HIGH COURT OF SINDH

Case Law Review

Fortnightly Bench Update

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FORTNIGHTLY BENCH UPDATE

(01-08-2026 to 15-08-2026)

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

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1. **Federal Constitutional Court of Pakistan**
C.P.L.A. No. 4153 of 2022
Bashir Hussain through Mst. Abida Parveen v. Government of Khyber Pakhtunkhwa

Present: *Hon'ble Mr. Justice Amin-ud-Din Khan, Chief Justice*
Hon'ble Mr. Justice Syed Arshad Hussain Shah
Source: www.fccp.gov.pk/download/eyJpdiI6InVVQ0RMRW1hb29aUldvOTQ4QVZWWFE9PSIsInZhbHVlIjoidUtHMFNEZzRyRDlCNVVPRkJVQUFKZz09IiwibWFjIjoiNjZhMzI4YzA4Zjc5NzA5MjllMTgwNjIwYjY1OTI4YjQ1M2Q4ZTg0YjIyMGI5Y2Y5ZTc3NTI5Y2RmNjQ4MWQ1OSIsInRhZyI6IiJ9

Facts: The employee retired with a shortage of 10 months and 25 days in qualifying service. The competent authority condoned this shortage, but pension was still withheld. After his death, his widow claimed family pension, which the High Court refused.

Issue: Whether the widow was entitled to family pension after the shortage in qualifying service had been lawfully condoned.

Rule: Under CSR 423(2), the competent authority may condone a shortage of more than six months but less than one year where the required conditions are met. Pension is an enforceable right protected by Articles 9 and 14 of the Constitution, not a favour by the State (2026 SCMR 449). Where two interpretations are possible, the one beneficial to the employee should be adopted (1990 SCMR 1685).

Application: The Local Council Board had adopted the Government Pension Rules. The competent authority had already condoned the shortage, while the employee's Best Performance Certificate proved satisfactory service. The High Court failed to consider these documents and CSR 423(2)(b).

Conclusion: The appeal was allowed. The widow was declared entitled to family pension, gratuity, commutation, arrears, lawful increases and all related benefits, which were ordered to be released immediately.

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2. **THE SUPREME COURT OF PAKISTAN**
Ghulam Muhammad v. Mian Ahmed Bakhsh
C.P.L.A. No. 3303/2024

Present: *Hon'ble Mr. Justice Naeem Akhter Afghan*
Hon'ble Mr. Justice Shahid Bilal Hassan
Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p._3303_2024.pdf
SC Citation: 2026 SCP 239

Facts: The High Court upheld the judgment declaring Mutation No. 60 invalid. The Supreme Court refused leave to appeal through a reasoned order. Some persons claiming an interest in the property filed applications under section 12(2), CPC before the High Court. The High Court declined to hear them, holding that the applications should be filed before the Supreme Court.

Issue: Which court can hear an application under section 12(2), CPC after the Supreme Court has refused leave to appeal?

Rule: An application under section 12(2), CPC must ordinarily be filed before the court whose judgment remains effective. Mere refusal of leave by the Supreme Court does not replace the High Court's judgment: Government of Sindh v. Ch. Fazal Muhammad (PLD 1991 SC 197); Secretary, Ministry of Religious Affairs v. Syed Abdul Majid (1993 SCMR 1171*);* Khawaja Muhammad Yousaf v. Federation (1999 SCMR 1516); Abid Kamal v. Muddassar Mustafa (2000 SCMR 900); and Muhammad Yousuf v. Noor Din *(*PLD 2002 SC 391).

Application: The Supreme Court had only refused leave. It had neither reversed the High Court's judgment nor replaced its findings. Therefore, the High Court remained competent to decide the applications. Under Sahabzadi Maharunnisa v. Mst. Ghulam Sughran (PLD 2016 SC 358) and Nasrullah Khan v. Mukhtar-ul-Hassan (PLD 2013 SC 478), the Supreme Court may hear such an application in an exceptional case where its detailed order has already decided the questions sought to be reopened. This exceptional power does not remove the High Court's jurisdiction.

Conclusion: The Supreme Court set aside the High Court's order and restored the applications under section 12(2), CPC for fresh decision. Questions concerning limitation, standing, fraud and maintainability were left open. The appeals against the Registrar's refusal to accept applications before the Supreme Court were dismissed.

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3. **SINDH HIGH COURT**
Najeebullah and others v. The Province of Sindh and others
Constitutional Petition No.D-1092 of 2024

Present: *Mr. Justice Adnan-ul-Karim Memon*
Mr. Justice Muhammad Jaffer Raza
Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzE5MDExY2Ztcy1kYzgz
SHC Citation: 2026 SHC KHI 1525

Facts: The petitioners, employees of the Livestock & Fisheries Department, filed a contempt application alleging willful and deliberate non-compliance with the order dated 30.10.2025 passed in Constitutional Petition No. D-1092 of 2024. They contended that the Court had directed the respondents to consider their cases for regularization in the same manner as other similarly situated employees, particularly those who had obtained regularization pursuant to the Provincial Cabinet decision dated 29.03.2018 and the judgments in C.P. No. D-7528 of

2018 (Shahnawaz & others) and C.P. No. D-4291 of 2020 (Muhammad Younis & others). According to the petitioners, despite the judgments having attained finality and there being no stay order, the respondents failed to extend the same benefit to them, thereby amounting to discrimination and contempt of Court. The respondents, however, maintained that they had taken steps to comply with the order by referring the matter for legal opinion. The Law Department opined on 17.11.2025 that the petitioners, having been appointed in 2015, did not fall within the Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013, and that no existing statutory provision or policy presently permitted their regularization. It was further stated that the proposed Sindh Regularization of Livestock and Fisheries Department Employees (Contract Basis) Act, 2018 had not yet been enacted.

Issue: Whether the respondents had willfully, deliberately and intentionally disobeyed the Court's order dated 30.10.2025 so as to attract contempt jurisdiction, particularly when the said order had not directed immediate or automatic regularization of the petitioners and no statutory framework or government policy presently existed for their regularization?

Rule: The Court applied the settled principle that contempt jurisdiction is penal in nature and may be invoked only where there is clear, intentional and willful disobedience of a specific and unequivocal direction issued by the Court. Mere non-compliance, inability or delay in implementing an order does not constitute contempt where the alleged contemnor has acted bona fide and has taken reasonable steps towards compliance. The Court further relied upon its own order dated 30.10.2025, which had specifically recognized that, in the absence of an existing statutory provision or policy, automatic regularization could not be directed, particularly in view of the judgment of the Hon'ble Supreme Court in *Vice Chancellor, Agriculture University v. Muhammad Shafique and others*. The Court also recognized that a claim of discrimination concerning entitlement to regularization pertains to the merits of the substantive claim and cannot, by itself, enlarge contempt proceedings into execution proceedings for granting relief beyond the scope of the original order.

Application: Applying these principles, the Court examined the actual tenor of the order dated 30.10.2025 and found that the respondents had not been directed to regularize the petitioners forthwith. Rather, they were required to consider their cases if and when the proposed legislation was enacted or any policy decision concerning regularization was taken by the Government, and such consideration was to be made in accordance with law and without discrimination. The record demonstrated that, immediately after the order, the Livestock & Fisheries Department processed the matter and sought legal advice through the learned Advocate General, Sindh. The resulting legal opinion confirmed that the petitioners were outside the scope of the 2013 Regularization Act and that no existing policy authorized their regularization. Since the proposed 2018 legislation had also not been enacted, the contingency upon which further consideration of the petitioners' cases was dependent had not arisen. Consequently, the respondents' conduct could not be characterized as intentional or deliberate defiance of the Court's order. The petitioners' assertion that similarly situated employees had previously been regularized could not alter the scope of contempt jurisdiction because such a claim concerned their substantive entitlement and would require adjudication independently of the contempt proceedings.

Conclusion: The Court concluded that no case of willful, deliberate or intentional disobedience of the order dated 30.10.2025 had been established. The respondents had taken steps towards compliance and had acted on the basis of the prevailing statutory and policy framework and the legal opinion obtained by them. Accordingly, the contempt application was dismissed. However, the Court clarified that if the proposed legislation is enacted or any policy concerning regularization is subsequently framed by the Government of Sindh, the respondents shall consider the petitioners' cases strictly in accordance with law, without discrimination, and in light of the observations contained in the order dated 30.10.2025.

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4. **SINDH HIGH COURT**
Hussain Shahid v. Province of Sindh and others
Constitutional Petition No.D-4782 of 2026

Present: *Mr. Justice Adnan-ul-Karim Memon*
Mr. Justice Muhammad Jaffer Raza
Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzE5MDEzY2Ztcy1kYzgz
SHC Citation: 2026 SHC KHI 1526

Facts: The Petitioner, engaged in the transportation and logistics business under the name and style of *Deer Logistic Solutions*, submitted an application for membership of Respondent No.3 on 30.10.2023 after fulfilling the prescribed requirements under Articles 1(g) and 3(a) of its Articles of Association. Although the application was duly acknowledged, Respondent No.3 neither communicated any deficiency nor passed any order accepting or rejecting the application despite the lapse of considerable time. The Petitioner also submitted representations and issued a legal notice dated 16.06.2026 to the Respondents, but received no response. He therefore invoked the constitutional jurisdiction of the High Court under Article 199 of the Constitution, alleging that the prolonged inaction was arbitrary, discriminatory and violative of Articles 4, 18 and 25 of the Constitution. He sought directions for consideration and decision of his membership application in accordance with the Articles of Association and treatment at par with similarly situated transport organizations.

Issues: **(i).** Whether a constitutional petition under Article 199 of the Constitution was maintainable against Respondent No.3, a private body/company/association governed by its Articles of Association, in respect of its alleged failure to process and decide the Petitioner's membership application?

(ii). Whether such non-decision could be characterized as an arbitrary exercise of public authority or as a violation of the Petitioner's fundamental rights under Articles 4, 18 and 25 of the Constitution so as to attract the extraordinary constitutional jurisdiction of the High Court?

Rule: The Court applied the settled principle that the extraordinary jurisdiction under Article 199 of the Constitution is primarily available against persons, authorities or bodies performing public functions, exercising statutory powers, or otherwise amenable to writ jurisdiction. Constitutional judicial review is intended to correct unlawful exercise of public power and ordinarily cannot be invoked for enforcement of purely private, contractual or internal rights.

A private association does not become a public authority merely because it has Articles of Association requiring fair or objective consideration of applications. Similarly, the mere assertion of violation of fundamental rights does not, by itself, confer writ jurisdiction against a private entity. To invoke Article 199, the petitioner must establish that the respondent performs a statutory or public function, is an instrumentality of the State, or has a sufficient nexus with governmental authority.

Application: Applying these principles, the Court found that the entire grievance of the Petitioner arose from Respondent No.3's alleged failure to process his membership application under its Articles of Association. The obligation relied upon by the Petitioner emanated from the internal regulatory framework of the association and not from any statutory provision. The Petitioner failed to produce material showing that Respondent No.3 was a statutory body, an instrumentality of the State, or controlled, financed, regulated or supervised by the Government in a manner that would make its membership decisions subject to constitutional judicial review. Nor was it demonstrated that membership of Respondent No.3 carried any statutory consequence or public character. Consequently, even if the prolonged non-decision amounted to a breach of the association's internal rules or gave rise to a private cause of action, it did not constitute failure to perform a public duty. The Court further held that the doctrines of arbitrariness, legitimate expectation and fair treatment, in the circumstances of the case, could not transform a private membership dispute into a public-law matter. Likewise, reliance upon Articles 4, 18 and 25 of the Constitution could not overcome the fundamental requirement of establishing that Respondent No.3 was amenable to writ jurisdiction. The appropriate remedy, if any, therefore lay before the competent forum dealing with private, contractual or corporate disputes.

Conclusion: The Court concluded that the Petitioner's grievance concerning the delayed or non-decision of his membership application was essentially a private dispute arising from the internal affairs and Articles of Association of Respondent No.3. Since the Petitioner failed to establish that Respondent No.3 performed any statutory or public function or was otherwise amenable to writ jurisdiction under Article 199, the constitutional petition was held to be not maintainable. Accordingly, the petition was dismissed in limine**.** The Court, however, clarified that the Petitioner remained at liberty to avail any other remedy available to him under the relevant law before the competent forum.

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5. **SINDH HIGH COURT**
Ghulam Qadir and another v. Province of Sindh and others
Constitutional Petition No.D-4801 of 2026

Present: *Mr. Justice Adnan-ul-Karim Memon*
Mr. Justice Muhammad Jaffer Raza
Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzE5NTUzY2Ztcy1kYzgz
SHC Citation: 2026 SHC KHI 1539

Facts: The Petitioners invoked the constitutional jurisdiction of the High Court under Article 199 of the Constitution seeking directions for proper administration, transparency and lawful management of the public religious and charitable trust known as "Jamia Masjid Al-Dua Wa Madarsa Ahle Sunnat Wal Jamaat Hanfi Barelvi Trust." Petitioner No.1 claimed to be one of the original trustees of the Trust, which was established through a registered Trust Deed and was created for religious, educational, charitable and social welfare purposes. The Petitioners alleged that the original Board of Trustees had become dysfunctional because several trustees had died, become inactive or were unavailable, while Respondent No.4 continued to exercise exclusive control over the Trust. It was alleged that meetings and elections had not been conducted for several years and that accounts, audit reports, bank statements, donation records and other Trust documents had not been disclosed. The Petitioners therefore sought, inter alia, rendition of accounts, production and verification of Trust records, reconstitution of the Board of Trustees, appointment of an independent Election Committee/Commissioner or Nazir, framing of a scheme for future administration and restraint against alienation of Trust properties. The Petitioners had also approached the District & Sessions Judge, Karachi-South, and subsequently obtained the requisite permission to institute proceedings under Section 92 of the Code of Civil Procedure, 1908.

Issue: Whether the Petitioners' grievances concerning the administration, management, accounts, reconstitution of trustees and other affairs of a public religious and charitable trust could properly be adjudicated through the constitutional jurisdiction of the High Court under Article 199, or whether the Petitioners were required to pursue the specific remedy provided under Section 92 of the Code of Civil Procedure, 1908 before the competent civil court?

Rule: The Court applied the principle that the constitutional jurisdiction under Article 199 is an extraordinary and discretionary remedy and ordinarily should not be invoked where the law provides an adequate and specific statutory remedy for resolution of the dispute. Matters concerning the administration of public charitable or religious trusts, including settlement of schemes, rendition of accounts, removal or replacement of trustees and regulation of trust affairs, fall within the scope of proceedings contemplated under Section 92 CPC. Such proceedings generally require examination of trust deeds, determination of disputed questions of fact, consideration of evidence concerning the conduct of trustees and adjudication by the competent civil court. Therefore, where a specific statutory mechanism is available for resolving such disputes, the High Court ordinarily does not exercise its constitutional jurisdiction in substitution of that remedy.

Application: Applying the above principles, the Court found that the substance of the Petitioners' grievance related to the internal administration and management of the public religious and charitable Trust. The reliefs sought, including production and verification of records, rendition of accounts from 2005 onwards, reconstitution of the Board of Trustees, appointment of an Election Committee or Commissioner, framing of an administrative scheme and regulation of Trust properties, were matters falling squarely within the scope of proceedings under Section 92 CPC. The controversy also involved matters requiring examination of the Trust Deed, the conduct of the trustees and other factual issues, which were more appropriately determinable by the competent civil court. When the Court drew attention to the requirement of permission under Section 92 CPC, learned counsel for the Petitioners informed the Court that the Petitioners had already obtained the requisite consent permission for instituting proceedings before the competent forum. Counsel further stated that the Petitioners intended to pursue all their grievances and seek appropriate relief before that forum and, consequently, did not wish to press the constitutional petition. The Court found the request reasonable and accepted the same.

Conclusion: The Court concluded that the Petitioners' grievances were to be appropriately entertained before the competent civil court under Section 92 CPC rather than through the extraordinary constitutional jurisdiction under Article 199 of the Constitution. In view of the statement of learned counsel that the Petitioners did not wish to press the constitutional petition and had already obtained permission to pursue the appropriate civil remedy, the petition was disposed of as not pressed**.** The Petitioners were expressly granted liberty to pursue their remedy before the competent forum/civil court in accordance with law, with a clarification that the concerned court would adjudicate the matter independently on its own merits and would not be influenced by any observation made in the constitutional proceedings.

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6. **SINDH HIGH COURT**
C.P. No. D – 4755 of 2026
Akhtar Hameed Khan & others versus P.O. Banking Court-III & others

Present: *Mr. Justice Yousuf Ali Sayeed and Mr. Justice Adnan Iqbal Chaudhry*
Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzE5NTYxY2Ztcy1kYzgz
SHC Citation 2026 SHC KHI 1540

Facts: The Petitioners (defendants in Suit No. 74/2020 pending before Banking Court No. III, Karachi) filed a constitutional petition challenging the Banking Court's order dated 15.07.2026. That order allowed Respondent No. 2 (the plaintiff) to produce further documents in evidence under Order XIII Rules 1 & 2 of the Code of Civil Procedure (CPC). The Petitioners contended that an earlier order dated 31.01.2026 (also under Order XIII Rules 1 & 2 CPC) had already permitted production of certain documents; therefore, a second application for further documents was not maintainable.

Issues: Whether a constitutional petition under Article 199 of the Constitution is maintainable to challenge an interlocutory order of a Banking Court when an appeal is barred by statute. Whether the order allowing production of further documents could be assailed in writ jurisdiction.

Rules: Section 22(1) of the Financial Institutions (Recovery of Finances) Ordinance, 2001 (FIO) provides for appeal only against a judgment, decree, sentence, or final order of a Banking Court. Section 22(6) of the FIO expressly bars appeal, review, or revision against interlocutory orders of the Banking Court (except certain specified orders under sections 15(11) and 19(7)) that do not dispose of the entire case. Settled principle of law (as held by the Supreme Court in Saghir Ahmad Naqvi v. Province of Sindh (1996 SCMR 1165) and President, All Pakistan Women Association, Peshawar Cantt v. Muhammad Akbar Awan (2020 SCMR 260)): Where a statute bars appeal against interlocutory/interim orders, a party cannot circumvent the bar by invoking the constitutional jurisdiction of the High Court. The affected party must wait for the final judgment and then challenge the interlocutory order along with it (doctrine of merger). Similar bars exist in other special statutes (e.g., Banking

Companies Ordinances, Cantonments Rent Restriction Act, Sindh Rented Premises Ordinance, Family Courts Act). The legislative intent is to prevent fragmented litigation and ensure speedy disposal of the main case. High Court precedents applying this principle to section 22(6) FIO: Sajid Brothers & Co. v. Manager Allied Bank Ltd. (2012 CLD 1858), Bank of Punjab v. AMZ Ventures Ltd. (2013 CLD 2033), Sheikh Muhammad Usman v. Judge, Banking Court No.1 (2015 CLD 257), and Bank of Punjab v. Amtex Ltd. (2015 CLD 1682).

Application: The impugned order is purely interlocutory and does not dispose of the entire case. Counsel's argument that the statutory bar on appeal makes a constitutional petition maintainable was rejected. Allowing such a petition would amount to circumventing the clear legislative bar in section 22(6) FIO and defeating the object of expeditious disposal of banking recovery matters. No exceptional circumstances were shown to distinguish the binding Supreme Court and High Court precedents. Constitutional jurisdiction is equitable and discretionary and cannot be used to defeat a valid statutory provision.

Conclusion: The petition was dismissed in limine. The Petitioners may challenge the interlocutory order (if still aggrieved) along with the final judgment and decree under the doctrine of merger.

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7. **SINDH HIGH COURT**
1st Appeal No.S-35 of 2023
Dileep Kumar vs Dileep Kumar

Present: Hon'ble Mr. Justice Jawad Akbar Sarwana
Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzE5NTkzY2Ztcy1kYzgz
SHC Citation: 2026 SHC HYD 1542

Facts: The plaintiff obtained a decree under Order XXXVII, CPC based on a dishonoured cheque. The defendant claimed that the cheque was only security for a Bachat Committee and not a business transaction.

Issue: Whether the cheque related to a Bachat Committee, making the summary suit not maintainable.

Rule: A party raising a defence must prove it through clear and consistent evidence. A witness cannot later introduce a defence that was neither pleaded nor stated by the defendant himself.

Application: The defendant failed to provide the committee's amount, members or payment details. His legal notice also did not mention any committee. His brother's later statement contradicted and attempted to improve the defendant's case. The dishonour of the cheque and the plaintiff's business claim remained proved.

Conclusion: The defence was rejected, the decree was upheld, and the appeal was dismissed.

8. **SINDH HIGH COURT**
Dost Ali v/s. The State
Criminal Appeal No.D-27 of 2024, Cr. Confirmation Case No.D-18 of 2024 and Criminal Appeal No.S-24 of 2024

Present: *Mr Justice Riazat Ali Sahar and Mr Justice Ali Haider 'Ada'*
Source: https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzE4NzU5Y2Ztcy1kYzgz&citation=2026+SHC+LAR+1514
Sindh High Court Citation (2026 SHC LAR 1514)

Facts: The prosecution case was that on 28.03.2022, a police party, while on routine patrol near Village Fareed Jatoi, heard cries for help and rushed to the house of accused Dost Ali, where they allegedly saw him armed with a 12-bore DBBL gun. According to the prosecution, the appellant fired at Norez Jatoi and, after reloading his weapon, fired another shot at Mst. Samul, resulting in their deaths at the spot, allegedly on the pretext of Karo Kari. The appellant escaped but was arrested a few days later, on 01.04.2022, and an unlicensed 12-bore DBBL gun along with live cartridges was recovered from his possession. The recovered weapon was subsequently sent for ballistic examination and was reported to have been used in the commission of the offence.

Issue: Whether the prosecution had proved beyond reasonable doubt that the appellant committed the qatl-i-amd of Norez Jatoi and Mst. Samul and was in unlawful possession of the firearm used in the occurrence, and whether the alleged discrepancies, non-examination of private witnesses, and purported defects in the investigation and forensic evidence created reasonable doubt or justified interference with the convictions and death sentence.

Rule: A conviction may be based on reliable and confidence-inspiring ocular evidence when it is corroborated by medical, documentary and forensic evidence. The testimony of police officials is not unreliable merely because of their official status, and minor discrepancies that do not affect the core of the prosecution case do not warrant acquittal. In a case involving capital punishment, the appellate Court must independently reappraise the evidence and consider whether any mitigating circumstance exists warranting reduction of the death sentence.

Application: The Court found the ocular account of ASI Loung Khan Mangi and PC Nisar Ahmed Mahar consistent and trustworthy regarding the appellant's presence, identity, weapon and specific role of firing separately at both deceased after reloading the DBBL gun. Their evidence was corroborated by the medical evidence, prompt investigative proceedings, recovery of blood-stained articles and crime empties, and the positive chemical and ballistic reports. The recovered 12-bore DBBL gun was forensically linked with the crime empties, while the evidence of the Malkhana and dispatch officials established its safe custody and transmission. The Court held that the non-examination of private witnesses and the fact that the principal witnesses were police officials did not undermine the prosecution case, particularly when no motive for false implication was established. The alleged discrepancies were found to be minor and incapable of affecting the substratum of the prosecution case. The recovery of the unlicensed firearm and live cartridges was also independently proved, justifying the conviction under the Sindh Arms Act. While considering the death sentence, the Court compared the case with Ghulam Rasool v. The State (2025 SCMR 74) and found that the mitigating circumstances present in that case—such as delayed FIR, uncertainty regarding the fatal role, lack of forensic linkage, sudden occurrence, acquittal of a co-accused, and prolonged incarceration—were absent here. Instead, the occurrence was directly witnessed, the appellant had a specific and successive role in killing both victims, and the recovered weapon was positively linked with the crime empties.

Conclusion: The Court held that the prosecution had proved the appellant's guilt beyond reasonable doubt and that no material illegality, misreading or non-reading of evidence warranted interference with the trial Court's findings. Both criminal appeals were dismissed, and the convictions and sentences under Section 302(b), PPC and Sections 23(1)(a) and 25 of the Sindh Arms Act, 2013, were maintained. As no legally sustainable mitigating circumstance was found, the Murder Reference was answered in the affirmative and the death sentence was confirmed under Section 376(a), Cr.P.C.

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9. **SINDH HIGH COURT**
Ahmed Safder v. The State
Criminal Bail Application No. 936 of 2026

Present: *Mr. Justice Jan Ali Junejo*
Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzE5NTExY2Ztcy1kYzgz
2026 SHC KHI 1536

Facts The applicant sought confirmation of pre-arrest bail in Crime No. 114/2012 under sections 302/324 PPC, P.S. Darakhshan, Karachi. The FIR regarding the murder of Bilal Khan and firearm injuries to complainant Khan Dil was initially lodged against unknown persons. The applicant was implicated about thirteen years later and identified in a Test Identification Parade conducted on 26.01.2026. He argued that no prior description of the assailants existed, the witnesses had allegedly seen him before the TIP, no weapon was recovered, and his alleged connection with vehicle No. ATH-450 did not establish participation. He had surrendered, joined investigation and cooperated with the police. The complainant and State opposed bail on the basis of the injured eyewitness account, vehicle linkage, identification and the applicant's prolonged abscondence.

Issues Whether the material reasonably connected the applicant with the offences; whether the delayed identification and vehicle linkage were sufficient at the bail stage; whether prolonged abscondence disentitled him from pre-arrest bail; and whether the case called for further inquiry under section 497(2), Cr.P.C.

Rules At the bail stage, the Court makes a tentative assessment to determine whether reasonable grounds connect the accused with the offence or the case requires further inquiry under section 497(2), Cr.P.C. Gravity of the offence alone is insufficient to deny bail. Delayed identification, especially without any prior description and where prior exposure is alleged, requires cautious scrutiny. Abscondence is an adverse circumstance but is not substantive evidence of guilt. Pre-arrest bail may be granted where the material creates doubt regarding involvement and custodial interrogation is unnecessary.

Analysis The Court found that the applicant was neither named nor described in the FIR or earliest statements and was implicated after an extraordinary delay. The TIP conducted after about thirteen years was not treated as conclusive because no prior description had been given and prior exposure of the witnesses was alleged. The vehicle allegedly connected with the applicant did not by itself prove his presence or participation, particularly when no weapon, forensic evidence or independent corroboration linked him with the firing. Although his prolonged abscondence was an adverse factor, it could not outweigh the weaknesses in the substantive prosecution material. The applicant had subsequently surrendered, joined investigation and remained available to the Court, while investigation was complete and no specific purpose for custodial interrogation was shown. These circumstances made his involvement a matter of further inquiry.

Conclusion The High Court confirmed the interim pre-arrest bail and directed the applicant to attend trial. It held that the delayed implication, absence of his name or description in the FIR, doubtful identification, absence of a specific firing role, lack of weapon recovery and independent corroboration brought the case within section 497(2), Cr.P.C. The ratio decidendi was that such circumstances, coupled with completion of investigation and absence of necessity for custodial interrogation, justify further inquiry despite the seriousness of the offence and alleged abscondence. The observations concerning identification, abscondence and evidentiary weaknesses were tentative and did not constitute final findings on guilt.

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10. **SINDH HIGH COURT**
Mst. Sasui Lohar v/s. The State and others
Criminal Misc. Application No. S-172 of 2026

Present: *Mr Justice Ali Haider 'Ada'*
Source: https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzE4NTE1Y2Ztcy1kYzgz&citation=2026+SHC+LAR+1507
Sindh High Court Citation (2026 SHC LAR 1507)

Facts: The applicant, Mst. Sasui Lohar, lodged an FIR on 02.03.2024 under Sections 302 and 34 PPC against respondents No.5 and 6, specifically alleging their involvement in the murder of her father, while also mentioning unknown accused persons. During investigation, three empty 9mm pistol cartridges were recovered from the place of occurrence. The Investigating Officer submitted an "A-Class" final report, but the Judicial Magistrate initially rejected it and ordered further investigation twice. After three investigations, the Magistrate ultimately accepted the third "A-Class" report on 24.04.2026 and consigned the case to record as untraced. Aggrieved, the complainant challenged the order before the High Court, contending that a case involving specifically nominated accused could not legally be treated as "untraced

Issue: Whether the learned Judicial Magistrate was justified in accepting an "A-Class" final report and consigning the murder case to record as untraced despite the fact that the accused persons had been specifically nominated in the FIR.

Rule: An "A-Class" classification applies to a case which is found to be true but the offender remains unknown or untraced despite reasonable efforts. The classification under Section 173 Cr.P.C. is subject to judicial scrutiny, and the Magistrate must independently determine whether the case falls within the relevant class. The Police Rules, 1934, including Rules 24.4, 24.7 and 27.39, regulate doubtful, cancelled and untraced cases.

Application: The Court observed that respondents No.5 and 6 had been specifically nominated in the FIR for the murder of the applicant's father. Therefore, the case could not legally be treated as "untraced" merely because the investigation failed to collect incriminating evidence against them. The Investigating Officer was required either to submit sufficient evidence for trial or seek disposal under an appropriate class recognised by law. The Magistrate failed to appreciate the true scope of A-Class and thus committed a material illegality in accepting the report.

Conclusion: The High Court allowed the application, set aside the order dated 24.04.2026 accepting the A-Class report, and directed the learned Judicial Magistrate to reconsider the material independently and pass a fresh, well-reasoned speaking order in accordance with law.

SELECTED ARTICLE

Constitutional Guarantees and Fiscal Enforcement: A Doctrinal Study of Income Tax in Pakistan through the Lens of Article 10A and Due Process in Tax Cases

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This article examines income-tax enforcement in Pakistan as a constitutional, rather than merely fiscal or administrative, concern. Through a doctrinal analysis of the Constitution of Pakistan, the Income Tax Ordinance, 2001, and superior court jurisprudence, it evaluates the legality of assessments, audits, searches, seizures, penalties and prosecutions in light of Articles 4, 10A, 14, 23, 24, 25 and 77. The article principally argues that Article 10A applies throughout tax proceedings and requires adequate notice, a meaningful opportunity of hearing, disclosure of relied-upon material, impartial adjudication, reasoned decisions and resolution within a reasonable time. Although the existing framework theoretically protects taxpayers against arbitrary or discriminatory action, inconsistent enforcement, excessive discretion and weak institutional safeguards undermine public confidence and voluntary compliance. The article concludes that sustainable revenue collection depends upon rights-based enforcement rather than coercion alone. It recommends statutory alignment of the Income Tax Ordinance with Article 10A, documented and risk-based audits, proportional use of intrusive powers, independent appellate oversight, digital access to proceedings and clearer judicial standards governing due process in tax administration.