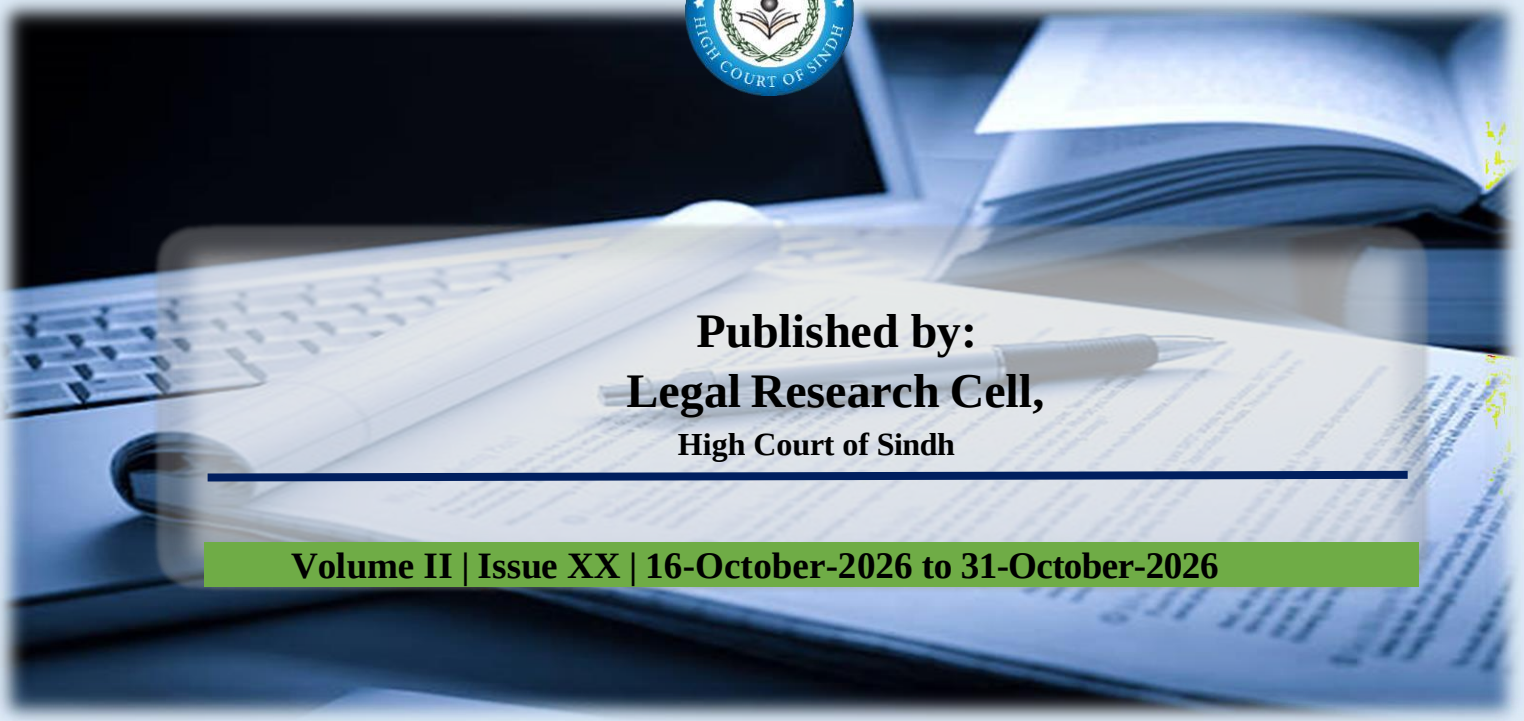
HIGH COURT OF SINDH

Case Law Review



Fortnightly Bench Update



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FORTNIGHTLY BENCH UPDATE

(16-10-2026 to 31-10-2026)

An Overview of Recent Judgments of the Supreme Court of Pakistan, Sindh High Court, and Lahore High Court, Compiled and Published by the Legal Research Cell, High Court of Sindh, Karachi

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1. THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN

F.C.P.L.As.1781 & 1782/2026
NBP Workers Welfare Union, through its Secretary General v. Full Bench, National Industries Relations Commission & others

Present: **JUSTICE AMIN-UD-DIN KHAN, CHIEF JUSTICE**
JUSTICE ALI BAQAR NAJAFI

Source:
https://fccp.gov.pk/api/public/site/files/2bc533b6e2745d139329932b381c6d9319a791dc7e6ee2e1064cedfd21e321e4

Facts: The NBP Workers Welfare Union (Punjab-Islamabad CBU), through its elected Secretary General, sought amendments to Articles 1 and 11 of the Union Constitution, which were approved by Respondent No. 2 on 19.12.2023. Aggrieved by the approval, Respondents No. 3 to 5 filed an appeal before the National Industrial Relations Commission (NIRC). The Full Bench of the NIRC, vide order dated 01.07.2024, allowed the appeal, set aside the approval and remanded the matter for fresh adjudication after providing an effective opportunity of hearing to all concerned stakeholders. The petitioner challenged the remand order before the Islamabad High Court under Article 199 of the Constitution, principally relying upon Section 58(2)(a) of the Industrial Relations Act, 2012. The High Court dismissed the writ petitions on 06.05.2026, whereupon the petitioner approached the Federal Constitutional Court.

Issues: Whether the appellate jurisdiction conferred upon the Full Bench of the NIRC under Section 58 of the Industrial Relations Act, 2012, includes the incidental power to remand a matter for fresh adjudication, even in the absence of an express statutory provision authorizing such remand.

Rules: The Court held that the conferment of appellate jurisdiction necessarily carries with it such incidental and ancillary powers as are reasonably necessary for its effective exercise, unless expressly excluded by the statute or by necessary implication. The legal maxim *quando lex aliquid concedit, concedere videtur et id sine quo res ipsa esse non potest* establishes that where the law grants a power, it also grants those powers without which the principal power cannot effectively be exercised. Accordingly, an appellate forum empowered to set aside, vary or modify an order may, by necessary implication, exercise the power of remand where procedural deficiencies or inadequate factual determination require reconsideration. Furthermore, a distinction exists between an inherent lack of jurisdiction, which renders proceedings *coram non judice*, and an erroneous exercise of jurisdiction otherwise lawfully vested in a statutory forum.

Application: Applying these principles, the Court observed that the Full Bench of the NIRC possessed appellate jurisdiction under Section 58 of the Industrial Relations Act, 2012, and its decision to remand the matter was ancillary to that jurisdiction. The remand was intended to cure procedural deficiencies and ensure compliance with the principle of *audi alteram partem* by providing all concerned stakeholders an effective opportunity of hearing. The NIRC had neither decided the rival claims on merits nor determined the substantive rights

of the parties. Therefore, its direction for fresh adjudication could not be declared without jurisdiction merely because the statute did not expressly provide for remand. The Court further observed that disputes concerning union elections, membership, constitutional amendments and rival claims to office involved disputed questions of fact that required examination of the record and appreciation of evidence. Such matters fell within the primary adjudicatory competence of the specialized statutory forum, whereas constitutional jurisdiction was supervisory rather than appellate and could not ordinarily be invoked to undertake a fresh determination of contested factual issues. Since the remand order neither finally determined the parties' rights nor caused irreparable prejudice, the High Court had rightly declined to interfere.

Conclusion: The Federal Constitutional Court refused leave to appeal and dismissed the petitions, maintaining the judgment of the Islamabad High Court dated 06.05.2026. It affirmed that an appellate statutory forum may exercise incidental powers of remand even in the absence of an express statutory provision, provided such power is necessary for the effective exercise of its appellate jurisdiction and is not excluded by law. The NIRC was directed to decide the remanded matter afresh in accordance with law after providing an effective opportunity of hearing to all concerned stakeholders, without being influenced by any observations made by the Court on the merits of the controversy. No order as to costs.

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2. **THE SUPREME COURT OF PAKISTAN**

Civil Petition No.15-K of 2024

Mst. Rasheeda Begum through L.Rs. Versus The Province of Sindh through Secretary Education & Literacy Department and others

Present: **JUSTICE MUHAMMAD ALI MAZHAR,**
JUSTICE IRFAN SAADAT KHAN
JUSTICE AQEEL AHMED ABBASI

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p._15_k_2024.pdf

Facts: Mst. Rasheeda Begum purchased Plot No. 4/3, Survey No. 98/101, measuring 1,000 square yards, through two registered sale deeds dated 28 March 2011, one covering 210 square yards and the other 790 square yards, from Mst. Bushra Rahat. The property was already occupied by the Government of Sindh as a tenant, which had been paying monthly rent of Rs. 50,000 to the previous owner under a tenancy agreement dated 1 December 2007. After purchasing the property, the petitioner served notice under Section 18 of the Sindh Rented Premises Ordinance, 1979 (SRPO), to inform the government of the change in ownership. Subsequently, she initiated ejectment proceedings in 2015 on the grounds of default in payment of rent and personal need. The litigation passed through several rounds before the Rent Controller, the First Rent Appellate Court and the High Court. During the later proceedings, the Rent Controller directed the government to deposit arrears of rent through a tentative rent order under Section 16(1) of the SRPO. Upon failure to comply, the tenant's defence was struck off under Section 16(2). The resulting orders were upheld by the appellate court. However, in Constitution Petition No. S-1114 of 2022, the High Court set aside the concurrent findings of the Rent Controller and the appellate court, directing the petitioner to institute a civil suit to resolve the dispute concerning ownership of the property. The High Court questioned the title documents, particularly in relation to the 790-square-yard portion, and considered the government's assertion that the original auction had been cancelled in 1974. Aggrieved by this decision, the petitioner approached the Supreme Court of Pakistan, contending that both sale deeds were part of the record and that the

government had raised the title objection belatedly after previously recognising the landlord-tenant relationship and paying rent.

Issues: Whether the High Court, while exercising constitutional jurisdiction under Article 199 of the Constitution of Pakistan, was justified in setting aside the concurrent findings of the Rent Controller and the First Rent Appellate Court and directing the petitioner to institute a civil suit concerning title, particularly when the relevant sale deeds were available on the record and the government had previously acknowledged the landlord-tenant relationship.

Rules: Under Article 199 of the Constitution of Pakistan, the High Court exercises judicial review to examine the legality, jurisdictional propriety and correctness of decisions rendered by subordinate forums. However, constitutional jurisdiction does not ordinarily permit the High Court to act as a second appellate court, reassess evidence, substitute its own opinion merely because another interpretation is possible, or resolve complicated disputed questions of fact. Concurrent findings of subordinate courts may be interfered with where they suffer from gross misreading or non-reading of evidence, perversity, jurisdictional defects, errors of law or violations of statutory or constitutional provisions. The Sindh Rented Premises Ordinance, 1979, is a special law intended to provide an expeditious mechanism for resolving landlord-tenant disputes. Such proceedings should not ordinarily be diverted into prolonged civil litigation unless the law and circumstances justify it. Section 16(1) provides for a tentative rent order, while Section 16(2) addresses the consequences of a tenant's failure to comply with the relevant rent deposit order. Section 3 specifies the premises to which the Ordinance applies, including its provisions concerning premises owned or requisitioned by the government and the statutory mechanism for excluding premises from its operation. The principles expressed in the Latin maxims Allegans contraria non est audiendus and Quod approbo non reprobo also apply. These principles reflect that a party should not be permitted to take contradictory positions concerning the same matter or accept a legal relationship when convenient and subsequently deny it to avoid its consequences.

Application: The Supreme Court examined the scope of the High Court's constitutional jurisdiction and emphasised that concurrent findings of the Rent Controller and the First Rent Appellate Court should not ordinarily be disturbed unless a recognised legal ground for interference exists. The High Court's jurisdiction under Article 199 is supervisory and judicial in nature; it does not confer the unrestricted power of a second appellate court to reappraise evidence or decide disputed factual questions as though hearing the case afresh. In the present case, the Supreme Court observed that the two registered sale deeds, covering 210 and 790 square yards respectively, formed part of the record but appeared to have escaped the High Court's attention when it set aside the concurrent findings. The Court also noted that the question of cancellation of the original auction in 1974 had not been adequately examined. If the High Court considered the question of title relevant, it could not properly resolve that disputed factual controversy merely through constitutional proceedings without examining the relevant documents and affording both parties an adequate opportunity of hearing. The Supreme Court further observed that, in earlier rounds of litigation, the Government of Sindh had not raised the plea that the auction had been cancelled. Instead, it had recognised the tenancy relationship with the previous owner and paid rent without objection. The title dispute emerged only after the property changed ownership and at a considerably advanced stage of the ejectment proceedings. The Court questioned why the petitioner alone should be compelled to institute a civil suit when the competent authority had not previously disputed the ownership and the government had continued to act as a tenant. The Court also

considered Section 3 of the SRPO. If the government claimed that the property was requisitioned or otherwise excluded from the operation of the Ordinance, the relevant notification or supporting documents should have been produced before the Rent Controller. A mere oral assertion that the auction had been cancelled in 1974 was insufficient, by itself, to defeat the established landlord-tenant relationship in ejectment proceedings. Applying the principles of Allegans contraria non est audiendus and Quod approbo non reprobo, the Court emphasised that a party should not be permitted to adopt inconsistent positions regarding a relationship it had previously recognised. Nevertheless, the Supreme Court did not finally determine the disputed title issue. It concluded that the High Court's treatment of the concurrent findings and the relevant evidence required reconsideration and that the matter should be remanded for fresh adjudication.

Conclusion: The Supreme Court of Pakistan converted Civil Petition No. 15-K of 2024 into an appeal and allowed it. The Court set aside the impugned judgment of the High Court of Sindh dated 5 December 2023 and remanded the matter to the High Court for fresh adjudication through an independent application of mind, preferably within six months of receipt of the judgment. The Supreme Court held that the High Court must exercise restraint in its constitutional jurisdiction and should not disturb concurrent findings or resolve disputed questions of fact without proper legal justification. It also emphasised the importance of considering the registered sale deeds, the history of the landlord-tenant relationship and the government's belated objection regarding title. The Supreme Court did not finally decide ownership of the property; rather, it directed the High Court to reconsider the matter in accordance with law.

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3. **THE SUPREME COURT OF PAKISTAN**
C.P.L.A. NO.3871 OF 2022
Afrasyab Khan Versus Mst. Shaista Khanum and others

Present: **JUSTICE JAMAL KHAN MANDOKHAIL,**
JUSTICE NAEEM AKHTAR AFGHAN,
JUSTICE AQEEL AHMED ABBASI.

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p._3871_2022_r.pdf

Facts: Respondents No. 1 and 2, who were sisters of the petitioner, instituted a suit for partition and permanent injunction concerning House No. 29, Street No. 31, Sector G-6/2, Islamabad, claiming their inherited shares under Islamic Law. Their case was that their deceased father, Ghulam Rasool, had distributed the property through wills dated 22.05.2004 and 21.02.2005, allocating the upper portion of the house to the petitioner and the ground portion jointly to the two sisters. The petitioner contested the suit by asserting that his father had entered into a comprehensive family settlement during his lifetime. According to him, two plots in Naval Anchorage, Islamabad, had been transferred to his sisters, whereas the suit property had been gifted to him through an oral gift (Hiba). He further claimed that the oral gift was subsequently reduced into writing through four instruments dated 25.06.2009, comprising acknowledgment of oral gift, handing over of possession, acceptance of gift and acknowledgment of taking over possession. The petitioner explained that his father could not sign the documents due to hand tremors and had therefore affixed thumb impressions instead of signatures. However, the respondents denied the alleged family settlement and oral gift, claiming that the documents were forged.

They produced documentary evidence, including bank remittances from Saudi Arabia and transfer letters, establishing that one Naval Anchorage plot had been independently purchased by one sister from her own earnings, while the other was an independent gift from their father. The Trial Court dismissed the petitioner's defence and decreed the suit in favour of the sisters on 11.02.2019. The Islamabad High Court dismissed the petitioner's appeal on 06.10.2022. Consequently, the petitioner approached the Supreme Court through a Civil Petition for Leave to Appeal.

Issues: Whether the alleged oral gift (Hiba) made by the deceased father in favour of the petitioner was valid under Muhammadan Law.

Whether the petitioner had established the three essential ingredients of a valid Hiba, namely declaration by the donor, acceptance by the donee and delivery of possession.

Whether the alleged gift instruments could legally be proved without producing the required attesting witnesses in accordance with Articles 17 and 79 of the Qanun-e-Shahadat Order, 1984.

Whether the petitioner's explanation regarding his father's inability to sign the documents due to hand tremors was supported by evidence, whether the alleged comprehensive family settlement had been established.

Whether the concurrent findings of the Trial Court and High Court suffered from any misreading or non-reading of evidence warranting interference by the Supreme Court.

Rules: Under Section 138 of Muhammadan Law, a valid gift (Hiba) requires fulfilment of three essential conditions. Firstly, there must be a clear and unequivocal declaration of gift by the donor. Secondly, the gift must be accepted by the donee. Thirdly, possession of the gifted property must be delivered to the donee. All three ingredients are mandatory for establishing a valid gift. Article 17 of the Qanun-e-Shahadat Order, 1984 deals with the competence and number of witnesses required in judicial proceedings, while Article 79 prescribes the mode of proving documents which are required by law to be attested. Such documents must be proved through the requisite attesting witnesses, subject to the exceptions provided by law. Under Article 117 of the Qanun-e-Shahadat Order, 1984, the burden of proof lies upon the person who asserts a particular fact and seeks a legal consequence on its basis. Therefore, the petitioner, having asserted the oral gift and family settlement, was under an obligation to establish them through legally acceptable evidence. The Supreme Court relied upon Bilal Hussain Shah v. Dilawar Hussain Shah (PLD 2018 SC 698) and Hayat Muhammad through LRs v. Muhammad Riaz (2023 SCMR 212) regarding the essential requirements of a valid Hiba.

Application: The Supreme Court observed that the petitioner had failed to produce the two marginal witnesses of the alleged gift instruments and had produced only one witness, Muhammad Bilal Abbasi (DW-2). The petitioner also failed to provide legally acceptable justification for the non-production of the remaining attesting witness. Consequently, the execution of the alleged gift instruments could not be established in accordance with Articles 17 and 79 of the Qanun-e-Shahadat Order, 1984. The Court further observed that the petitioner had claimed that his deceased father was suffering from hand tremors and was therefore unable to sign the documents. However, this explanation was contradicted by his own witness, DW-2, who stated during cross-examination that the deceased father was completely healthy when the petitioner approached him for preparation of the gift instruments. More importantly, the witness admitted that the deceased father had not executed the alleged gift instruments in his presence. This contradiction seriously undermined the petitioner's

defence. The Court also considered the fact that the deceased father was an educated retired Lieutenant Commander of the Pakistan Navy, yet he had allegedly placed smudged thumb impressions instead of signatures on all four instruments. These circumstances further created doubt regarding the authenticity and execution of the alleged gift documents. Regarding delivery of possession, the Supreme Court noted that the deceased father remained the registered owner of the suit property and continued residing therein until his death on 29.06.2009, barely four days after the alleged execution of the gift instruments. The petitioner failed to establish that possession had actually been delivered to him. Thus, one of the essential ingredients of a valid Hiba remained unproved. With respect to the alleged family settlement, the Court observed that no written deed of family settlement had been produced during the evidence. Conversely, the sisters established through bank remittances from Saudi Arabia and transfer letters that one Naval Anchorage plot had been purchased independently by one sister through her own earnings, while the other plot was an independent gift from their father. Therefore, the petitioner's assertion regarding a comprehensive family settlement remained unsubstantiated. Finally, the Supreme Court observed that both the Trial Court and the High Court had recorded concurrent findings of fact after proper appreciation of the evidence and correct application of Articles 17, 79 and 117 of the Qanun-e-Shahadat Order, 1984. No legal infirmity, misreading or non-reading of evidence was established to justify interference by the Supreme Court.

Conclusion: The Supreme Court refused leave to appeal and dismissed the civil petition. It held that the petitioner had failed to establish the alleged oral gift in accordance with Muhammadan Law because the essential requirements of declaration, acceptance and delivery of possession were not satisfactorily proved. The alleged gift instruments were also not proved in accordance with the applicable evidentiary requirements under the Qanun-e-Shahadat Order, 1984. Furthermore, the alleged family settlement remained unproved. The Court found no legal infirmity in the concurrent findings recorded by the Trial Court and the Islamabad High Court. Accordingly, the petition was dismissed and the judgments of the Courts below were maintained.

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4. SINDH HIGH COURT
Ihsan Ali Shaikh v. Province of Sindh and others
Constitutional Petition No.D-1306 of 2026

Present: **MR. JUSTICE MUHAMMAD SALEEM JESSAR**
MR. JUSTICE ABDUL HAMID BHURGRI

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzI4OTA1Y2Ztcy1kYzgz**
2026 SHC KHI 2039

Facts: The petitioner, Ihsan Ali Shaikh, sought appointment under the deceased employee quota on account of the death of his father, Muhammad Ayub Shaikh, who was serving as a Bailiff in the District and Sessions Court, Larkana. His father was appointed on 25.07.1994 and died during service on 23.03.2022. Following his death, the petitioner submitted an application dated 23.08.2023 before the District and Sessions Judge, Larkana, seeking appointment under the prevailing deceased quota policy. However, his application was not decided and no appointment was offered to him. The respondents opposed the petition on the ground that the policy for appointment of children of deceased employees had been withdrawn pursuant to the judgment of the Supreme Court in General Post Office, Islamabad and others v. Muhammad Jalal (PLD 2024 SC 1276), wherein appointments under the deceased quota without open competition and merit were declared

unconstitutional. It was further contended that, following the said judgment, the Administration Committee of the Sindh High Court had withdrawn the relevant policy through its decision communicated on 05.12.2024. Consequently, the petitioner approached the High Court under Article 199 of the Constitution, seeking directions for consideration of his case and appointment under the deceased quota**.**

Issues: (i)Whether the petitioner was entitled to consideration for appointment under the deceased employee quota when his father died during service in 2022 and he applied for appointment in 2023, particularly after the Supreme Court judgment in General Post Office v. Muhammad Jalal (PLD 2024 SC 1276), which declared the relevant deceased quota provisions unconstitutional and directed their withdrawal?

(ii) Whether the said judgment could retrospectively extinguish a right that had already accrued in favour of the family of an employee who died during service before its pronouncement?

Rule: The Court observed that Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, which has since been omitted, provided for appointment of one child of a civil servant who died during service or was declared invalidated or incapacitated for further service, subject to fulfilment of the prescribed formalities and requirements of the relevant appointment rules. The said provision remained applicable when the petitioner's father died in 2022 and when the petitioner submitted his application in 2023.The Court relied upon the principle that judgments of superior courts operate prospectively unless expressly declared otherwise. In General Post Office v. Muhammad Jalal (PLD 2024 SC 1276), the Supreme Court declared the relevant deceased quota provisions unconstitutional; however, the said judgment did not retrospectively affect rights that had already accrued before its pronouncement on 26.09.2024. Reliance was also placed upon Zahida Parveen v. Government of Khyber Pakhtunkhwa (C.P.L.A. No.556-P/2024, decided on 17.03.2025), The Registrar, High Court of Sindh v. Rehana (Civil Petitions Nos.804-K to 807-K of 2025), and Province of Sindh v. Izhar Ali (C.A. Nos.106-K to 111-K and 650-K of 2024, decided on 02.09.2025), wherein the Supreme Court protected rights accrued before the judgment in the GPO case. Furthermore, in Province of Sindh v. Muhammad Rizwan Khan (F.C.P.L.A. Nos.508, 591, 346, 347, 348, 589, 267, 593, 130 and 353 of 2025), the Federal Constitutional Court held that the relevant event for accrual of the right to appointment was the death of the civil servant, whereas submission of an application and issuance of a formal appointment letter were merely administrative acts. The Court also recognized the beneficial nature of the deceased quota provisions and emphasized that such provisions should be interpreted liberally to protect the interests of their beneficiaries.

Application: Applying the above principles, the High Court observed that the petitioner's father died during service on 23.03.2022, at a time when Rule 11-A and the deceased quota policy were in force. The petitioner also submitted his application for appointment on 23.08.2023, much before the Supreme Court judgment dated 26.09.2024 in the GPO case. Therefore, the right of the petitioner's family had accrued before the relevant provision was declared unconstitutional. The subsequent withdrawal of the policy could not retrospectively defeat an already accrued right. The Court further observed that although the District and Sessions Judge, Larkana, disputed that the petitioner's application had been forwarded to the Registrar of the High Court, the department had failed to decide the petitioner's application in accordance with the law applicable at the relevant time. Such administrative negligence could not be attributed to the petitioner, particularly when his father was a lower-grade employee and the petitioner appeared to be a layman. The department was under an

obligation to facilitate the bereaved family in obtaining the benefits available under the applicable rules. The Court also noted that similar benefits had been extended to hundreds of bereaved families during the relevant period. Denial of the same benefit to the petitioner amounted to discriminatory treatment and violated his fundamental rights guaranteed under Articles 4, 5, 9, 25 and 27 of the Constitution. Accordingly, the Court held that the petitioner's case was required to be considered under the policy and rules prevailing at the time of his father's death and the submission of his application, rather than on the basis of their subsequent withdrawal.

Conclusion: The High Court allowed the constitutional petition and held that the judgment in General Post Office v. Muhammad Jalal (PLD 2024 SC 1276) would not retrospectively affect the petitioner's accrued right to consideration for appointment under the deceased employee quota. The Court directed Respondent No.3 to consider the petitioner's case for appointment in accordance with the applicable law, policy and rules prevailing at the relevant time and to decide the matter within three months from the date of the order. The petition was accordingly disposed of, with a direction to the office to communicate the order to the respondents for compliance.

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5. SINDH HIGH COURT
Mudassir Fida and another v. Government of Sindh and others
Constitutional Petition No.D-6617 of 2026

Present: **MR. JUSTICE MUHAMMAD SALEEM JESSAR**
MR. JUSTICE ABDUL HAMID BHURGRI

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzI4MjI1Y2Ztcy1kYzgz**
2026 SHC KHI 2009

Facts: The petitioners filed a constitutional petition under Article 199 of the Constitution of Pakistan, 1973, seeking protection against alleged unlawful and unsafe demolition activities concerning a building and enforcement of the statutory obligations of the Sindh Building Control Authority (SBCA). A dispute regarding title and possession of the property was already pending before the competent Civil Court, where orders for maintaining status quo and restraining demolition or damage to the property had also been passed. The petitioners alleged that demolition activities had nevertheless been carried out, endangering the lives and property of the occupants. On the other hand, SBCA submitted that, following a complaint dated 29.09.2026, an inspection was conducted, and the Technical Committee for Dangerous Buildings (TCDB), after inspecting the premises on 02.10.2026, declared three blocks dangerous due to serious structural deficiencies, including deterioration of concrete covers and damage to reinforcement rings in several columns. SBCA maintained that the building was unsafe for human habitation and required demolition under Section 14 of the Sindh Building Control Ordinance, 1979. The petitioners contended that the constitutional petition was independently maintainable because SBCA was not a party to the pending civil suit.

Issue: Whether a constitutional petition under Article 199 of the Constitution of Pakistan, 1973, is maintainable when proceedings concerning title and possession of the same property are already pending before a competent Civil Court, and the petitioners can seek impleadment of SBCA and appropriate interim relief before that Court, particularly where disputed questions of fact relating to the structural condition of the building, alleged demolition activities and compliance with statutory requirements are involved?

Rule: The extraordinary constitutional jurisdiction under Article 199 of the Constitution is not ordinarily exercised where an adequate, efficacious and effective alternative remedy is available before a competent forum, particularly when the controversy involves disputed questions of fact requiring recording and appreciation of evidence. However, the mere existence of factual disputes does not constitute an absolute bar to constitutional jurisdiction where the controversy can be resolved on admitted facts or incontrovertible documentary evidence. Furthermore, under Order I Rules 3 and 10(2) CPC, necessary and proper parties may be joined or added to proceedings for effective and complete adjudication of the questions involved in a suit, while Rule 5 clarifies that every defendant need not be interested in all the reliefs claimed. Accordingly, a party may seek impleadment of a concerned authority in pending civil proceedings where a cause of action is disclosed against it. Moreover, Section 14 of the Sindh Building Control Ordinance, 1979, empowers the competent authority to take appropriate measures concerning dangerous buildings, subject to compliance with the procedure prescribed by law. The existence of a civil dispute does not extinguish the statutory responsibilities of SBCA concerning public safety, nor does the declaration of a building as dangerous exempt the authority from following the applicable legal procedure.

Application: In the present case, the High Court observed that the petitioners had already instituted civil proceedings concerning the declaration and injunction of the same property, and interim orders had also been passed by the Civil Court. The petitioners' contention that SBCA was not a party to those proceedings was not considered sufficient to establish that the alternative remedy was ineffective or inadequate. The Court held that the petitioners could seek impleadment of SBCA under Order I Rules 3 and 10(2) CPC and obtain appropriate consequential or interim relief from the Civil Court already seized of the matter. The Court further observed that the nature and extent of the alleged demolition activities, the actual structural condition of the building, the legality of the measures undertaken by SBCA and the effect of the existing civil court orders involved disputed questions of fact requiring examination of evidence, which could not appropriately be determined in constitutional proceedings. Consequently, the petitioners had failed to establish exceptional circumstances justifying the exercise of constitutional jurisdiction or the continuation of parallel proceedings. Nevertheless, the Court clarified that SBCA remained under a statutory obligation to act in accordance with Section 14 of the Sindh Building Control Ordinance, 1979, and could not disregard the prescribed legal procedure merely because the building had been declared dangerous by the TCDB.

Conclusion: The High Court declined to entertain the constitutional petition and dismissed it along with all pending applications, holding that the petitioners had an adequate and efficacious remedy before the competent Civil Court, where proceedings concerning the same property were already pending. The petitioners were, however, granted liberty to seek impleadment of SBCA and any other appropriate relief permissible under law before the Civil Court. The Court further clarified that its judgment would not affect the disputed questions of title, possession, structural condition of the building, validity of the TCDB report or legality of the alleged demolition activities. It also clarified that the subsisting orders of the Civil Court would remain intact and had neither been varied nor vacated by the constitutional proceedings.

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6. SINDH HIGH COURT

Ihsan Ali Shaikh v. Province of Sindh and others

Constitutional Petition No.D-1306 of 2026

Present: **MR. JUSTICE YUSUF ALI SAYEED**
MR. JUSTICE ADNAN IQBAL CHAUDHRY

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzI3NjE1Y2Ztcy1kYzgz**
2026 SHC KHI 1981

Facts: The petitioner, Taj Gasoline Limited, a public limited oil marketing company, challenged four successive notices issued by the Federal Board of Revenue (FBR) under Section 40B of the Sales Tax Act, 1990 and Section 45(2) of the Federal Excise Act, 2005, whereby Inland Revenue officers were posted at its business premises to monitor production, supplies and stock position. The first notice was issued on 02.07.2026 for one month and was subsequently extended through notices dated 31.07.2026, 01.09.2026 and 01.10.2026, each for a further period of one month. The petitioner contended that it had fully cooperated with the FBR officers by providing daily reports, access to its accounting software and physical records, but no discrepancy or irregularity had been identified even after more than three months of monitoring. It further argued that the notices did not disclose any specific purpose or reasons for the monitoring or its repeated extensions. On the other hand, the FBR maintained that the petitioner had accumulated carried-forward input tax amounting to Rs.519,322,891 despite its principal petroleum supplies being exempt from sales tax, and that there were indications of false input tax claims and improper apportionment relating to its taxable supplies of lubricants. Aggrieved by the continued posting of officers, the petitioner invoked the constitutional jurisdiction of the High Court under Article 199 of the Constitution.

Issue: Whether the FBR could lawfully post and repeatedly retain Inland Revenue officers at the petitioner's business premises under Section 40B of the Sales Tax Act, 1990 and Section 45(2) of the Federal Excise Act, 2005, without disclosing any specific statutory purpose, reasons or grounds justifying the monitoring and its subsequent extensions?

Rule: The Supreme Court of Pakistan, in Commissioner Inland Revenue v. Pakistan Beverages Limited (2018 SCMR 1544), held that the discretionary power conferred under Section 40B of the Sales Tax Act, 1990 is not unfettered and must be exercised for a lawful object, purpose or ground falling within the contemplation of the statute. Monitoring cannot continue indefinitely and must come to an end once its intended purpose has been achieved or the relevant ground has been exhausted. The authority must specify a definite period for monitoring and may extend it only where legitimate grounds exist. Such extensions are also subject to judicial review. Similarly, in H.M. Motors v. Federation of Pakistan (C.P. No. D-5496 of 2025, decided on 22.06.2026), the High Court of Sindh held that an order under Section 40B must disclose a specific objective, timeframe and applicable conditions and restrictions. Merely reproducing the language of the statutory provision does not fulfil the requirement of assigning reasons. Furthermore, reasons must be disclosed in the impugned notice itself and cannot subsequently be supplied through comments filed before the Court. The same principles apply to Section 45(2) of the Federal Excise Act, 2005 because its language and statutory requirements are materially similar to those of Section 40B.

Application: The High Court examined the fourth notice dated 01.10.2026 and observed that it merely repeated the statutory language authorising the monitoring of production, supplies and stock position without identifying any specific object, ground or purpose for exercising such power. The Court held that a mere reproduction of the statutory provision cannot be treated as sufficient disclosure of the purpose for which the authority intends to exercise its discretion. Although the FBR explained in its comments that the petitioner's carried-forward input tax had increased from Rs.128.222 million in March 2022 to Rs.519,322,891 in June 2026, despite its principal supplies being exempt from sales tax, and that there were indications of false input tax claims relating to taxable supplies of lubricants, the Court observed that these allegations were not mentioned in any of the impugned notices. The Court acknowledged that such circumstances, if supported by material, could constitute a lawful purpose for monitoring under the Sales Tax Act, but held that the reasons contained in departmental comments could not cure the defect in the notices themselves. It further observed that even if reasons existed in the departmental record, withholding them from the taxpayer would prevent the taxpayer and the Court from examining the legality of the exercise of statutory power. The Court also noted that the first three notices had successively extended the monitoring for one month each without disclosing what had been discovered during the preceding period, what remained to be accomplished or why further monitoring was necessary. Such repeated extensions, without disclosure of legitimate grounds, would render the safeguard recognised by the Supreme Court in Pakistan Beverages ineffective. Regarding Section 45(2) of the Federal Excise Act, 2005, the Court held that the same principles were applicable because the provision contains materially similar language and was invoked for the same purpose. It also distinguished Shah Traders Ghurgoshti, Swabi (2025 SCMR 2016), observing that the said judgment concerned the class of persons to whom Section 40B could apply and did not address the requirement of disclosing a lawful purpose or legitimate grounds for continuation of monitoring.

Conclusion: The High Court of Sindh allowed both constitutional petitions and set aside the subsisting notice dated 01.10.2026, holding that the FBR had exercised its statutory powers in violation of the principles laid down in Pakistan Beverages and H.M. Motors. Consequently, the Court directed that the Inland Revenue officers posted at the petitioner's business premises pursuant to the impugned notice be withdrawn forthwith. However, the Court clarified that the FBR would remain at liberty to issue a fresh order, provided legitimate grounds existed and the order specified the purpose of monitoring, the period for which it was required, and the applicable conditions and restrictions. Any subsequent extension would also have to be supported by disclosed reasons. Thus, the Court reaffirmed that the statutory power of monitoring under Section 40B of the Sales Tax Act, 1990 and Section 45(2) of the Federal Excise Act, 2005 is not absolute and must be exercised transparently, for a lawful purpose and on the basis of legitimate grounds.

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7. SINDH HIGH COURT

Seemab Gul and another v. Government of Sindh and another

Constitutional Petition No. D-6047 of 2026

Present: MR. JUSTICE YUSUF ALI SAYEED

MR. JUSTICE ADNAN IQBAL CHAUDHRY

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzI3NjEzY2Ztcy1kYzgz
2026 SHC KHI 1980

Facts: The Petitioners, being the filmmakers of a feature film titled Ghost School, challenged the decision of the Sindh Board of Film Censors, whereby the Board directed eight excisions from the film as a condition for granting a Universal (U) Certificate for public exhibition under the Sindh Motion Pictures Act, 2011, read with the Sindh Censorship of Film Rules, 2014. The film was based on a fictional story of a ten-year-old girl who discovers that the only school in her village has been closed due to rumours that it is haunted. Although the Central Board of Film Censors and the Punjab Board of Film Censors had approved the film for unrestricted exhibition without any excisions, the Sindh Board directed the removal of certain expressions, abusive language, and scenes depicting the burning of books and the school. Earlier, the Petitioners had approached the High Court, which directed the Board on 21.08.2026 to reconsider the matter in accordance with law and provide cogent and intelligible reasons. However, through its subsequent decision dated 11.09.2026, the Board again directed the proposed excisions without providing proper justification. Consequently, the Petitioners invoked the constitutional jurisdiction of the High Court under Article 199 of the Constitution. During the hearing, the Petitioners agreed to the excision of one abusive remark made by a child, identified as Item No. 7, and challenged the remaining excisions.

Issues: **(i)** Whether the constitutional petition was maintainable under Article 199 of the Constitution when an alternative appellate remedy under Rule 36(2) of the Sindh Censorship of Film Rules, 2014, was allegedly unavailable due to the non-constitution or non-notification of the Appellate Committee?

(ii) Whether the Sindh Board of Film Censors could direct excisions from the film without recording specific, cogent and intelligible reasons connecting each proposed excision with the restrictions prescribed under Section 6(1) of the Sindh Motion Pictures Act, 2011?

(iii) Whether the Board's decision to impose excisions on expressions, abusive words and scenes depicting the burning of books and a school amounted to an unreasonable restriction on the Petitioners' fundamental right to freedom of expression under Article 19 of the Constitution?

(iv) Whether the Board was justified in imposing a Universal (U) Certificate while requiring excisions without considering the availability of other appropriate certification categories under Rule 11 of the 2014 Rules?

Rule: The Court examined Sections 4(2) and 6(1) of the Sindh Motion Pictures Act, 2011. Section 4(2) empowers the Board to sanction a film for unrestricted or restricted public exhibition, direct necessary excisions before granting certification, or refuse certification. However, Section 6(1) prohibits certification only where, in the opinion of

the Board, the film is prejudicial to the grounds specified therein, which correspond to the permissible restrictions under Article 19 of the Constitution. Rule 11 of the Sindh Censorship of Film Rules, 2014, provides different certification categories, including U, PG, PG-13, PG-15 and 18+, with the higher categories allowing certain adult themes and hard language. Furthermore, Rule 36(2) provides an appellate remedy through an Appellate Committee. The Court also relied upon the principles laid down in Moulvi Iqbal Haider v. Federation of Pakistan (PLD 2023 Sindh 182), holding that restrictions on freedom of expression require stringent judicial scrutiny and must be reasonable in the strictest conceivable sense. Reliance was also placed upon Pakistan Electronic Media Regulatory Authority v. ARY Communications (PLD 2023 SC 431), wherein the Supreme Court held that a work of art must be assessed as a whole, that its message should be considered in context, and that any objectionable portion should be modified only to the minimum extent necessary. The Court further reiterated that an alternative remedy cannot be invoked against a litigant where the Government itself has failed to establish or notify the relevant appellate forum. A statutory authority must also record reasons in its original decision, and such reasons cannot subsequently be supplied through comments or arguments before the Court.

Application: The High Court first examined the objection regarding maintainability of the petition. It observed that the Petitioners had specifically pleaded that the Appellate Committee contemplated under Rule 36(2) had not been constituted or notified. The Respondents' comments did not controvert this assertion, and the departmental law officer also failed to establish the availability of the appellate forum. The Court held that an alternative remedy which the Government itself had failed to bring into existence could not be pressed against the Petitioners. Accordingly, the constitutional petition was held to be maintainable. On the merits, the Court observed that although Section 4(2) empowered the Board to direct necessary excisions, such power was not unlimited and had to be exercised within the constitutional restrictions prescribed under Article 19 and Section 6(1) of the Act. The Board's impugned decision did not identify how each expression or scene violated any particular ground mentioned in Section 6(1), nor did it explain how the proposed excisions were necessary for granting a Universal Certificate. The Court further observed that a mere reference to statutory provisions without connecting them with the objectionable material could not constitute a valid reasoned decision. Such reasons were required to be recorded in the decision itself and could not be supplied subsequently through comments or arguments before the Court. The Court also considered that the Central Board of Film Censors and the Punjab Board of Film Censors had approved the same film for unrestricted public exhibition without requiring any excisions. Although the Sindh Board exercised its independent statutory jurisdiction and was not bound by the decisions of other Boards, it was required to explain why a different approach was necessary in Sindh. No such justification had been provided. The Court further observed that the Board had treated entirely different expressions and scenes alike, including the social expression "wadera", political expressions, mildly abusive words and scenes depicting the burning of a school in a film that condemned such acts. The Board failed to consider their individual context and character or explain why each required removal. Since the Board had already been directed by the Court on 21.08.2026

to provide cogent and intelligible reasons, its failure to comply with that direction rendered the impugned decision unsustainable. The Court, however, maintained the excision of Item No. 7 because the Petitioners had expressly consented to it during the hearing.

Conclusion: The High Court allowed the constitutional petition and set aside the impugned decision dated 11.09.2026, except to the extent of Item No. 7, whose excision had been accepted by the Petitioners. The Board was directed to reconsider the certification of the film within ten days after the Petitioners excised Item No. 7. The Board was further directed either to issue a certificate permitting unrestricted public exhibition without requiring any further excisions or, if it considered that any of the remaining objections justified a higher certification category than U, to provide the Petitioners with a personal hearing and pass a speaking order explaining each specific objection with reference to Rule 11 of the 2014 Rules. The Board was also directed to assign the least restrictive certification category sufficient to address its concerns. It was clarified that any reconsideration would remain confined to the objections already identified in the impugned decision.

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8. **SINDH HIGH COURT**
Muhammad Nazar Godal v. Government of Sindh and others
Constitutional Petition No.D-2494 of 2025

M/s. Habibullah Stones (Pvt) Ltd v. Government of Sindh and others
Constitutional Petition No.D-2495 of 2025

Present: **MR. JUSTICE YUSUF ALI SAYEED**
MR. JUSTICE ADNAN IQBAL CHAUDHRY

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzI4MTQ1Y2Ztcy1kYzgz**
2026 SHC KHI 2000

Facts: The Petitioners participated in an open auction conducted by the Mines and Mineral Development Department, Government of Sindh, on 23.06.2023, for the grant of mining permits in respect of different areas situated in District Thatta and Karachi West. Through separate letters dated 04.08.2023, the Director General, Mines and Mineral Development informed the Petitioners that they had succeeded in securing the respective areas at the reserved price, as no other applications had been received for those areas. However, the letters required them to deposit the prescribed application fee, 10% of the reserved price and submit the requisite documents under Rule 80 of the Sindh Mines and Minerals Governance Rules, 2023. The Petitioners complied with these requirements by depositing the demanded amounts and submitting applications on Form A on 09.08.2023. Despite subsequent reminders, the Department did not issue mining permits and instead published a fresh advertisement dated 17.10.2023, inviting applications for another auction that included the same areas. The Petitioners challenged the fresh advertisement before the Sindh Public Procurement Regulatory Authority (SPPRA), but

its Review Committee dismissed their appeals as non-maintainable, holding that the auction of mining areas did not fall within the definition of public procurement. Consequently, the Petitioners approached the High Court under Article 199 of the Constitution, seeking directions for the issuance of mining permits on the basis of the earlier auction and a declaration that the subsequent advertisement was illegal.

Issues: **(i)** Whether the Petitioners acquired any vested or enforceable right to obtain mining permits merely because they were declared successful bidders and complied with the requirements mentioned in the letters dated 04.08.2023?

(ii) Whether the auction and subsequent correspondence were legally valid in the absence of a properly constituted Mines Committee under the Sindh Mines and Minerals Governance Act, 2021?

(iii) Whether the Sindh Public Procurement Rules, 2010, governed the auction of mining permits and prohibited the Department from conducting a fresh auction without cancellation of the earlier process?

(iv) Whether the Petitioners were entitled to a refund of the amounts deposited with the Department despite dismissal of their constitutional petitions.

Rule: The Court examined Section 5 of the Sindh Mines and Minerals Governance Act, 2021, which provides for the constitution of a Mines Committee to advise the Licensing Authority regarding the grant, renewal, refusal and cancellation of mineral titles and permits, as well as the invitation of competitive bids. Under Section 5(2), the composition of the Committee is to be determined by the Government through notification in the Official Gazette. Section 10 provides that mineral titles and permits are to be granted or issued by the Licensing Authority, namely the Director General, on the advice of the Mines Committee. The Court further considered Section 2(m) of the Sindh Public Procurement Act, 2009, which defines public procurement as the acquisition of goods, services or construction of works financed wholly or partly out of public funds. It was held that the grant of a mining permit is not an acquisition by the Government but a concession through which the State permits the extraction of public mineral resources in return for consideration; therefore, the SPP Rules do not apply to such transactions. The Court also relied upon Rule 80 of the Sindh Mines and Minerals Governance Rules, 2023, concerning the requirements for an application for a mining permit. Regarding the rights of successful bidders, the Court relied upon Muhammad Jawed v. First Women Bank Ltd. and others (2020 SCMR 2134), followed in Syed Asif Shah v. Ahmed Asif Siddiqui and others (C.P. No. D-3960 of 2021), establishing that a bid submitted at an auction is merely an offer and does not, by itself, create an enforceable right. A person declared the highest bidder acquires, at most, a legitimate expectation that the bid will be considered in preference to other bids. An enforceable right arises only when the bid is accepted by the competent authority. The Court also relied upon the principles laid down in Suo Motu Case No. 13 of 2009 (PLD 2011 SC 619), Maulana Abdul Haque Baloch and others v. Government of Balochistan and others (PLD 2013 SC 641), and Pakistan Mineral Development Corporation Ltd. v. Province

of Sindh and 2 others (PLD 2020 Sindh 99), emphasizing that public resources must be disposed of transparently and through competitive bidding to secure the best possible return for the public exchequer.

Application: The Court first rejected the objection that the constitutional petitions were barred by the earlier order dated 19.03.2025. It observed that the previous petitions had been disposed of by consent merely to enable the SPPRA Review Committee to decide the pending appeals through a speaking order. Since no adjudication on the merits of the Petitioners' claims had taken place, the subsequent petitions were not barred. On the applicability of the SPP Rules, the Court held that the Petitioners' reliance upon Rules 25 and 26 was misconceived because the grant of mining permits did not constitute public procurement within the meaning of Section 2(m) of the Sindh Public Procurement Act, 2009. The matter was therefore required to be examined under the Sindh Mines and Minerals Governance Act, 2021, and the relevant M&M Rules. The Court observed that the Mines Committee was an essential part of the statutory mechanism for granting mining permits and that the Licensing Authority could not independently grant such permits without its advice. The Department had established that the Mines Committee was notified only on 10.11.2023, whereas the auction had taken place on 23.06.2023 and the letters relied upon by the Petitioners had been issued on 04.08.2023. The Petitioners failed to produce any material establishing that the Committee existed at the relevant time. The Court further held that Section 5(4) of the Act, which protects the proceedings of the Mines Committee against invalidity arising from a vacancy or defect in its constitution, could not validate proceedings undertaken when no Committee existed at all. Consequently, the auction and subsequent correspondence could not lawfully result in the grant of mining permits. The Court also examined the contents of the letters dated 04.08.2023 and held that they did not constitute final acceptance of the bids or grant of mining permits. Rather, the letters merely informed the Petitioners that they had succeeded in securing the areas at the reserved price and expressly required them to complete further formalities before their applications could be processed for the grant of permits. Therefore, the Petitioners' deposits and submission of documents did not create any vested or enforceable right in their favour. Applying the principle laid down in Muhammad Jawed v. First Women Bank Ltd. (2020 SCMR 2134), the Court held that an enforceable right could arise only upon acceptance of the bids by the competent authority acting in accordance with the statutory framework. Another important consideration was that none of the areas had attracted competing applications, and the Petitioners had secured them at the reserved price without any competition. The Court observed that minerals are natural resources held by the Government in trust for the people and must be disposed of through a transparent and competitive process. In view of the absence of a properly constituted Mines Committee and the lack of competition in the earlier auction, the Department's decision to conduct a fresh auction under a legally constituted statutory framework could not be termed arbitrary or unlawful. The allegation of mala fides was also rejected because it was unsupported by specific particulars or evidence. Similarly, the maxim ubi jus ibi remedium could not assist the Petitioners because no enforceable legal right had accrued in their favour. However, the Court took a different view regarding the amounts deposited by the Petitioners. It

observed that the Petitioners had deposited the prescribed application fees and 10% of the reserved prices in August 2023 on the instructions of the Department, but no mining permits had subsequently been issued. Since the Department itself had conducted the auction without a properly constituted Mines Committee and had demanded the deposits from the Petitioners, it could not retain those amounts to their detriment. Accordingly, the Court considered that fairness and justice required the refund of the deposited sums.

Conclusion: The High Court dismissed both constitutional petitions, holding that the Petitioners had failed to establish any vested or enforceable right to obtain mining permits on the basis of the auction conducted on 23.06.2023 or the letters issued on 04.08.2023. The Court held that the auction process had taken place in the absence of the statutorily required Mines Committee, the letters did not constitute final acceptance of the bids, and the SPP Rules were not applicable to the grant of mining permits. The Department was therefore justified in conducting a fresh auction under the proper statutory framework. Nevertheless, the Court directed the Department to refund, within thirty days, the application fees and 10% of the reserved prices deposited by the Petitioners for the respective areas. The Petitioners were also permitted to participate in any fresh auction concerning those areas, and the proceedings of the present petitions were not to be held against them in that regard.

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9. SINDH HIGH COURT

Special Customs Reference Application No. 647/2016
Special Customs Reference Application No. 648/2016
Special Customs Reference Application No. 668/2016

Director (Enforcement) DGI&I-FBR VS Muhammad Imran & another

Present: **HON'BLE MR. JUSTICE AGHA FAISAL**
DR. SHAH NAWAZ MEMON (AUTHOR),

https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzI5NDAxY2Ztcy1kYzgz&citation=2026+SHC+KHI+2081%2C+2026+SHC+KHI+2190
2026 SHC KHI 2081, 2026 SHC KHI 2190

Facts: The respondents imported a 40-foot container of polyester fabrics and embroidered sarhees from Jebel Ali, UAE, declaring the goods to be of Chinese origin. The consignment was cleared through the WeBOC system on 1 September 2015. Subsequently, the Directorate of Intelligence and Investigation-FBR detained and examined the container on suspicion that the goods were actually of Indian origin and had been routed through Dubai to circumvent the import restrictions imposed under the Import Policy Order, 2013. The Department relied upon the absence of origin markings, certain design numbers on the sarhees, the prefix "SIIL" appearing in the packing list, and alleged discrepancies between the invoices. The respondents, however, produced a Certificate of Origin dated 13 September 2015, issued by the Dubai Chamber of Commerce and Industry, certifying China as the country of origin. The Additional Collector confiscated the goods outright and

imposed a penalty of Rs.1,000,000 each upon Qasim Ali and Muhammad Imran. On appeal, the Customs Appellate Tribunal set aside the adjudication order, holding that the Department had failed to establish that the goods were of Indian origin. The Department consequently filed three Special Customs Reference Applications before the High Court of Sindh.

Issue: Whether the Customs Appellate Tribunal was legally justified in holding that the imported goods were not established to be of Indian origin, particularly in view of Section 3 of the Commercial Documents Evidence Act, 1939, which provides a statutory presumption regarding the genuineness and accuracy of certificates of origin issued by recognised Chambers of Commerce. The connected issues also concerned the jurisdiction of the adjudicating officer under S.R.O. 886(I)/2012 and the authority of Directorate officers under S.R.O. 486(I)/2007.

Rule: Section 3 of the Commercial Documents Evidence Act, 1939 provides that the Court shall presume the genuineness and accuracy of documents listed in Part I of its Schedule, including certificates of origin issued by a recognised Chamber of Commerce. Under Section 4, a recognised Chamber means one recognised by the Government of its own country as competent to issue certificates of origin. Accordingly, a Chamber of Commerce in one country may issue a certificate certifying goods as originating from another country, provided it is recognised by its own Government. This presumption is rebuttable, but the party challenging the certificate must produce cogent direct or circumstantial evidence making its inaccuracy more probable than its accuracy. Mere suspicion or inconclusive inferences are insufficient. Where a certificate invites verification, the Department should approach the issuing authority before treating it as unreliable. Furthermore, under Section 196 of the Customs Act, 1969, the High Court's jurisdiction in a customs reference is confined to questions of law, and findings of fact recorded by the Tribunal cannot ordinarily be disturbed unless they are based on no evidence, misreading or non-reading of material evidence, or an erroneous legal test.

Application: The High Court examined the Certificate of Origin issued by the Dubai Chamber of Commerce and Industry and observed that it contained an electronic certifying stamp, identified the relevant container and expressly certified China as the country of origin. The certificate had been produced before the Directorate on 16 September 2015, more than six weeks before issuance of the show-cause notice and over five months before the adjudication order. Despite having sufficient opportunity, the Department never approached the issuing Chamber to verify its authenticity. The Court rejected the Department's argument that only a Chamber recognised by the Government of China could certify Chinese origin, clarifying that under Section 4 of the 1939 Act, recognition by the Government of the Chamber's own country is sufficient. The Court further held that the absence of origin markings on the goods was a neutral circumstance, while the design numbers and the prefix "SIIL" did not conclusively establish Indian origin. Similarly, the differences between the invoices had been examined and explained by the Tribunal, particularly in view of the shipper's confirmation of the invoice. Although the certificate was obtained after clearance, the Court held that the timing of its production did not extinguish the statutory presumption, though it could justify closer scrutiny. Since the Department failed to produce cogent evidence rebutting the presumption, the Tribunal's finding that Indian origin had not been established was neither perverse nor legally defective. The Court further observed that the jurisdictional questions concerning S.R.O. 886(I)/2012 and S.R.O. 486(I)/2007 did not require determination because, once the finding regarding the origin of the goods was upheld, the original confiscation order could not be restored. Those jurisdictional questions were therefore left open for determination in an

appropriate future case.

Conclusion: The High Court dismissed all three Special Customs Reference Applications and maintained the order of the Customs Appellate Tribunal setting aside the confiscation and penalties imposed by the Additional Collector. It held that a certificate of origin issued by a Chamber of Commerce recognised by the Government of its own country carries a rebuttable statutory presumption of genuineness and accuracy under Section 3 of the Commercial Documents Evidence Act, 1939. The Department cannot displace that presumption through mere suspicion, circumstantial inferences or unverified allegations; it must produce cogent evidence establishing the contrary. The Court further reaffirmed that the High Court, in reference jurisdiction under Section 196 of the Customs Act, does not ordinarily interfere with factual findings of the Tribunal unless a recognised legal defect or perversity is demonstrated.

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10. SINDH HIGH COURT

Spl. Sales Tax Reference Application No. 179 of 2018
Sindh Revenue Board, Karachi VS M/s. Media 5ive Holdings (Karachideals.com), Karach

Present: **HON'BLE MR. JUSTICE AGHA FAISAL**
DR. SHAH NAWAZ MEMON (AUTHOR),

https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzI4NzAzY2Ztcy1kYzgz&citation=2026+SHC+KHI+2012%2C+2026+SHC+KHI+2086
2026 SHC KHI 2012, 2026 SHC KHI 2086

Facts: The respondent, M/s. Media 5ive Holdings, operating through Karachideals.com, was registered with the Sindh Revenue Board (SRB) for providing online business-related services. The SRB alleged that the respondent had failed to furnish true and correct sales-tax returns for successive tax periods from July 2013 to October 2015 and had submitted null returns despite conducting taxable business activities. The Assistant Commissioner imposed a penalty of Rs.2,502,432 under Serial No. 2 of the Table to Section 43 of the Sindh Sales Tax on Services Act, 2011, for failure to furnish true and correct returns. Additionally, a penalty of Rs.5,004,864 was imposed under Serial No. 13 for repetition of the offence, calculated at twice the aggregate penalty imposed under Serial No. 2. The Commissioner (Appeals) maintained the penalty under Serial No. 2 but deleted the additional penalty under Serial No. 13, holding that consecutive non-filing of returns constituted a continuous offence rather than repetition. The Appellate Tribunal upheld that decision. The Sindh Revenue Board consequently filed a reference application before the High Court challenging the deletion of the penalty under Serial No. 13.

Issue: Whether failure to furnish sales-tax returns for successive tax periods constitutes separate offences or one continuous offence, and whether such successive defaults automatically amount to repetition of an offence attracting an enhanced penalty under Serial No. 13 of Section 43 of the Sindh Sales Tax on Services Act, 2011. The further question was what legal requirements, particularly regarding mens rea and culpability, must be established before an enhanced penalty for repetition can be imposed.

Rule: Section 30 of the Sindh Sales Tax on Services Act, 2011 obliges every registered person to furnish a true and correct return for each tax period within the prescribed due date. Serial

No. 2 of the Table to Section 43 imposes a penalty for failure to furnish a return within the due date, whereas Serial No. 13 provides for twice the prescribed penalty where a person repeats an offence. Each tax period creates an independent statutory obligation; therefore, failure to furnish a return for each successive period constitutes a separate offence. However, repetition under Serial No. 13 requires something beyond the mere numerical succession of defaults. The first default cannot constitute repetition, and the Department must establish that a subsequent offence was committed with the requisite culpability. Since Serial No. 13 is a penal provision, it must be interpreted strictly, and where two reasonable interpretations are possible, the interpretation favourable to the taxpayer must prevail. Furthermore, mens rea is presumed to be an essential ingredient of a punitive statutory offence unless expressly excluded by the legislation. Accordingly, the Department must establish that the repeated default was wilful, contumacious, dishonest or otherwise attended by mens rea. The enhanced penalty applies separately to each default established as a repetition and amounts to twice the penalty prescribed for that particular offence, rather than twice the aggregate penalties imposed for all defaults.

Application: The High Court observed that the obligation to furnish sales-tax returns under Section 30 is periodic, with each month carrying its own return and due date. Consequently, failure to furnish returns for different tax periods constitutes separate offences rather than one continuous offence. However, the Court clarified that the existence of successive defaults alone does not automatically establish repetition under Serial No. 13. The penalty under Serial No. 2 already accounts for the number and duration of defaults; imposing an additional enhanced penalty merely because of successive defaults would effectively penalise the taxpayer twice for the same feature of conduct. The Court further noted that the Department had incorrectly calculated the penalty of Rs.5,004,864 by doubling the aggregate penalty imposed for all twenty-eight tax periods, which was not authorised by the statutory provision. Moreover, although the authorities below had recorded that the respondent deliberately filed null returns and that mens rea was evident, those findings had been made in connection with the penalty under Serial No. 2. The question whether any subsequent default constituted a culpable repetition under Serial No. 13, and from which particular tax period such repetition commenced, had never been examined. The Court therefore held that the Department must establish something beyond the number of defaults, including the requisite knowledge and culpability associated with the subsequent offence. Since these matters involve factual determination, they were required to be examined by the Appellate Tribunal as the last fact-finding forum.

Conclusion: The High Court answered the first question in the negative and held that successive failures to furnish sales-tax returns constitute separate offences, not a single continuous offence. However, it clarified that successive defaults do not, by themselves, establish repetition under Serial No. 13; the Department must independently establish wilfulness, dishonesty, contumacious conduct or mens rea in respect of the repeated offence. The Court further held that the enhanced penalty must be calculated separately for each default proved to be a repetition and cannot be imposed by simply doubling the aggregate penalties for all tax periods. Accordingly, the reference application was disposed of by modifying the Appellate Tribunal's order and remitting the matter to it for fresh determination of whether the respondent had actually repeated an offence and whether such repetition was culpable, after providing both parties an opportunity of hearing. The penalty already maintained under Serial No. 2 remained undisturbed.

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11. SINDH HIGH COURT

Income Tax Reference Application Nos. 393 & 394 of 2024

Mr. Farooq E Azam Versus The Commissioner Inland Revenue, LTO, Karachi & another

Present: **HON'BLE MR. JUSTICE AGHA FAISAL**
DR. SHAH NAWAZ MEMON (AUTHOR),

https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzI3NjQ3Y2Ztcy1kYzgz&citation=2026+SHC+KHI+1982%2C+2026+SHC+KHI+2093
026 SHC KHI 1982, 2026 SHC KHI 2093

Facts: The applicant, a resident individual, declared foreign assets worth Rs.153,194,266 in his wealth statements for tax years 2021 and 2022. However, he did not furnish the separate foreign income and assets statements required under section 116A of the Income Tax Ordinance, 2001, along with his income tax returns. Upon receiving show-cause notices, he submitted the statements on 19 April 2024 and contended that his foreign assets had already been disclosed in his wealth statements, the omission was inadvertent and there was no loss of revenue. The Department imposed a penalty of Rs.3,063,885 for each year, calculated at 2% of the value of foreign assets under Serial No. 1AAA of section 182(1). The Commissioner Inland Revenue (Appeals) upheld the penalties.

Issue: Whether the penalty under Serial No. 1AAA of section 182(1) of the Income Tax Ordinance, 2001, could lawfully be imposed without establishing mens rea, particularly when the foreign assets had already been disclosed in the applicant's wealth statements; and whether the Explanation inserted into section 182 by the Finance Act, 2021, applied to the defaults relating to tax years 2021 and 2022.

Rule: Serial No. 1AAA of section 182(1) prescribes a penalty of 2% of foreign income or the value of foreign assets for each year of default in furnishing the foreign income and assets statement. The Explanation inserted into section 182(2) by the Finance Act, 2021 expressly provides that establishing mens rea is not necessary for imposing a penalty under that section. The Court held that this Explanation operates prospectively from 1 July 2021 because it removes the defence of absence of a guilty mind and thereby increases the taxpayer's exposure to penalty. Nevertheless, the Department must establish, through objective material, that the taxpayer was legally required to furnish the statement and failed to do so within the prescribed time. The taxpayer may demonstrate that no default occurred, but cannot avoid the penalty merely by asserting that the omission was inadvertent or in good faith.

Application: The Court held that the relevant date for determining the applicability of the Explanation was the date on which the default occurred, rather than the tax year to which the statement related. Since the applicant filed his returns for tax years 2021 and 2022 on 29 September 2021 and 2 March 2023, respectively, without furnishing the required statements, both defaults occurred after the Explanation came into force on 1 July 2021. Consequently, the Explanation applied to both tax years. The Court further observed that disclosure of foreign assets in a wealth statement under section 116 does not constitute compliance with the independent obligation under section 116A. The latter requires additional particulars, including foreign liabilities, transfers of foreign assets during the year, consideration received, foreign income and expenditure incurred to derive that income. Therefore, furnishing one statement cannot substitute for the other. The Court also distinguished Aameer Mustaaly Karachiwala v. DCIR, observing that it concerned tax year 2019, when no prescribed form for the section 116A statement existed, and was decided before the

insertion of the Explanation. Accordingly, the applicant could not rely upon that judgment to avoid the penalty.

Conclusion: The Sindh High Court answered the question of law in the negative, against the applicant and in favour of the Department. It held that mens rea was not required to be established for imposing a penalty under Serial No. 1AAA of section 182(1), because both defaults occurred after the Explanation inserted by the Finance Act, 2021 came into force. The Court clarified that the Department must still establish the actual default through objective material and provide an opportunity of hearing, but inadvertence, good faith or disclosure of foreign assets in the wealth statement cannot excuse non-furnishing of the separate statement required under section 116A. Consequently, both reference applications were dismissed with no order as to costs.

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12. **SINDH HIGH COURT**
Aaloo Mal vs. Mukhtiarkar (Revenue), Thatta & Others
Revision Application No.150 of 2017
Present: **Ms. Justice Sana Akram Minhas**
Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzI4NTgzY2Ztcy1kYzgz**
(2026 SHC KHI 2010)

Facts: The applicant filed a suit seeking declaration of ownership and permanent injunction concerning a residential plot measuring 3,500 square yards in District Thatta. The suit was initially dismissed for non-prosecution in 2014 but subsequently restored on payment of costs. Despite repeated opportunities, the applicant failed to diligently pursue his evidence. On 20 October 2016, both the applicant and his counsel remained absent, resulting in a second dismissal for non-prosecution. The restoration application, filed nine days beyond the prescribed limitation period, was dismissed for want of sufficient cause and limitation. The appellate court upheld the decision, whereafter the applicant approached the High Court under Section 115 CPC.

Issue: Whether a suit at the evidence stage can be dismissed under Order XVII Rule 2 CPC for non-appearance, and whether restoration can be refused on account of previous negligence, insufficient medical evidence and an unchallenged order refusing condonation of delay?

Rule: Order XVII Rule 2 CPC permits dismissal for non-prosecution when a party fails to appear on an adjourned hearing date, even at the evidence stage, whereas Rule 3 applies where parties are present but fail to produce evidence or perform a required procedural act. Under Order IX Rule 9 CPC, restoration depends upon sufficient cause for absence on the relevant date. Previous negligence may be considered but cannot independently justify refusal where sufficient cause is established. Article 163 of the Limitation Act, 1908 prescribes thirty days for restoration. These principles were discussed with reference to Khurshed Ali Khan v. Muhammad Ayub (PLD 2025 SC 718), Irfan Rasheed v. Zawar Muhammad Afzal (2026 SCMR 1613), Faryal Arif Latif v. Arif Latif (2025 SCMR 395), and Muhammad Asif v. Fahad (2009 SCMR 1030).

Application: The High Court observed that the mere filing of an affidavit-in-evidence did not prevent the Trial Court from dismissing the suit under Order XVII Rule 2 CPC when both the

applicant and his counsel remained absent. Although previous defaults were relevant to assessing diligence, sufficient cause for absence on 20 October 2016 required independent examination. The medical documents produced to justify the applicant's absence due to his wife's illness related to periods before and after the relevant date and failed to establish sufficient cause. Furthermore, the restoration application was filed nine days beyond limitation, and the separate order refusing condonation of delay remained unchallenged, creating an independent legal impediment to restoration.

Conclusion: The High Court held that dismissal for non-prosecution under Order XVII Rule 2 CPC is permissible even at the evidence stage where the plaintiff fails to appear, and restoration requires sufficient cause specifically connected with the date of default. An unchallenged order refusing condonation of delay cannot be circumvented by challenging only the dismissal of the restoration application. Finding no jurisdictional error warranting interference under Section 115 CPC, the revision was dismissed.

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13. SINDH HIGH COURT

Criminal Bail Application No. 1956 of 2026
Ashfaq Ahmed v. The State

Present: **MR. JUSTICE JAN ALI JUNEJO**

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzI5NTI5Y2Ztcy1kYzgz

Facts: The applicant sought post-arrest bail under Section 497 Cr.P.C. in FIR No. 19/2026, registered under Section 496-A PPC at Police Station Baloch Colony, Karachi. The complainant alleged that his wife, Mst. Momal, had disappeared from home and was abducted by unknown persons. The applicant was subsequently implicated through her statements under Sections 161 and 164 Cr.P.C. The defence maintained that she had voluntarily contracted marriage with the applicant, supported by a Nikahnama, affidavit of free will and photographs. It was further alleged that her subsequent statement was recorded under family pressure.

Issue: Whether non-nomination in the FIR, alleged voluntary marriage, delay in registration of the FIR and absence of independent witnesses constituted sufficient grounds for post-arrest bail under Section 497(2) Cr.P.C.

Rule: Non-nomination in an FIR does not automatically entitle an accused to bail where subsequent investigation connects him with the alleged offence. The Court must tentatively assess the prosecution material, while disputed questions concerning consent, credibility and voluntariness are ordinarily determined during trial.

Application: The Court observed that the FIR was initially registered against unknown persons because the complainant was unaware of his wife's whereabouts. The victim subsequently implicated the applicant in statements recorded under Sections 161 and 164 Cr.P.C. The

defence documents and allegations of family pressure required examination alongside prosecution evidence. Delay, absence of independent witnesses, clean antecedents and incarceration were insufficient in the circumstances to justify bail.

Conclusion: The post-arrest bail application was dismissed because the applicant failed to establish sufficient grounds for further inquiry under Section 497(2) Cr.P.C. Non-nomination in the FIR and production of marriage documents do not, by themselves, justify bail where the victim subsequently implicates the accused and the question of consent remains disputed. The observations concerning the credibility of the victim's statements and voluntariness of the marriage were expressly tentative and left for determination at trial.

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14. **SINDH HIGH COURT**

Criminal Bail Applications Nos. 2630 and 2367 of 2026
Jamsheed and others v. The State

Present: **MR. JUSTICE JAN ALI JUNEJO**

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzI5NTM1Y2Ztcy1kYzgz

Facts: Three juvenile applicants sought post-arrest bail in FIR No. 116/2026, registered under Sections 377/34 PPC at Police Station Ittehad Town, Karachi, concerning allegations of sexual abuse of two ten-year-old children. The applicants argued that no specific role was established, no conclusive DNA or other forensic evidence connected them with the offence, and no video recording or mobile device had been recovered from them. They invoked the Juvenile Justice System Act, 2018, and relied upon the complainant's no-objection to bail. The prosecution opposed bail, relying upon the allegations and the victims' statements.

Issue: Whether juvenility, absence of conclusive forensic evidence, completion of investigation and the complainant's no-objection entitled applicants accused of a serious, non-compoundable sexual offence against minors to post-arrest bail.

Rule: The Juvenile Justice System Act, 2018, provides special safeguards to juveniles, but minority does not automatically establish entitlement to bail. Under Section 497 Cr.P.C., the Court must tentatively examine the available material. In a non-compoundable offence involving minor victims, the complainant's no-objection cannot replace the judicial assessment required by law.

Application: The Court considered the victims' statements under Section 164 Cr.P.C. and observed that the complainant's status as a non-eyewitness did not, by itself, discredit the prosecution. Absence of forensic corroboration, non-recovery of video evidence and discrepancies in the prosecution case were not individually sufficient to justify bail. Although juvenility and completion of investigation were relevant considerations, they

did not automatically override the available prosecution material. The complainant's no-objection was also insufficient because the offence was non-compoundable and involved minor victims.

Conclusion: Both bail applications were dismissed, the Court finding that sufficient grounds for granting post-arrest bail had not been established. Juvenility and the complainant's no-objection do not create an automatic right to bail in a non-compoundable offence involving minor victims. Entitlement must be determined through a tentative assessment of the prosecution material and applicable statutory protections. Questions relating to the evidentiary value of the victims' statements, medical evidence and forensic corroboration were left for determination during trial.

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15. SINDH HIGH COURT

Criminal Bail Application No. 3143 of 2026
Shareem v. The State

Present: **MR. JUSTICE JAN ALI JUNEJO**

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzI5NTI3Y2Ztcy1kYzgz

Facts: The applicant sought post-arrest bail in Crime No. 490/2026, registered under Section 365-B PPC read with Section 3(1) of the Prevention of Trafficking in Persons Act, 2018, at Police Station Orangi Town, Karachi. The complainant alleged that the applicant had abducted his daughter, aged approximately 15 to 16 years, after the complainant rejected a marriage proposal. The defence produced a Nikahnama and affidavit of free will, asserting that the marriage had been contracted voluntarily. Although the alleged abductee initially supported the FIR in her statement under Section 164 Cr.P.C., she subsequently appeared before the Sessions Court and expressed her desire to reside with the applicant, alleging parental pressure in relation to her earlier statement. The complainant also submitted an affidavit of no-objection to bail.

Issue: Whether contradictory statements of the alleged abductee, documentary evidence of marriage and the complainant's no-objection raised sufficient grounds for further inquiry under Section 497(2) Cr.P.C.

Rule: Where material circumstances raise genuine questions concerning the ingredients of the alleged offence, particularly the intention required under Section 365-B PPC, the case may fall within further inquiry under Section 497(2) Cr.P.C. A complainant's no-objection is relevant but not independently decisive.

Application: The Court considered the marriage documents, the alleged abductee's initial and subsequent statements, and the contradiction concerning the circumstances in which she left home. Her subsequent expressions of willingness to reside with the applicant,

together with the available marriage documents, required further examination concerning the alleged abduction and its purpose. The complainant's no-objection and completion of investigation were additional relevant circumstances.

Conclusion: Post-arrest bail was granted under Section 497(2) Cr.P.C., subject to furnishing surety of Rs. 100,000 and a personal recognizance bond in the like amount. Material inconsistencies in the alleged abductee's statements, considered with marriage documents and surrounding circumstances, may create further inquiry concerning the requisite intention under Section 365-B PPC and justify bail. The Court expressly refrained from finally determining whether the marriage was voluntary or the alleged abduction had occurred, leaving those matters to trial.

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16. SINDH HIGH COURT

Criminal Bail Applications Nos. 3227 and 3117 of 2026
Muhammad Yousuf and Muhammad Rehan v. The State

Present: **MR. JUSTICE JAN ALI JUNEJO**

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzI5NTQzY2Ztcy1kYzgz

Facts: The applicants sought post-arrest bail in FIR No. FIR-ACC-KHI-15/2026, registered by FIA Anti-Corruption Circle, Karachi, under Sections 161, 162 and 109 PPC read with Section 5(2) of the Prevention of Corruption Act, 1947. It was alleged that Muhammad Yousuf, an unauthorized passport agent, facilitated passport applications through Muhammad Rehan, a Data Entry Operator at the Regional Passport Office, in exchange for illegal gratification of Rs. 1,000 per application. The prosecution relied principally upon alleged disclosures made during interrogation and WhatsApp communications. The defence argued that no particular applicant, illegal payment, passport transaction or independent corroborative evidence had been identified.

Issue: Whether allegations of corruption founded primarily upon interrogation disclosures, without identification of specific transactions or independent corroborative evidence, justified continued detention where the alleged offences fell outside the prohibitory clause of Section 497(1) Cr.P.C.

Rule: In non-bailable offences falling outside the prohibitory clause of Section 497(1) Cr.P.C., grant of bail is ordinarily the rule and refusal an exception. Alleged disclosures made during interrogation, unsupported by independent and legally admissible corroboration, require cautious consideration. Mere official position does not establish conscious participation in a corrupt transaction.

Application: The Court found that the prosecution had not identified any specific passport applicant, transaction, payment, date or occasion involving illegal gratification. No marked

currency, bank transaction or independently corroborated electronic communication was produced connecting the applicants with the alleged offence. In particular, Muhammad Rehan's official position as Data Entry Operator did not itself establish that he had unlawfully processed applications or received illegal gratification. The offences did not fall within the prohibitory clause, and no exceptional circumstances justified withholding bail.

Conclusion: Both applications were allowed. The applicants were admitted to post-arrest bail subject to furnishing surety of Rs. 50,000 each and personal recognizance bonds in the like amounts. Where the alleged offences fall outside the prohibitory clause of Section 497(1) Cr.P.C., and the prosecution fails to connect the accused with identified corrupt transactions through independent material, bail should ordinarily be granted unless exceptional circumstances warrant refusal. The Court left the question of actual misuse of official functions and the ultimate evidentiary worth of the alleged disclosures to the trial court.

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17. **SINDH HIGH COURT**
Mahesh Kumar vs. The State and Another
Special Criminal Appeal No. 41 of 2026

Present: **MR. JUSTICE JAN ALI JUNEJO**
Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzI5NTQ5Y2Ztcy1kYzgz**
(2026 SHC KHI 2130)

Facts: The appellant, proprietor of M/s Asian Talc Importer & Exporter, was implicated in FIR No. 07 of 2025 concerning alleged sales-tax evasion of Rs. 240,924,972 through adjustment of fake input tax generated by fictitious registered units. The investigating agency obtained a provisional attachment order dated 26 December 2025 under Section 8 of the Anti-Money Laundering Act, 2010 (AMLA), restraining the appellant's properties and bank accounts on the allegation that they represented proceeds of crime. The appellant's applications for de-attachment were dismissed by the Special Judge on 18 July 2026, primarily on the ground that the proper remedy was an appeal under Section 23 AMLA. The appellant challenged the order, contending that no predicate offence, money trail or lawful extension of attachment had been established.

Issue: Whether provisional attachment under Section 8 AMLA can continue without sufficient material establishing a scheduled predicate offence, a nexus between alleged proceeds of crime and attached assets, and compliance with the statutory limitation period of 180 days?

Rule: Sections 3 and 8 AMLA require identification of a scheduled predicate offence, proceeds of crime and a reasonable evidentiary basis connecting the attached property with money laundering. Although a prior conviction for the predicate offence is unnecessary under Explanation II to Section 3, mere allegations of tax evasion do not automatically constitute proceeds of crime. Section 8 permits provisional attachment for a period not exceeding 180 days, subject to lawful extension. In Arshad Aziz Abbasi and others v. Special Judge,

Customs, Taxation and Anti-Smuggling-I, Karachi and another (**2026 SCMR 775**), the Supreme Court held that provisional attachment orders are appealable under Section 23 AMLA and remain subject to judicial scrutiny regarding statutory safeguards, reasonable belief and protection of property rights.

Application: The High Court observed that the prosecution had alleged fake input-tax adjustments involving approximately Rs. 240 million but failed to provide transaction-wise evidence, identification of relevant invoices or a money trail connecting the alleged proceeds with the attached properties and bank accounts. The Court clarified that pending tax proceedings do not prevent an independent money-laundering investigation, but neither do they conclusively establish a predicate offence. Moreover, the attachment dated 26 December 2025 had completed its statutory period of 180 days by 24 June 2026, and no valid extension was demonstrated on the available record. The Special Judge had failed to examine these essential requirements and wrongly treated withdrawal of an earlier appeal as a bar to questioning the continuing legality of attachment.

Conclusion: The High Court held that provisional attachment under Section 8 AMLA cannot continue indefinitely without statutory compliance, sufficient foundational material and a demonstrable nexus between the alleged proceeds of crime and attached assets. Accordingly, the appeal was allowed, the impugned order dated 18 July 2026 was set aside, and the attachment was directed to stand discharged unless a valid statutory extension or subsequent lawful order was established before the competent Court.

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