F. Sections 32 and 32A of the NAO provide for an appeal to the High Court and a second appeal to the Federal Constitutional Court. Bail and suspension of sentence are ancillary and incidental to appellate jurisdiction and ordinarily fall within the jurisdiction of the court hearing the main appeal.
- Application:** The Court held that Section 32A created a substantive right of second appeal to the Federal Constitutional Court in NAB matters and transferred the appellate forum from the Supreme Court to the FCC. Since bail and suspension of sentence are ancillary to the main appellate proceedings, the Supreme Court could not retain jurisdiction over such matters while the main appeal was within the FCC's jurisdiction. Jurisdiction could not be assumed on the basis of consent, convenience, past practice or legislative silence.
- Conclusion:** The Supreme Court held that it no longer has jurisdiction over NAB cases, including bail and other ancillary proceedings. All pending criminal petitions for leave to appeal and appeals arising under the NAO were therefore held to stand transferred to the Federal Constitutional Court by operation of law.
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3. SUPREME COURT OF PAKISTAN

Muhammad Jahangir and others v/s. Haji Muhammad Ashraf
C.A. No. 2555/2016 Out of C.P.L.A. No. 2643/2015

Present: *Mr Justice Muhammad Ali Mazhar, Justice Ms Musarrat Hilali and Mr Justice Shahid Bilal Hassan*

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.a. 2555 2016.pdf

Facts: The respondent had obtained an ejectment order against the original tenant, Nadeem Hussain, regarding House No. 18-A, Street No. 2, Sham Nagar, Lahore, and possession was delivered to him through the Court Bailiff. He alleged that the appellants subsequently forcibly re-entered and dispossessed him, whereupon he filed an application under Sections 144 and 151 CPC for restoration of possession. The Rent Court allowed the application ex parte and ordered restoration of possession to the respondent. The appellants claimed that they had not been properly impleaded and that the proceedings had been conducted against a non-entity. They therefore filed an application under Section 12(2) CPC, which was dismissed. Their subsequent appeal and civil revision were also dismissed as time-barred, leading them to approach the Supreme Court.

Issue: Whether the appellants could challenge the ex parte order under Section 12(2) CPC after the prescribed limitation period, and whether the Courts below had erred in dismissing their challenge on the ground of limitation despite their allegation that the respondent had obtained possession through proceedings against a non-entity.

Rule: The law of limitation is based on the principles of certainty, finality and repose in litigation. A party seeking condonation of delay must show sufficient cause and provide a plausible, satisfactory and bona fide explanation covering the entire period of delay. A litigant seeking equitable relief must also approach the Court with clean hands and demonstrate due diligence. Courts should generally decide cases on merits, but negligence and unexplained delay cannot be ignored.

Application: The Supreme Court found that the appellants failed to satisfactorily explain the delay in filing their appeal against dismissal of their Section 12(2) application. The record further showed that they were aware of the proceedings, had previously participated in the litigation, and had repeatedly failed to appear despite service of notices. They had even earlier challenged ex parte proceedings but again failed to diligently contest the matter after remand. The Court therefore found no merit in their allegation that they were unaware of the proceedings or had been denied an opportunity of hearing.

Conclusion: The Supreme Court dismissed the appeal and upheld the concurrent findings of the Courts below. The appellants' challenge was rightly dismissed as time-barred, and no misreading, non-reading, perversity or jurisdictional error was established. Considering their persistent negligence and abuse of the judicial process, the Court imposed costs of Rs.200,000 on the appellants and emphasized that rent proceedings should be concluded expeditiously and not prolonged through dilatory tactics.

4. SINDH HIGH COURT

Castrol Pakistan (Pvt) v. Federation of Pakistan and others
Constitution Petition No.D-4039 of 2026

Present: *Mr. Justice Adnan-ul-Karim Memon and Mr. Justice Adnan Iqbal Chaudhary*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzE3OTE3Y2Ztcy1kYzgz>
2026 SHC KHI 1479

Facts: The petitioner, Castrol Pakistan (Pvt.) Ltd., challenged a portion of a show-cause notice dated 16.06.2026 issued by the Deputy Commissioner Inland Revenue under the proviso to section 147(6B) of the Income Tax Ordinance, 2001. The notice required the petitioner to explain why its estimate of advance tax should not be rejected and further indicated that, if the explanation was found unsatisfactory, the department's estimated advance tax would be recovered immediately under sections 138 and 137(2) of the Ordinance. The petitioner did not contest the authority of the Deputy Commissioner to issue the show-cause notice or to examine the revised estimate of advance tax. Its grievance was confined to the portion of the notice threatening immediate recovery of the alleged tax liability without first following the statutory recovery procedure prescribed under the Ordinance.

Issue: Whether, after rejecting a taxpayer's estimate of advance tax under section 147(6B) of the Income Tax Ordinance, 2001, the Inland Revenue Department is legally empowered to initiate immediate recovery proceedings under sections 137(2) and 138 through the same show-cause notice, or whether it must first issue a separate statutory notice providing the taxpayer at least thirty days to make payment in accordance with section 137(2)?

Rule: The Court examined section 147(7) of the Income Tax Ordinance, 2001, which provides that advance tax payable under section 147 shall be treated as tax due under an assessment order. By virtue of this deeming provision, the statutory procedures applicable to recovery of tax arising from an assessment order become equally applicable to advance tax determined under section 147. Consequently, section 137(2) governs the recovery mechanism and requires the Commissioner to issue a separate notice specifying the amount payable and granting the taxpayer a minimum period of thirty days for payment before recovery proceedings can lawfully commence. The Court also noted that, although the due date for payment prescribed under section 147 remains unaffected, the statutory safeguard contained in section 137(2) cannot be bypassed.

Application: Applying these provisions, the Court observed that the impugned show-cause notice improperly combined the adjudicatory stage with the recovery stage by indicating that recovery under sections 137(2) and 138 would follow immediately upon rejection of the petitioner's estimate. The Court held that such a course was inconsistent with the statutory framework because the recovery provisions become operative only after a determination has been made and a separate recovery notice has been issued in compliance with section 137(2). The Inland Revenue Department itself did not dispute this interpretation during the proceedings. Since the show-cause proceedings had not yet culminated in any determination, the Court further held that it would be premature to examine the question of

whether an order passed under section 147(6B) would be appealable under section 127 of the Ordinance.

Conclusion: The High Court partly allowed the constitutional petition by striking out the references to immediate recovery contained in the impugned show-cause notice. It directed the Deputy Commissioner Inland Revenue to proceed with the hearing of the show-cause notice after giving due notice to the petitioner. The Court further held that if the petitioner's estimate of advance tax is ultimately rejected, the Commissioner may recover the determined amount only after issuing a separate notice in accordance with section 137(2) of the Income Tax Ordinance, 2001, thereby ensuring compliance with the statutory recovery procedure and the taxpayer's procedural rights.

5. SINDH HIGH COURT

Adnan Khalil & others v/s. The State
Cr. Bail Application No.S-158 of 2026

Present: *Mr Justice Zulfiqar Ali Sangi*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzE3ODQ1Y2Ztcy1kYzgZ>
Sindh High Court Citation (2026 SHC SUK 1463)

Facts: The applicants sought confirmation of interim pre-arrest bail in connection with an FIR registered under Sections 354-A, 337-H(ii), 504, 337-A(i), 337-F(i), 147, 148 and 149, P.P.C. The prosecution alleged that during a dispute in an agricultural field, the applicants assaulted the complainant party and tore the clothes of a female complainant. The applicants contended that they had been falsely implicated due to a longstanding land dispute and previous litigation between the parties, while the prosecution opposed confirmation of bail.

Issue: Whether the applicants were entitled to confirmation of interim pre-arrest bail where the only non-bailable offence alleged was under Section 354-A, P.P.C.

Rule: Pre-arrest bail is an extraordinary remedy granted to protect an accused from mala fide prosecution, abuse of the process of law, and arbitrary arrest. At the bail stage, the Court makes only a tentative assessment and does not decide disputed questions of fact. If the prosecution case discloses further inquiry, lacks essential ingredients of the alleged offence, or indicates possible false implication, the accused may be entitled to bail.

Application: The Court observed that the essential ingredient of Section 354-A, P.P.C. intention to expose the complainant to public view was prima facie absent, as the alleged occurrence took place in an agricultural field and the FIR contained no such allegation. The FIR assigned no specific role to the individual applicants, contained omnibus allegations, and was lodged after an unexplained delay of about eight hours. The admitted property dispute and pending litigation between the parties created a possibility of false implication. The Court also

considered the Joint Investigation Team's recommendation to dispose of the case as "C-Class" and the applicants' compliance with the conditions of interim bail, concluding that the matter required further inquiry.

Conclusion: The High Court confirmed the interim pre-arrest bail, holding that the cumulative circumstances including doubtful applicability of Section 354-A, general allegations, previous enmity, unexplained delay in the FIR, the JIT's findings, and the applicants' conduct brought the case within the exceptional category warranting protection from arrest. The Court clarified that its observations were tentative and would not affect the trial on merits.

6. SINDH HIGH COURT
 Shahid Anjum Kamboh v/s. SHO PS A-Section Shahdaskot and Others
 Criminal Miscellaneous 157/2026

Present: *Mr Justice Jawad Akbar Sarwana*
Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzE4Mzc3Y2Ztcy1kYzgZ>
 Sindh High Court Citation (2026 SHC LAR 1489)

Facts: The applicant/complainant filed an application under Sections 22-A & 22-B Cr.P.C. seeking directions for the registration of his complaint regarding a dishonoured cheque issued by respondent No. 3, which was returned by the bank due to "insufficient funds." The learned Ex-Officio Justice of Peace dismissed the application after comparing the respondent's signatures on the cheque with those on his CNIC and concluding that the cheque appeared to bear a fabricated signature. Aggrieved by this finding and the refusal to direct the police to record his statement, the applicant invoked the High Court's inherent jurisdiction under Section 561-A Cr.P.C.

Issue: Whether the Ex-Officio Justice of Peace, while exercising jurisdiction under Sections 22-A & 22-B Cr.P.C., could reject the complainant's application by examining the authenticity of the cheque signature and assessing the merits of the alleged offence.

Rule: The jurisdiction of the Ex-Officio Justice of Peace under Sections 22-A & 22-B Cr.P.C. is limited to ensuring that the police perform their statutory duty of recording information relating to a cognizable offence. The Justice of Peace cannot conduct a factual inquiry, evaluate evidence, or determine the existence of criminal intent or the authenticity of documents.

Application: The High Court found that the Ex-Officio Justice of Peace exceeded his jurisdiction by comparing the signatures on the dishonoured cheque with the respondent's CNIC and concluding that the cheque bore a fabricated signature, despite the bank having dishonoured it only for "insufficient funds." The Court held that these findings involved an assessment of evidence, which falls within the domain of the investigating agency. Since the complaint

disclosed information warranting police action, the matter should have been referred to the police for recording the complainant's statement.

Conclusion: The High Court allowed the application, set aside the impugned order, and directed the concerned police officer to record the complainant's statement and proceed independently in accordance with law, while acting fairly and refraining from making any arrest without sufficient evidence.

7. SINDH HIGH COURT

Mst. Akhtiaran Mahar v/s. DIG Larkana and Others
Criminal Miscellaneous 12/2026

Present: *Mr Justice Jawad Akbar Sarwana*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzE4MzU5Y2Ztcy1kYzgZ>
Sindh High Court Citation (2026 SHC LAR 1486)

Facts: The applicant, Mst. Akhtiaran, filed a criminal miscellaneous application challenging the order of the Additional Sessions Judge, Kashmore, which had dismissed her application under Section 491 Cr.P.C. for the recovery of her alleged detained daughter, Mst. Qambreen. She contended that the Sessions Court had improperly produced her daughter through video link instead of physical appearance and that neither she nor her counsel was able to verify her daughter's identity. The respondents maintained that Mst. Qambreen, an adult, had voluntarily married respondent No. 6, was living with him of her own free will, and had earlier obtained police protection from the High Court.

Issue: Whether the production of an alleged detainee through video link in proceedings under Section 491 Cr.P.C. is legally valid, and whether the absence of the applicant-mother during such virtual production vitiated the proceedings.

Rule: The Court held that there is no prohibition in the Cr.P.C. against producing a detainee through video conferencing in proceedings under Section 491 Cr.P.C. Relying on *Meera Shafi v. Ali Zafar* (PLD 2023 SC 211), it ruled that virtual attendance is legally equivalent to physical attendance, provided the Court is satisfied regarding the identity, free will, and voluntariness of the person produced. The presence of a duly authorized counsel sufficiently represents the party before the Court.

Application: The High Court found that the alleged detainee had voluntarily appeared through video link and clearly stated that she had married respondent No. 6 of her own free will, was living happily with him, and was not under illegal detention. The applicant's counsel was present during the proceedings and raised no contemporaneous objection regarding the virtual production or the detainee's identity. The Court further found that the detainee's identity was corroborated by previous High Court proceedings, photographs, and official records, and there was no material to suggest coercion or mistaken identity.

Conclusion: The High Court dismissed the application, holding that the Sessions Court had lawfully and fairly conducted the proceedings through video link, that no case of illegal detention was made out, and that no ground existed either to interfere with the impugned order or to direct the detainee's fresh production under Section 491 Cr.P.C. The Court also advised trial courts to expressly record the safeguards adopted during video-link proceedings to enhance transparency.

8. SINDH HIGH COURT

Mst: Amna VS S.S.P. Dadu & Others
Crl.M.A No.S-203 of 2026

Present: *Hon'ble Mr Justice Jawad Akbar Sarwana.*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzE4MzY3Y2Ztcy1kYzgZ>
2026 SHC HYD 1488

Facts: The mother filed proceedings under Section 491 Cr.P.C. for recovery of her minor daughter, Baby Eman/Erum. On 07.05.2026, the High Court temporarily handed custody of the child to the mother, subject to final determination by the Guardian & Wards Court. The father sought review, relying upon three orders dated 18.02.2026 passed by the Guardian Judge, Johi, relating to custody and visitation, which had not been fully disclosed when the earlier order was passed.

Issue: Whether the High Court, in proceedings arising under Section 491 Cr.P.C., could review or finally determine custody and visitation rights in light of subsequently produced orders of the Guardian & Wards Court.

Rule: Proceedings under Section 491 Cr.P.C. have a limited and narrow scope. Final questions of custody and visitation fall within the subject-matter jurisdiction of the Guardian & Wards/Family Court under the Guardian and Wards Act, 1890 and family laws.

Analysis: The Court found that both parents had failed to disclose the complete record of the three orders dated 18.02.2026. However, the order dated 07.05.2026 was expressly temporary and had left final adjudication to the competent Guardian Court. Therefore, subsequent production of additional orders did not justify replacing one temporary arrangement with another. Any inconsistencies concerning custody or visitation were required to be resolved by the Guardian Judge, Johi.

Conclusion: The High Court declined to modify its order dated 07.05.2026 and disposed of the review application. The parties were left at liberty to approach the Guardian & Wards Court, Johi, which was directed to determine custody and visitation independently on merits. It was held that Final determination of child custody and visitation cannot ordinarily be made in the limited jurisdiction under Section 491 Cr.P.C.; the competent Guardian & Wards Court remains the proper forum. The Court's observations regarding suppression/non-disclosure of

the three Guardian Court orders by both parents were ancillary to the principal jurisdictional determination.

9. SINDH HIGH COURT

Constitutional Petition No. S-1239 of 2025 (arising out of Family Execution No. 07 of 2020 in Family Suit No. 1723 of 2018)

Ms. Aisha Qazi and two others Versus Irshad Ali Shah son of Sultan Ali Shah

Present: *Mr Justice Muhammad Hasan (Akber).*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzE3OTY1Y2Ztcy1kYzgz>
2026 KHI 1469

Facts: Petitioner No. 1 and Respondent No. 1 were married and had two sons (Syed Subhan Ali Shah and Syed Sultan Ali Shah). Due to matrimonial disputes, the wife filed Family Suit No. 1723 of 2018, which resulted in a decree for dower, wife's maintenance, and maintenance of the minors. To implement the decree, Family Execution Application No. 07 of 2020 was filed before the Family Judge-XXIII, Karachi East. The petitioner filed three interlocutory applications before the Executing Court: (1) for an increase/additional maintenance dated 08.09.2025; (2) for the attachment of the judgment debtor's salary dated 08.09.2025; and (3) for payment and enhancement of maintenance on account of educational expenses dated 17.09.2025. On 20.10.2025, the Family Judge dismissed/decided these applications against the petitioner, prompting the filing of the present constitutional petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

Issues: Whether an Executing Court can amend, modify, add to, or go behind a decree to grant a relief not originally recorded. Whether an Executing Court can conduct a fresh reassessment on questions of fact to disturb findings already recorded in the judgment. Whether an application for educational expenses stood rendered infructuous due to prior proceedings in the High Court. Whether constitutional jurisdiction under Article 199 can be invoked against an interim order in family matters where appeal/revision is barred by Section 14(3) of the Family Courts Act, 1964.

Rules: Section 47 of the Code of Civil Procedure (CPC): Governs questions to be determined by the Executing Court regarding execution, discharge, or satisfaction of a decree, and does not permit the re-trial of pre-decretal matters or re-determination of liabilities. Section 14(3) of the Family Courts Act, 1964: Expressly bars any appeal or revision against an interim order passed by a Family Court. Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973: Limits High Court interference to cases involving clear jurisdictional defects or legal infirmities, rather than acting as an appellate court over interim orders.

Application: The Court found that the minors were already receiving a collective Rs. 40,000/- per month adjusted through annual 10% increments, and no material change in the husband's income (serving in the Customs Intelligence Department) was proven to justify further ad-hoc

enhancement. Citing established jurisprudence (such as *Sardar Ahmed Yar Khan Jomezai, Province of Punjab v. Burewala Textile Mills*, and *Mst. Naseem Akhter*), the Court reiterated that an executing court cannot go behind the decree or rewrite findings of fact. The claim for Rs. 221,460/- in educational expenses was rightly dismissed as infructuous because a previous High Court order (C.P No. S-1489 of 2024) recorded satisfaction upon payment and the withdrawal of contempt proceedings. Under Section 14(3) of the Family Courts Act, 1964, interim orders cannot be challenged through constitutional petitions to bypass statutory bars unless a fundamental jurisdictional defect exists, which was absent here.

Conclusion: The petitioner failed to demonstrate any jurisdictional error or blatant violation of law by the Executing Court. The constitutional petition, along with all pending applications, was dismissed with no order as to costs.

10. SINDH HIGH COURT

Constitutional Petition No. S-818 of 2025

Mst. Javeria and another Versus Muhammad Ali and others

Present: *Mr Justice Muhammad Hasan (Akber).*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzE3OTY3Y2Ztcy1kYzgZ>
2026 SHC KHI 1470

Facts: Respondent No. 1 (husband) and Petitioner No. 1 (wife) were married; Petitioner No. 2 is the wife's brother. After matrimonial disputes led to dissolution of the marriage, the husband filed Civil Suit No. 264 of 2024 before the III Senior Civil Judge, Karachi South, seeking recovery of Rs. 250,000 cash, sixteen tolas of gold ornaments, and certain original documents. He alleged these were taken by the wife (and assisted by her brother) from the matrimonial home in DHA, Karachi, when she left for Rawalpindi with their four children on 10.06.2023. He claimed prior police complaint and criminal miscellaneous application yielded no relief. The petitioners filed a joint written statement denying the claims and raising preliminary objections, including lack of territorial jurisdiction (both resided permanently in Rawalpindi; the matter was essentially matrimonial). They applied under Order VII Rule 10 read with Section 151 CPC for return of the plaint. The trial court dismissed the application (Order dated 05.03.2025); the XII Additional District & Sessions Judge, South Karachi, upheld it in Civil Revision No. 36 of 2025 (Order dated 31.07.2025). The suit was later transferred administratively to the XIV Civil Judge, South Karachi. The High Court petition challenged both orders.

Issues: Whether the trial court had territorial jurisdiction under the CPC to entertain the suit for recovery of movable property/cash/documents arising from a matrimonial dispute. Whether the lower courts correctly applied the law in rejecting the Order VII Rule 10 application (including reliance on irrelevant provisions and failure to consider Family Court jurisdiction). Whether the suit should instead proceed before a Family Court having exclusive jurisdiction based on the wife's residence.

Rules: Order VII Rule 10 CPC: Court must return a plaint if it lacks territorial jurisdiction for presentation to the proper court. Sections 16(f) and 20 CPC: Provisions on suits relating to movable property and general place of suing (defendants' residence or where cause of action wholly/partly arises). Section 10 CPC (res sub judice/stay) is irrelevant to territorial jurisdiction. Family Courts Act 1964 (esp. Section 17), Family Courts Rules 1965 (Rule 6), and Muslim Family Laws Ordinance 1961: Family Courts have exclusive jurisdiction over matrimonial disputes between husband and wife (including related claims regarding household items/property), with territorial jurisdiction based on the wife's/children's residence. Sections 16–20 CPC are excluded in such proceedings. Supreme Court precedent: *Mst. Yasmeen Bibi v. Muhammad Ghazanfar Khan and others* (PLD 2016 SC 613) — Family Court where the wife resides has exclusive jurisdiction over all matrimonial disputes of whatever nature (even involving immovable property), irrespective of ordinary CPC territorial rules; Civil Courts' jurisdiction is excluded to provide efficacious, protective remedies for wives and children. Principle of *mobilia sequuntur personam* (movables follow the person) as tempered by Section 16(f) CPC. Article 199 of the Constitution (writ jurisdiction to correct jurisdictional errors).

Application: The trial court's dismissal rested on Section 10 CPC, which has no bearing on territorial jurisdiction and showed non-application of mind (no parallel suit existed). The revisional court correctly abandoned that basis but erred by vaguely invoking Section 16(f) or 20 CPC without precise analysis. The suit concerned movable property (not immovable under Sections 16(a)–(e)). Under Section 16(f), jurisdiction lies where the property is situate or defendants reside — both pointed to Rawalpindi (plaintiffs' own pleadings described defendants as Rawalpindi residents and detention there). Under Section 20, the cause of action for recovery of wrongfully detained movables crystallizes on detention/refusal to return, which occurred at Rawalpindi after the wife's departure; no demand/refusal or other material part arose in Karachi. Petitioner No. 2 (brother) had no alleged residence, business, or act in Karachi. More fundamentally, the claims arose from a matrimonial relationship post-divorce involving household items. Per *Yasmeen Bibi*, Family Courts have exclusive jurisdiction (CPC Sections 16–20 excluded), with venue at the wife's residence (Rawalpindi). Lower courts ignored this binding precedent and special protective scheme for wives/children. The revisional court also wrongly refused to consider plaint attachments (integral under Order VII Rule 10) and deferred the brother's jurisdictional objection improperly. *Mobilia sequuntur personam* did not support Karachi jurisdiction given the detention and residence facts.

Conclusion: Both impugned orders (05.03.2025 and 31.07.2025) were unsustainable in law (passed without considering the Supreme Court ratio, on inapplicable provisions, and without proper application of mind to the matrimonial nature of the dispute and plaint). The petition was allowed; both orders set aside; the petitioners' Order VII Rule 10 application allowed; and the plaint in Civil Suit No. 264 of 2024 ordered returned to Respondent No. 1 for presentation before the court of competent jurisdiction in accordance with law. No order as to costs. Counsel's assistance was appreciated.

11. SINDH HIGH COURT

Constitutional Petitions Nos. S-723, S-725, S-726, S-727, S-729, S-732, S-733 of 2019 (filed by landlord) and S-174 of 2019 (filed by one tenant), decided by a consolidated judgment.

Eduljee Dinshaw (Private) Limited Thr. Farokh (Petitioner) VS Kikobad Pastanje Kakalia and another (Respondent)

Present: *Mr Justice Muhammad Hasan (Akber).*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzE3OTU5Y2Ztcy1kYzgZ>
2026 SHC KHI 1465

Facts: Eduljee Dinshaw (Pvt.) Ltd. filed seven Rent Applications under Section 8 of the Sindh Rented Premises Ordinance, 1979 (SRPO) before the VIIIth Rent Controller, Karachi (South), against its long-term tenants (approximately 40 years, some up to 60–70 years) seeking fixation of fair rent at Rs. 201 per sq. ft. (existing rents ranged roughly from Rs. 5.62 to Rs. 17 per sq. ft.). After evidence, the Controller rejected the Rs. 201 claim and fixed fair rent at Rs. 20, 25 or 30 per sq. ft. (varying by tenement) effective from the date of the applications, with future enhancements under Section 9(2) SRPO, and directed measurement of disputed areas. The landlord challenged these orders in First Rent Appeals; one tenant (Pak Enterprises) also filed an appeal. The XIIth Additional District Judge, Karachi (South), dismissed all appeals on 02.10.2018 and upheld the Controller's orders. The landlord filed seven constitutional petitions; Pak Enterprises filed one. The petitions had been pending for about seven years.

Issues: Whether the concurrent findings of the Rent Controller and Appellate Court on fair rent under Section 8 SRPO suffered from jurisdictional error, patent illegality, or misreading/non-reading of evidence warranting interference under Article 199 of the Constitution. Whether the landlord discharged the burden of proving the statutory factors for enhancement to Rs. 201 per sq. ft. Whether a compromise decree from another suit or judgments regarding other buildings could serve as evidence of market rent for the subject premises. Whether the petitions were maintainable in view of concurrent findings, delay/laches, and alleged lack of board resolution authorizing the rent applications.

Rules: Section 8 SRPO: Fair rent is determined by considering (a) rent of similar premises in similar circumstances in the same or adjoining locality; (b) rise in cost of construction and repair charges; (c) imposition of new taxes after commencement of tenancy; and (d) annual value of the premises for property tax. Burden of proof under Section 8 rests on the landlord seeking enhancement. Consent/compromise decrees are not binding on third parties and do not constitute judicial determination of fair rent (Supreme Court principle). Judicial notice of general inflation may support reasonable enhancement but not a drastic jump without specific evidence. Condition, age, facilities, and state of repair of the specific building are relevant. Article 199 constitutional jurisdiction in SRPO matters is limited: it is not a substitute for a second appeal; interference is warranted only for jurisdictional error, fundamental misreading of evidence, or patent legal error causing miscarriage of justice (authorities including *Syed Mazhar Imam Rizvi*, *Muhammad Hussain Munir*, and *Shamim Akhter*). Laches and want of proper authorization (board resolution for a company) are

relevant considerations.

Application: The landlord primarily relied on a compromise decree in Suit No. 1453 of 2009 (adjacent building, rent fixed at Rs. 125 per sq. ft. by consent) and a judgment concerning another building (Variawa Building). Both lower courts correctly held these irrelevant: a consent decree is an agreement between other parties, not evidence of fair rent under Section 8 factors, and is not binding on third parties. The landlord admitted never visiting the adjacent building and knowing nothing of its condition, facilities, or amenities; no evidence established similarity in age, condition, facilities, or maintenance. No independent evidence (other tenants' receipts/agreements from the same or similar buildings, construction/repair costs specific to Nadir House, property-tax challans, or official valuation) was produced. General assertions of inflation were insufficient for a jump from ~Rs. 6–10 to Rs. 201 per sq. ft. Tenants produced photographs of the dilapidated condition of the old building; the landlord admitted its age and lack of substantial improvements. Rent receipts showed periodic 5–10% annual enhancements already accepted by the landlord. Area disputes were reasonably directed to be measured. The landlord's witness produced no board resolution authorizing the applications. The petitions were also filed after approximately six months' delay (judgment received 25.10.2018; petitions filed 27.04.2019), supporting a finding of laches. The concurrent findings correctly applied Section 8 factors, evaluated the evidence, and fixed balanced rents (neither exorbitant nor meagre). No jurisdictional error, patent illegality, or misreading of evidence existed to justify constitutional interference.

Conclusion: The impugned judgments of the XIIth Additional District Judge (02.10.2018) and the orders of the VIIIth Rent Controller are upheld. All eight constitutional petitions (seven by the landlord and one by the tenant Pak Enterprises) are dismissed with no order as to costs. Counsel's assistance was appreciated.

12. LAHORE HIGH COURT

Umer Farooq alias Ahtisham v/s. The State and another
 Crl. Misc. No.39870-B of 2026

Present: *Mr Justice Muhammad Tariq Nadeem*

Source: <https://sys.lhc.gov.pk/appjudgments/2026LHC4789.pdf> _

Facts: The case arose from the murder of Muhammad Faisal Shahzad, who was allegedly shot dead by four unidentified armed persons on 13.11.2024 while travelling on his motorcycle in Mandi Bahauddin. The FIR was registered against unknown accused under Sections 302/34 PPC, and neither the complainant nor the alleged eyewitnesses initially named the petitioner, Umer Farooq alias Ahtisham. After about nine months, the petitioner was implicated through a supplementary statement on the basis of information allegedly received from a secret informer, without disclosing the source or assigning him any specific role in the occurrence. The petitioner was subsequently arrested, and a 30-bore pistol and an

alleged confession before the police were relied upon by the prosecution. He therefore sought post-arrest bail before the Lahore High Court.

Issue: Whether the petitioner, Umer Farooq alias Ahtisham, was entitled to post-arrest bail in a murder case where he was not nominated in the FIR or initial statements and was subsequently implicated through a belated supplementary statement based on an undisclosed source, along with an alleged police confession and recovery of a pistol.

Rule: Under Section 497(2) Cr.P.C., bail may be granted where the prosecution case requires further inquiry. A belated supplementary statement, particularly one based on an undisclosed or unverifiable source, cannot by itself provide sufficient grounds for arrest or denial of bail. Under Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984, a confession made to or while in custody of a police officer is generally inadmissible. Mere recovery of a weapon without independent evidence connecting it with the offence, registration of other FIRs without conviction, and the heinous nature of the offence are also insufficient grounds to deny bail.

Application: The petitioner was not named in the FIR or in the witnesses' initial statements. He was implicated after an unexplained delay of approximately nine months through supplementary statements that did not disclose the source of information or assign him any specific role in the murder. The Court also found that the alleged confession before the police had no substantive evidentiary value. The recovery of a 30-bore pistol was not sufficiently connected with the crime, as no witness had stated that the petitioner used such a weapon. Moreover, the prosecution failed to produce any previous conviction against the petitioner, and the investigation against him was complete.

Conclusion: The Court held that the prosecution case against the petitioner fell within the ambit of further inquiry under Section 497(2) Cr.P.C. and granted him post-arrest bail on furnishing bail bonds of Rs.10,00,000/- with two sureties in the like amount. The Court also directed the Punjab Police to scrutinize future arrests based on belated supplementary statements in accordance with the principles laid down in *Rashida Bibi v. SHO* (PLJ 2024 Cr.C 700).

SELECTED ARTICLES

Punishment or Protection? A Critical Legal Analysis of the Federal Shariat Court's Re-Criminalisation of Attempted Suicide under Section 325 of the Pakistan Penal Code

(Social Science Research Network)

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<https://dx.doi.org/10.2139/ssrn.6826400>

The article critically examines the Federal Shariat Court's judgment of 18 May 2026, which restored Section 325 of the Pakistan Penal Code and re-criminalised attempted suicide after its decriminalisation through the Criminal Laws (Amendment) Act 2022. The author argues that although suicide is unquestionably prohibited under Islamic teachings, this prohibition does not necessarily require the imposition of a worldly criminal penalty upon a person who attempts suicide. The article evaluates the judgment from constitutional, Islamic jurisprudential, public health, criminal law and comparative perspectives. It argues that criminalisation is inconsistent with Articles 9 and 14 of the Constitution because arrest, prosecution and imprisonment of a person experiencing a suicidal crisis may undermine the protection of life and human dignity. It also raises an Article 25 concern, asserting that the previous enforcement of Section 325 disproportionately affected poorer and socially vulnerable individuals.

From the Islamic jurisprudential perspective, the article maintains that classical Islamic law prohibits suicide but does not prescribe a hadd or mandatory worldly punishment for attempted suicide. According to the author, the Federal Shariat Court conflated the moral and religious prohibition of suicide with a requirement of criminal punishment. The article further relies on the principles of maqasid al-shariah, particularly the protection of life and intellect, to argue that therapeutic treatment and rehabilitation would better fulfil the objectives of Islamic law. From a public-health perspective, it argues that criminalisation does not effectively deter suicidal behaviour and instead discourages survivors from seeking medical assistance because of the fear of arrest and prosecution. Imprisonment may also aggravate the mental-health problems of already vulnerable individuals. Comparative examples from India, the United Kingdom and Sri Lanka are used to demonstrate that decriminalisation can be accompanied by therapeutic and preventive measures without undermining the protection of life.

The article concludes that the re-criminalisation of attempted suicide under Section 325 PPC is disproportionate, counterproductive and difficult to reconcile with Pakistan's constitutional, public-health and rehabilitative objectives. It proposes that the concern regarding abetment identified by the Federal Shariat Court should be addressed through a separate offence of incitement or abetment of suicide rather than by punishing the survivor. The author recommends compulsory psychiatric

assessment, diversion from criminal prosecution, a comprehensive national mental-health law and greater integration of community and religious institutions into suicide-prevention efforts. Ultimately, the article advocates a shift from a punitive model to a therapeutic framework, arguing that the state's obligation to protect life is more effectively fulfilled through treatment, prevention and rehabilitation than through prosecution and imprisonment.

SELECTED ARTICLES

The Emergence of Constitutional Courts in Pakistan: Restructuring Judicial Power and Constitutional Adjudication

(Policy Research Journal)

By Tahir Mahmood, Hijab Batool, Najam Ali, Gouhar Ali, LLM Scholars, University of Lahore (UOL), Lahore, Pakistan and Dr. Bakht Munir, Postdoctoral Fellow, University of Kansas School of Law

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The article examines the impact of Pakistan's 26th and 27th Constitutional Amendments on judicial independence and the structure of the judiciary. It first discusses the pre-amendment position, under which the Supreme Court functioned as the principal guardian of the Constitution, exercised judicial review and suo motu jurisdiction, and followed a largely seniority-based approach to judicial appointments. Although this system faced criticism for judicial overreach and political tensions, the Supreme Court maintained a clear position as the ultimate constitutional authority.

The article argues that the 26th Amendment significantly altered this position by introducing a fixed tenure for the Chief Justice, restructuring the Judicial Commission, restricting suo motu powers and establishing constitutional benches. While these measures may promote stability, accountability and specialization, the authors contend that greater political participation in judicial appointments and the possibility of influence over judicial leadership may weaken judicial independence. Similarly, restricting suo motu powers may prevent judicial overreach but could also reduce the Court's ability to protect fundamental rights and check governmental excesses.

The 27th Amendment is described as an even more fundamental change because it established the Federal Constitutional Court (FCC) and transferred major constitutional jurisdiction from the Supreme Court to it. The article argues that the creation of parallel apex courts may lead to conflicting constitutional interpretations, uncertainty regarding judicial hierarchy and

fragmentation of constitutional authority. The appointment and retirement mechanisms of FCC judges are also viewed as potential avenues for indirect executive influence.

The article concludes that, although the amendments may have been intended to improve judicial efficiency, specialization and accountability, their combined effect may weaken judicial independence by increasing political influence over appointments, limiting judicial powers and restructuring constitutional authority. It emphasizes that judicial reforms can strengthen constitutional governance only if they preserve judicial autonomy, impartiality, secure tenure and a clear judicial hierarchy capable of effectively protecting the Constitution, fundamental rights and the rule of law.

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