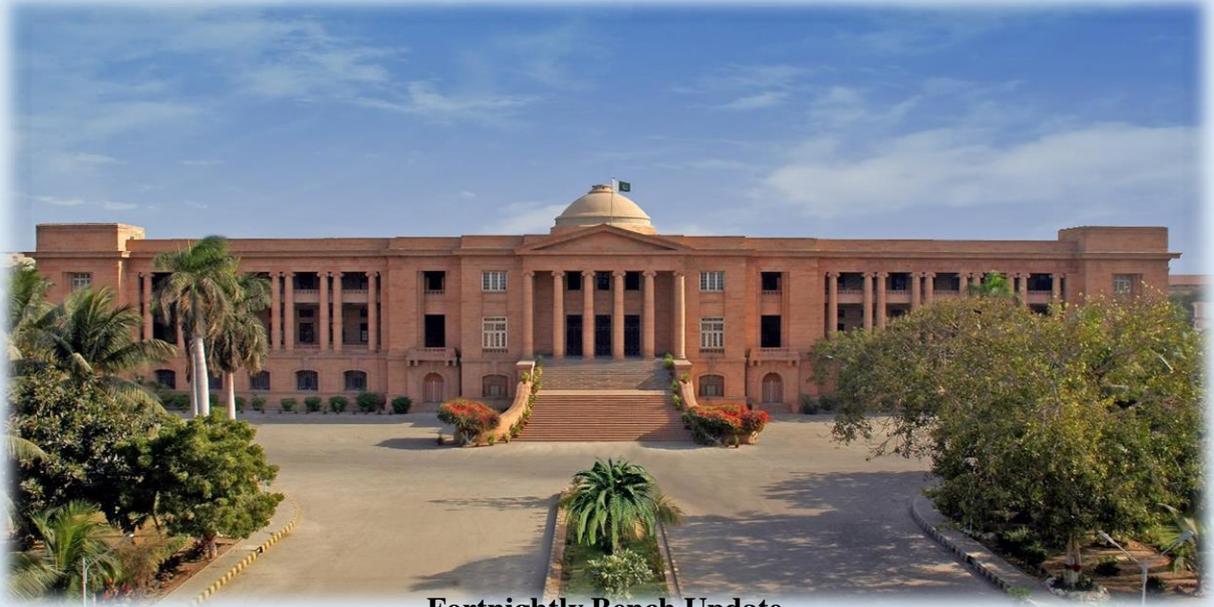




HIGH COURT OF SINDH

Case Law Review



Fortnightly Bench Update



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FORTNIGHTLY BENCH UPDATE

(01-02-2026 to 15-02-2026)

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

NOTABLE JUDGMENTS

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| 2 | | Whether the High Court, under Article 199 of the Constitution, 1973, could lawfully issue a writ of mandamus compelling the university to conduct a "special/super supplementary examination" for the respondent student (who missed exams due to kidney transplant surgery and recovery) in the absence of any statutory, regulatory, or legal provision authorizing such an examination, or whether this constituted impermissible judicial overreach by granting equitable or compassionate relief overriding the law. | | 8 |
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| 4 | Islamabad High Court | Whether a regular second appeal under Section 102 of the Code of Civil Procedure, 1908 (CPC), is maintainable in the Islamabad Capital Territory (ICT) when no pecuniary limit has been prescribed post-2023 amendment, and if not, whether the appeal can be converted into a civil revision under Section 115 CPC; and on merits, whether the first appellate court's decree for recovery of Rs.1,580,000/- with markup, based on the respondent's claim of a transmitted loan not repaid or properly adjusted by the petitioner, is sustainable given the evidence and admissions on record. | Civil Law | 12 |

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| 5 | Islamabad High Court | Whether AGAR (5%/7.5% of annual gross advertisement revenue as part of annual renewal fee for satellite TV licenses) is ultra vires the PEMRA Ordinance, 2002 and Constitution; whether it constitutes a valid regulatory fee without quid pro quo, reasonable and non-excessive; whether 2023 amendments abolishing AGAR apply retrospectively; and whether demand notices for AGAR arrears are lawful (issued without authority, show cause notices, or due process). | Constitutional Law | 13 |
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1. FEDERAL CONSTITUTIONAL COURT OF PAKISTAN

Regarding Independent and Transparent Investigation into the Murder of Renowned Journalist, Mr. Arshad Sharif, in Kenya
Suo Moto Case No. 3 of 2022

Present: *Mr Justice Aamer Farooq and Mr Justice Rozi Khan Barrech*

Source: <https://www.fccp.gov.pk/LatestJudgments>

Facts: Prominent Pakistani journalist Arshad Sharif was fatally shot on October 23, 2022, at approximately 9:30 p.m. by personnel of Kenya's General Services Unit (GSU) on Losinyani Road in the Kamukuru area of Kajiado County, Kenya. The Kenyan police claimed the incident occurred when the Toyota Land Cruiser (registration KDG200M) in which Sharif was travelling failed to stop at a roadblock despite warnings, leading to the officers opening fire; the GSU had been deployed following a report of a stolen Mercedes vehicle. Sharif had left Pakistan on August 10, 2020, for Dubai, UAE, and later travelled to Kenya after being asked to leave the UAE. Prior to his death, a threat alert was issued by the Counter Terrorism Department, Khyber Pakhtunkhwa, on August 5, 2022, indicating risk to his life, and multiple FIRs had been registered against him in Pakistan despite his absence. His killing caused widespread shock and grief in Pakistan, prompting the then Chief Justice Umar Ata Bandial to take suo moto notice under Article 184(3) of the Constitution on December 6, 2022, leading to the formation of a Special Joint Investigation Team (SJIT) and registration of FIR No. 987/22 at Police Station Ramna, Islamabad. The proceedings were later transferred to the Federal Constitutional Court following the 27th Constitutional Amendment in 2025.

Issue: Whether the Federal Constitutional Court should continue to oversee and keep pending the suo moto proceedings to ensure a transparent and independent investigation into the murder of Arshad Sharif, or whether such judicial supervision constitutes impermissible interference in the ongoing investigation and diplomatic processes between Pakistan and Kenya, particularly given the signed Mutual Legal Assistance (MLA) agreement and absence of objections to the investigation's conduct.

Rule: Under settled jurisprudence, courts must refrain from interfering in the conduct, manner, or management of police investigations, as these functions are complementary but not overlapping with judicial roles (*Ajmeel Khan v. Abdur Rahim*, PLD 2009 SC 102; *Malik Shoukat Ali Dogar v. Ghulam Qasim Khakwani*, PLD 1994 SC 281). Article 10A of the Constitution, 1973, guarantees a fair trial, which extends to a free, independent, and transparent investigation from its inception, but courts generally have no role except in exceptional circumstances like mala fides, jurisdictional excess, or habeas corpus petitions (*Fahad Ahmed Gulzar v. ASI/IO Saeed Mahroof*, 2025 PCrLJ 1140). Continuous judicial control over investigations is prejudicial to fairness (*Malik Shoukat Ali Dogar*). Section 4(1)(l) of the Criminal Procedure Code, 1898, defines investigation as evidence collection

by police without court supervision. Article 40 guides foreign policy as a principle, but courts should not encroach on executive domains like diplomacy or MLA processes under the Mutual Legal Assistance (Criminal Matters) Act, 2020, and Kenya's equivalent framework.

Application: The suo moto was taken to ensure a fair investigation into Sharif's killing by Kenyan GSU officers on October 23, 2022, following his departure from Pakistan amid threats and FIRs. The Federal Government formed a Special Joint Investigation Team (SJIT), which conducted interviews, examined records, engaged Kenyan authorities (including ODPP and IPOA), and secured legal advice without objections from parties to its findings or propriety. Diplomatic efforts included a prime ministerial call, MoFA facilitation, and a signed MLA (February 2023 request, December 2024 signing) for evidence collection and site visits, with black warrants issued and a family writ pending in Kenya's Supreme Court. The family's counsel sought indefinite pendency for oversight, but this would entail scrutinizing progress reports, amounting to prohibited supervision contrary to precedents and prior Supreme Court orders rejecting such interference. No exceptional circumstances warrant intervention, as sovereign states are coordinating under law, and grievances can be addressed in competent forums.

Conclusion: The suo moto action and pending applications were disposed of, as judicial interference is unwarranted when the investigation proceeds transparently under MLA and diplomatic channels. The court acknowledged national grief but left further remedies to the family in appropriate courts, emphasizing non-interference in executive and foreign affairs.

2. FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
 Vice Chancellor Shaheed Mohtarma Benazir Bhutto Medical University & others
 v/s. Altaf Hussain Soomro
 F.C.P.L.A No.14 of 2025

Present: *Mr Justice Aamer Farooq and Mr Justice Rozi Khan Barrech*
Source: <https://www.fccp.gov.pk/LatestJudgments>

Facts: Altaf Hussain Somroo, a second-year MBBS student (Batch-51) at Chandka Medical College under Shaheed Mohtarma Benazir Bhutto Medical University, underwent kidney transplant surgery at the Sindh Institute of Urology and Transplantation, Karachi, requiring mandatory post-operative bed rest and care. Due to this medical condition, he was unable to appear in the annual examinations for second-year MBBS and subsequently missed the supplementary examination for the Physiology module scheduled on 11 June 2025. He submitted applications to the Vice Chancellor on 17 June 2025 and 9 July 2025 seeking permission for a special or super supplementary examination, but both were declined as no such provision existed in the university's laws, rules, or regulations. Aggrieved, he filed a

constitutional petition before the Sindh High Court, Larkana Bench, which directed the university to conduct a special supplementary examination for Physiology (theory) as an exceptional case of hardship. The university challenged this order before the Federal Constitutional Court of Pakistan.

Issue: Whether the High Court, under Article 199 of the Constitution, 1973, could lawfully issue a writ of mandamus compelling the university to conduct a "special/super supplementary examination" for the respondent student (who missed exams due to kidney transplant surgery and recovery) in the absence of any statutory, regulatory, or legal provision authorizing such an examination, or whether this constituted impermissible judicial overreach by granting equitable or compassionate relief overriding the law.

Rule: High Courts' constitutional jurisdiction under Article 199 is strictly confined to enforcement of legal rights and duties; a writ of mandamus requires a clear, subsisting legal duty and corresponding right, and cannot be issued to compel performance of an act not mandated by law. Courts must adjudicate strictly according to law, not on grounds of compassion, equity, hardship, or judicial conscience when the law is silent or provides no basis for relief. This follows precedents such as *Director General, National Savings v. Balqees Begum* (PLD 2013 SC 174), which held that equity and compassion cannot override or fill gaps in the clear mandate of law (with the Court limiting any "gap-filling" suggestion). Courts exercise restraint in educational and institutional affairs unless policies violate fundamental rights or natural justice (*Khyber Medical University v. Aimal Khan*, PLD 2022 SC 92). *Stare decisis* binds lower courts to superior court principles, and judgments should not self-limit their precedential value to avoid arbitrariness.

Application: The respondent missed his 2nd-year MBBS Physiology annual and supplementary exams due to medical incapacity from surgery, and the university denied his requests for a special examination as no law, rule, or regulation permitted it. The High Court acknowledged this absence but granted relief as "equitable" in "exceptional circumstances" involving hardship and alleged lack of notice. The Federal Constitutional Court found this erroneous: no legal duty existed to hold such an exam, so mandamus was unavailable; granting relief on compassion alone breached the rule-of-law framework and interfered unlawfully in university academic policy. The respondent's notice claim was rejected as inconsistent (he appeared in other supplementary exams, and the schedule was generally known). Allowing compassion to override law would undermine judicial restraint and constitutional limits, as High Courts lack power under Article 199 to dispense "complete justice" or compassion absent legal sanction (distinct from limited powers under Article 187 for superior courts).

Conclusion: The impugned High Court order was set aside, the petition converted to appeal and allowed, and the respondent's constitutional petition dismissed. The university is not

required to conduct the special/supplementary examination, as no legal basis exists for such relief.

3. SUPREME COURT OF PAKISTAN

Imran Ahmad Khan Niazi v/s. District Election Commissioner, Islamabad and another
Criminal Petitions No.921, 922 and 938 of 2023

Present: *Mr Justice Yahya Afridi and Mr Justice Shahid Bilal Hassan*

Source: https://www.supremecourt.gov.pk/downloads_judgements/crl.p._921_2023_12022026.pdf

Facts: The Toshakhana case against Imran Ahmad Khan Niazi (Imran Khan) stems from an Election Commission of Pakistan complaint alleging corrupt practices under the Elections Act, 2017. As Prime Minister (2018–2022), he received state gifts from foreign dignitaries, deposited them in the Toshakhana, but was accused of retaining some at undervalued prices and selling others (including luxury watches, jewellery and accessories) for profit—reportedly over Rs. 36 million—while failing to fully declare these in his asset statements. This led to his disqualification by the ECP in October 2022. The criminal trial in Islamabad concluded with his conviction on 5 August 2023 for corrupt practices, resulting in a three-year sentence and fine (later suspended on appeal). The Supreme Court petitions challenged interlocutory orders made during that trial.

Issue: Whether the three criminal petitions (Cr.P.L.A. Nos. 921, 922 and 938 of 2023), which challenged various interlocutory and procedural orders passed during the trial of the Toshakhana complaint case, continued to require adjudication or had become infructuous following the trial court's final conviction judgment dated 05.08.2023 (now under appeal before the Islamabad High Court). A connected question was whether the earlier directions of a three-member Bench (orders dated 23.08.2023 and 24.08.2023) concerning the petitioner's jail living conditions had been complied with and, if so, whether that aspect also warranted any further orders.

Rule: Interlocutory orders passed in the course of a criminal trial merge into the final judgment once the trial concludes; any challenge to those interlocutory orders ordinarily becomes infructuous because the aggrieved party can raise all grievances including alleged errors or illegalities at the interlocutory stage in the appeal against the final judgment. A petition seeking transfer of the trial court also becomes infructuous upon delivery of the final judgment by the court whose transfer was sought. Where a previous Bench has directed that proceedings remain pending disposal of a related appeal in the High Court, subsequent Benches may adjourn the matter sine die in deference to that direction, while directing the petitioner to pursue substantive relief in the competent appellate forum. The Supreme Court may, in exercise of its jurisdiction, obtain independent reports (from jail authorities

and/or amicus curiae) to verify conditions of confinement when concerns are raised and may record assurances from the State on health, communication and welfare without deciding the main petitions on merits if they have otherwise become infructuous.

Application: All three petitions arose from interlocutory/procedural orders made during the trial of the ECP complaint. Cr.P.L.A. 921/2023 challenged the trial court's rejection of a jurisdiction and limitation plea (initially remanded by the IHC but reaffirmed by the trial court). Cr.P.L.A. 922/2023 challenged refusal to summon certain defence witnesses. Cr.P.L.A. 938/2023 challenged dismissal of an application to transfer the case to another court. In each case the trial concluded with a final judgment dated 05.08.2023, against which the petitioner has preferred an appeal that remains pending before the Islamabad High Court. Consequently the interlocutory orders impugned in the first two petitions merged into the final judgment and the transfer refusal in the third petition became academic after judgment was pronounced by the very court from which transfer was sought. The substantive challenge to the conviction including any complaints about procedural irregularities during trial is therefore properly before the High Court in appeal. Regarding the earlier Bench directions on jail conditions, the Court obtained an updated report from the Superintendent, Central Prison, Rawalpindi and an independent report from the amicus curiae (Barrister Salman Safdar). Both reports were largely consistent and indicated satisfactory living conditions overall (safety, food, routine, medical checks and security), with the petitioner expressing general contentment. The only notable concern was deterioration in the petitioner's vision in one eye, to which the Attorney General gave an assurance of specialist ophthalmological examination before 16 February 2026. The Attorney General also undertook to facilitate court-permitted communication with the petitioner's sons in the United Kingdom and supply of requested books for mental well-being. These steps were held to constitute substantial compliance with the prior directions of 23–24 August 2023.

Conclusion: The three criminal petitions have become infructuous because the impugned interlocutory orders merged into or were overtaken by the final judgment dated 05.08.2023, which is now sub judice in appeal before the Islamabad High Court; the petitioner must agitate all grievances in that pending appeal. In deference to the earlier three-member Bench orders, the present petitions are adjourned sine die to be taken up (if necessary) only after the High Court decides the appeal. The Court recorded satisfaction that the jail-conditions aspect has been addressed through the fresh reports and State assurances, commended the amicus curiae, the Attorney General and the prison authorities for their cooperation, and left no further direction on the merits of the original challenges.

4. ISLAMABAD HIGH COURT

Moulana Abdul Qayyum v/s. Muhammad Shafi

Regular Second Appeal No.02/2023 Converted into Civil Revision No. 56/2026

Present: *Mr Justice Mohsin Akhtar Kayani*

Source: https://mis.ihc.gov.pk/frmRdJgmt?cseNo=Civil%20Revision-56-2026%20%7C%20Citation%20Awaited&cseTle=Mulana%20Abdul%20Qayyum%20%20VS%20Muhammad%20Shafi%20&jgs=Honourable%20Mr.%20Justice%20Mohsin%20Akhtar%20Kayani&jgmt=/attachments/judgements/172650/1/approved_for_reporting_CR_No.56-2026_Moulana_Abdul_Qayyum_Vs._Muhammad_Shafi_639059701827742743.pdf

Facts: Muhammad Shafi, residing abroad, transmitted Rs.1,480,000 to Moulana Abdul Qayyum as a loan for personal use or to purchase a plot on his behalf, along with an additional Rs.100,000 for registration expenses. Upon returning to Pakistan, Shafi demanded repayment, but Qayyum failed to return the amount. Qayyum denied receiving any loan, claiming instead that he had purchased three properties on Shafi's behalf: a 22-marla plot in Pind Parrian in 2008 (later sold for Rs.1,320,000 with alleged consent), an 18-marla plot in Ghorra Sardar in 2012 where Shafi now resides after constructing a house, and a 10-marla plot in Khanna Dak on 11.04.2016 for Rs.2,800,000, partially funded by the sale proceeds and the transmitted balance. The 10-marla plot was initially transferred to Qayyum's son and later to Shafi. Shafi filed a suit for recovery, which was decreed by the first appellate court for Rs.1,580,000 with markup, leading to Qayyum's appeal converted to revision.

Issue: Whether a regular second appeal under Section 102 of the Code of Civil Procedure, 1908 (CPC), is maintainable in the Islamabad Capital Territory (ICT) when no pecuniary limit has been prescribed post-2023 amendment, and if not, whether the appeal can be converted into a civil revision under Section 115 CPC; and on merits, whether the first appellate court's decree for recovery of Rs.1,580,000/- with markup, based on the respondent's claim of a transmitted loan not repaid or properly adjusted by the petitioner, is sustainable given the evidence and admissions on record.

Rule: Section 102 CPC, as amended in 2004 and reinserted for ICT in 2023, bars second appeals in suits where the original suit's value does not exceed a prescribed amount, but no such limit has been notified or ruled for ICT, rendering the provision inoperative until prescribed by rules under Sections 122/125 CPC (delegated to High Court). During 01.11.2019 to 2023 (via Ordinance 2019 and Act 2020), Sections 100-103 CPC were omitted, eliminating second appeals for suits instituted in that period. Courts may convert incompetent proceedings into appropriate remedies to safeguard rights under Article 4 of the Constitution, 1973 (Faqir Muhammad v. Muhammad Din, 1993 SCMR 1955). Under Section 115 CPC revisional jurisdiction, courts examine for illegality, infirmity, or perversity in lower court findings, giving due weight to first appellate court's evidence

appreciation under Section 96 CPC. Burden of proof lies on plaintiff (Article 117 Qanun-e-Shahadat Order, 1984), but shifts for specific facts asserted by defendant (Article 119 QSO).

Application: The suit was instituted on 05.11.2019, post-Ordinance 2019 omitting second appeals, so RSA is incompetent but converted to civil revision to protect rights. On merits, respondent claimed Rs.1,480,000/- transmitted abroad as loan for petitioner's use or plot purchase, plus Rs.100,000/- registration; petitioner admitted receipt but pleaded adjustment via property purchases/sales on respondent's behalf (22-marla plot sold for Rs.1,320,000/- allegedly with consent, applied to 10-marla plot with transmitted balance). Petitioner failed to prove consent for sale or proper adjustment (burden under Article 119 QSO), as cross-examination admissions contradicted plea (no evidence of consent, unmentioned in 10-marla agreement); respondent's lack of banking proof offset by petitioner's admission. First appellate court's findings, evaluating entire evidence, show no illegality/perversity.

Conclusion: RSA converted to civil revision and dismissed; impugned judgment/decree upheld. Court recommends Honorable Chief Justice convene Full Court to propose amendment to Order XLII CPC specifying pecuniary limit under Section 102, for presidential approval and gazette notification; copy forwarded to Registrar for action.

5. ISLAMABAD HIGH COURT

Pakistan Broadcasters Association and others v/s. PEMRA
Writ Petition No.1252 OF 2022

Present: *Ms Justice Saman Rafat Imtiaz*

Source: https://mis.ihc.gov.pk/frmRdJgmnt?cseNo=Writ%20Petition-1252-2022%20%7C%20Citation%20Awaited&cseTle=PBA%20VS%20PEMRA&jgs=Honourable%20Ms.%20Justice%20Saman%20Rafat%20Imtiaz&jgmnt=/attachments/judgements/143241/1/WP_1252_of_2022_Approved_for_Reporting_639064196863700093.pdf

Facts: Pakistan Broadcasters Association (PBA) and several satellite TV channels filed a writ petition challenging the Annual Gross Advertisement Revenue (AGAR) imposed under Table-I of Schedule-B to the PEMRA Rules, 2009, as part of the annual license renewal fee (5% or 7.5% of gross advertisement revenue based on audited accounts). They argued that AGAR lacks basis in the PEMRA Ordinance, 2002, constitutes an invalid fee without quid pro quo services, and is ultra vires the Constitution. PEMRA issued demand notices in March 2022 for outstanding AGAR dues, threatening license suspension or cancellation, which the petitioners/appellants assailed in connected appeals under Section 30-A of the Ordinance. Prior notices for similar demands in 2009 were withdrawn after court

challenges, and no further notices were issued until 2022, allegedly without proper show cause process.

Issue: Whether AGAR (5%/7.5% of annual gross advertisement revenue as part of annual renewal fee for satellite TV licenses) is ultra vires the PEMRA Ordinance, 2002 and Constitution; whether it constitutes a valid regulatory fee without quid pro quo, reasonable and non-excessive; whether 2023 amendments abolishing AGAR apply retrospectively; and whether demand notices for AGAR arrears are lawful (issued without authority, show cause notices, or due process).

Rule: PEMRA may prescribe fees for license issuance/renewal under Sections 19(4) and 24(4) PEMRA Ordinance, 2002, via rules (Section 39). Regulatory license fees need no strict quid pro quo but require broad correlation with regulatory costs, reasonableness, and non-excessiveness (*Shell Pakistan v. CDA*, PLD 2015 Isl 36; *D.S. Textile Mills v. Federation*, PLD 2016 Lhr 355; *Trade Serve v. PEMRA*, PLD 2017 Lhr 563). Amendments are prospective absent express retrospective intent (*Nabi Ahmed v. Home Secretary*, PLD 1969 SC 599). Demand notices are administrative, not "orders/decisions" under Section 30-A requiring PEMRA approval or prior show cause; appeals incompetent but convertible to writs for lack of remedy.

Application: AGAR has statutory basis but PEMRA failed to justify reasonableness: report anticipates Rs. 52.5 billion capital expenditures (e.g., institute construction, regional offices) lacking nexus to past regulatory functions (2009-2021), discriminatory (TV-only, not radio), no total recovery details from all 74-132 channels (only Rs. 32 billion from 23 appellants), other PEMRA Fund sources ignored. 2023 amendments (Sections 24(4)/(4A)) prospective, not abolishing past AGAR despite PEMRA's renewal decision. Demand notices validly issued by deputy director with chairman approval as routine demands (not suspension/revocation actions under Sections 13/30), no prior show cause needed; appeals converted to writs.

Conclusion: Petition and converted appeals allowed: AGAR declared unreasonable, excessive, illegal; demand notices set aside. Office to number converted writs.

6. LAHORE HIGH COURT
 Muhammad Iqbal v/s. Muhammad Ameer
 C.R.No. 173 of 2026

Present: *Mr Justice Muzamil Akhtar Shabir*

Source: <https://sys.lhc.gov.pk/appjudgments/2026LHC932.pdf>

- Facts:** Muhammad Ameer filed a summary suit under Order XXXVII Rules 1 and 2 CPC for recovery of Rs.20,00,000 against Muhammad Iqbal, alleging that due to old acquaintance and trust, Iqbal borrowed the amount and issued cheque No. 00000001 from A/c No. 0024527000615203 dated 24.10.2024 on HBL Branch Chopar Hatta, which bounced upon presentation. Iqbal's application for leave to defend was allowed subject to surety bond, and issues were framed on 15.09.2025. Ameer's witnesses (PW-1 and PW-2) recorded examination-in-chief on 17.11.2025, with subsequent adjournments for cross-examination mostly at Ameer's request due to witness unavailability. On 22.01.2026, despite witnesses again absent, the trial court closed Iqbal's right to cross-examine, prompting this civil revision challenging the order for misreading the record.
- Issue:** Whether the trial court's order closing the petitioner/defendant's right to cross-examine the respondent/plaintiff's witnesses suffers from jurisdictional defects due to misreading/non-reading of the record, improper exercise of jurisdiction, and violation of the right to cross-examination, warranting intervention under Section 115 CPC.
- Rule:** For closure of a party's right to cross-examination, the witnesses' attendance is a condition precedent; non-availability cannot be used against the absent party or to punish one for the other's fault (principle against benefiting from own wrong). Hasty orders ignoring record constitute jurisdictional defects, miscarriage of justice, and violation of Article 133 Qanun-e-Shahadat Order, 1984 (right to cross-examine). Such orders are set aside if passed without lawful authority (*Jurists Foundation v. Federal Government*, PLD 2020 SC 52; *Ayaz Ahmad Khan v. State*, PLD 2011 SC 171; *Muhammad Saleem v. Additional District Judge*, 2024 MLD 2013 Lhr; *Mazhar Saeed v. ADJ*, 2011 YLR 3089 Lhr; *Ali Muhammad v. Mst. Murad Bibi*, 1995 SCMR 773; *Ally Brothers v. Federation*, 2009 YLR 982 Lhr).
- Application:** Plaintiff filed summary suit for Rs.20,00,000 recovery based on bounced cheque; defendant's leave to defend allowed, issues framed 15.09.2025. Plaintiff's witnesses' examination-in-chief recorded 17.11.2025; adjournments on 04.12.2025, 18.12.2025, 12.01.2026 at plaintiff's request (witnesses unavailable). On 22.01.2026, witnesses absent (per order sheet), yet trial court closed defendant's right without perusing prior orders, ignoring plaintiff's fault, and improperly treating earlier attendance as current. This hasty action prejudiced defendant's statutory right, amounted to punishing him for plaintiff's lapse, and rewound proceedings unlawfully.
- Conclusion:** Civil revision allowed; impugned order set aside as without lawful authority and of no legal effect; defendant's right to cross-examine restored with another opportunity. Respondent may apply for re-hearing.
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7. LAHORE HIGH COURT

Muhammad Haseeb Yasin v/s. The State and another
Crl. Misc. No.74465-B of 2025

Present: *Mr Justice Tanveer Ahmad Sheikh*

Source: <https://sys.lhc.gov.pk/appjudgments/2026LHC1052.pdf>

Facts: During an inquiry numbered 2074/2024 dated 26.12.2024, it was determined that Muhammad Haseeb Yasin and Muhammad Anwar Chaudhary jointly obtained Rs.55,68,043 from Muhammad Umair via cash and bank transfers, under the representation of arranging employment in Canada for Umair and Suleman Haider, while supplying forged travel documents. This resulted in the registration of FIR No. C-321/2025 dated 05.08.2025 under Sections 17 and 22 of the Emigration Ordinance, 1979, at Police Station AHTC/FIA, Faisalabad. The post-arrest bail application of Muhammad Haseeb Yasin was denied by the Judge Special Court (Central), Faisalabad, on 09.12.2025, prompting the filing of a bail petition before the Lahore High Court.

Issue: Whether the petitioner, accused under Sections 17 and 22 of the Emigration Ordinance, 1979, for allegedly defrauding the complainant of Rs.55,68,043 by providing forged documents for overseas employment, is entitled to post-arrest bail, considering his indirect role (no direct receipt of money but sending forged documents via WhatsApp) and whether the offenses fall within the prohibitory clause for bail purposes.

Rule: Bail is generally grantable for offenses not falling within the prohibitory clause (imprisonment exceeding 7 years without alternative of fine). Section 17 carries up to 5 years (non-prohibitory), while Section 22 allows up to 14 years or fine in alternate. No hard/fast rule applies; lesser penalty (fine) is considered in ordinary cases, but higher penalty (imprisonment) may be weighed in anomalous/harsh circumstances (huge amounts, dreadful facts) to avoid frustrating legislative intent, with tentative assessment guiding discretion.

Application: Inquiry revealed petitioner and co-accused connived to defraud complainant and friend on pretext of Canada jobs; petitioner sent forged documents via WhatsApp, enabling deprivation despite no direct receipt—suggesting active role and prima facie involvement without shown malice. Huge amount and modus operandi present unusual/harsh picture, warranting consideration of Section 22's 14-year penalty under prohibitory clause over alternate fine.

Conclusion: Post-arrest bail petition dismissed as offenses tentatively fall within embargo; observations tentative, not to influence trial.

8. PESHAWAR HIGH COURT

Bakht Jamal and others v/s. Khushdil
Civil Revision No.119-P/2026

Present: *Mr Justice Muhammad Naeem Anwar*

Source: <https://peshawarhighcourt.gov.pk/PHCCMS//judgments/119-2026-Bakht-Jamal-vs-Khushdil-objection-petiton-dis.pdf>

Facts: Khushdil filed a suit against Bakht Jamal and others for possession of 20 kanals and 08 marlas of land, which was decreed in his favor on February 2, 2024. To enforce the decree, he initiated execution proceedings, during which the defendants filed an objection petition under Section 47 of the Code of Civil Procedure, arguing that Khushdil had alienated 07 kanals and 19 marlas of the property via a 2015 sale mutation, limiting his ownership to 12 kanals and 09 marlas. The executing court dismissed the objection on November 5, 2025, and the defendants' appeal was rejected on January 10, 2026, leading to this civil revision petition challenging the lower courts' decisions.

Issue: Whether the courts below erred in dismissing the petitioners/judgment-debtors' objection petition under Section 47 CPC during execution proceedings for possession of 20 kanals 08 marlas property, on grounds that the decree-holder alienated 07 kanals 19 marlas vide Mutation No. 1057 (27.11.2015), limiting his ownership to 12 kanals 09 marlas, creating a disputed fact requiring evidence and whether such objection falls under Order XXI Rules 97-99 CPC.

Rule: Section 47 CPC empowers executing courts to determine questions relating to execution, discharge, or satisfaction of decrees between parties, but not pre-decree issues or re-litigation of matters that could have been raised in the suit (Mst. Yasmeen v. National Insurance Corporation, 2004 CLC 979; Dino Manekji Chinoy v. Muhammad Matin, PLD 1983 SC 693; Mst. Naseem Akhter v. National Insurance Corporation, 1994 SCMR 22). Resistance to possession under Order XXI Rules 97-99 CPC is limited to co-sharers (Rule 35(2)) or third parties with title; executing courts cannot go behind the decree or entertain new pleas available during trial. Boundary disputes require separate demarcation proceedings, per "Ubi jus ibi remedium."

Application: Petitioners were parties to the original suit (No. 90/1 of 2018), decreed on 02.02.2024 after findings against their ownership claim under Issue No. 4. No appeal or Section 12(2) CPC challenge succeeded, rendering decree final. Alienation predated decree (2015), could have been raised in suit but was not; no grounds under Section 47 to resist execution or require evidence. No claim as contiguous owners or under Rules 97-99; issue inter se between decree-holder and transferee, immaterial to petitioners lacking title. Objection misconceived, as executing court must enforce decree as passed.

Conclusion: Civil revision dismissed in limine with no costs; impugned judgments upheld as well-reasoned and lawful.

9. SINDH HIGH COURT

Muhammad Sohail@Ahmed Liaquatabad Wala@Kala Muna & another v/s. The State Spl. CrI. Anti-Terrorism Appeals Nos. 38, 39, 40, 41 & 42 of 2023

Present: *Mr. Justice Muhammad Iqbal Kalhoro and Mr. Justice Syed Fiaz Ul Hasan Shah*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA0ODY5Y2Ztcy1kYzgz>
2026 SHC KHI 203

Facts: The present Special Criminal Anti-Terrorism Appeals were filed by the appellants challenging the consolidated judgment dated 28.02.2023 passed by the learned Judge, Anti-Terrorism Court No.V, Karachi in Special Case Nos. 27/2011 and connected matters arising out of FIR No.518/2011 under Sections 302/34 PPC read with Section 7 of the Anti-Terrorism Act, 1997 (ATA), along with other connected FIRs relating to attempted murder, obstruction of public servants, and recovery of illegal weapons. The prosecution case was that on 15.08.2011, at about 11:30 p.m., near Civic View Apartments, Gulshan-e-Iqbal, Karachi, unknown assailants opened indiscriminate firing upon a vehicle, resulting in the death of Akhllas Khan and his driver Amanullah. FIR was lodged on 18.08.2011 by a friend of the deceased. Later, on 16.09.2011, the appellants were arrested in a police encounter, and weapons were allegedly recovered from their possession. The prosecution relied upon chance eyewitnesses (PW-5 and PW-6), identification parade, recovery of weapons, and forensic matching of crime empties. The trial Court convicted both appellants under Sections 302(b), 324, 353 PPC, Section 7 ATA, and Sections 13(d)(e) Arms Ordinance, awarding life imprisonment and other sentences.

Issue: Whether unexplained delay in lodging the FIR and recording statements of eyewitnesses rendered the prosecution case doubtful; whether identification parade conducted under suspicious circumstances was reliable; whether delayed recovery and dispatch of crime empties for forensic analysis could safely corroborate the prosecution case; whether essential ingredients of terrorism under Section 6 ATA were proved; and whether separate convictions under PPC and ATA violated the constitutional protection against double jeopardy.

Rule: Unexplained delay in lodging FIR or recording statements under Section 161 Cr.P.C. casts serious doubt on prosecution case and suggests deliberation or consultation. Identification evidence recorded under doubtful circumstances is unsafe for reliance. Delayed recovery and dispatch of crime empties to forensic laboratory diminishes probative value of ballistic reports. Article 13(a) of the Constitution of the Islamic Republic of Pakistan, 1973

prohibits double punishment for the same offence. Section 403 Cr.P.C. and Section 26 of the General Clauses Act, 1897 reinforce the principle against double jeopardy. Conviction under the Anti-Terrorism Act requires proof of essential ingredients under Section 6(1) or (2) ATA.

Application: The High Court observed that the FIR was lodged after an unexplained delay of three days despite alleged presence of eyewitnesses at the scene. Statements of PW-5 and PW-6 were recorded after 38 days without justification, impairing their credibility. Their presence at the crime scene was doubtful, as they were chance witnesses from Quetta and no independent corroboration of their presence was produced. The identification parade was conducted on the same day as recording of statements, raising suspicion of prior exposure and tutoring. The witnesses mentioned the names of appellants despite the FIR being lodged against unknown persons. The Court held the identification evidence unreliable. Regarding forensic evidence, crime empties were not collected at the initial inspection and were sent to FSL after considerable delay. Such delay created possibility of manipulation, thereby destroying evidentiary value of the ballistic report. Consequently, recovery evidence could not corroborate the ocular account. The Court further held that the prosecution failed to establish the essential ingredients of terrorism under Section 6 ATA. Additionally, separate convictions under PPC and ATA for the same occurrence offended the constitutional safeguard against double jeopardy. However, the recovery of unlicensed weapons in separate FIRs relating to the police encounter was independently proved and free from material infirmity.

Conclusion: The High Court allowed Spl. CrI. Anti-Terrorism Appeal No.38 of 2023 and set aside the conviction and sentence under Sections 302/34 PPC read with Section 7 ATA in FIR No.518/2011, acquitting the appellants on benefit of doubt. Convictions under the Anti-Terrorism Act were also set aside for failure to prove statutory ingredients. However, convictions in connected cases (FIR Nos. 423/2011, 424/2011, 425/2011 and 429/2011) relating to recovery of illegal weapons and police encounter were maintained, and Appeals Nos. 39–42 of 2023 were dismissed. Accordingly, the appeals were partly allowed in the above terms.

10.

SINDH HIGH COURT

Ghulam Hyder v. The State

Cr. Jail Appeal No. 393 of 2025 (with Death Reference No. 11 of 2025)

Present: *Mr. Justice Muhammad Iqbal Kalhoro and Mr. Justice Syed Fiaz ul Hassan Shah*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA0ODIzY2Ztcy1kYzgz>
2026 SHC KHI 197

- Facts:** The appellant, Ghulam Hyder, was convicted by the learned Sessions Judge, Sujawal in S.C. No.65/2023 under Section 302(b) PPC and sentenced to death, along with payment of compensation of Rs.200,000/- under Section 544-A Cr.P.C., and in default to undergo six months' simple imprisonment. According to FIR dated 22.02.2023, complainant Javed Ahmed stated that on the night of the incident at about 12:10 a.m., his brother Niaz and guest Gul Muhammad were sleeping on a cot outside the house. Upon hearing cries, he and his son rushed outside and saw, in torch light, the appellant inflicting hatchet blows upon Niaz. The appellant fled after threatening them. Niaz succumbed to injuries on the spot. Police were informed, necessary formalities were completed, postmortem was conducted, and thereafter FIR was lodged. Motive alleged was a prior altercation over money dispute earlier that evening. The appellant was arrested on 26.02.2023 and a hatchet was recovered from his possession. After investigation, challan was submitted and the appellant was convicted as stated above.
- Issue:** Whether the prosecution proved the charge of murder against the appellant beyond reasonable doubt; whether the evidence of related and chance witnesses was reliable; and whether the death sentence awarded by the trial court was justified in the presence of mitigating circumstances.
- Rule:** In murder cases, conviction can be based upon reliable and confidence-inspiring ocular testimony, especially when corroborated by medical evidence. Mere relationship of a witness with the deceased does not render testimony unreliable if it withstands cross-examination. However, where mitigating circumstances exist, death penalty should not be awarded. The settled principle, as laid down in 2017 SCMR 1662, is that if there is any circumstance creating doubt regarding the extreme penalty, the lesser sentence of life imprisonment should be preferred. Benefit of Section 382(b) Cr.P.C. is to be extended where applicable.
- Application:** The High Court observed that the prosecution examined all material witnesses including complainant (PW-1), eyewitness Gul Muhammad (PW-2), mashirs, MLO, investigating officers, and produced relevant documentary and medical evidence. Both eyewitnesses consistently deposed that they saw the appellant inflicting hatchet blows upon the deceased. Their testimony remained unshaken in cross-examination. The medical evidence confirmed two incised wounds caused by a sharp cutting weapon, sufficient to cause instantaneous death, thereby corroborating ocular account. The Court found no material contradictions or discrepancies in prosecution evidence. The presence of the appellant at the scene and his role in inflicting fatal injuries stood established beyond reasonable doubt. Recovery of hatchet from the appellant further supported the prosecution case. The defence plea of false implication was found to be bald and unsupported by evidence. However, the Court noted certain mitigating circumstances: The alleged motive of money dispute was not fully proved. The torch, source of identification, was not produced in evidence. The

recovered hatchet was not sent for forensic examination to conclusively link it with the crime. Although these deficiencies did not shake the conviction, they were considered mitigating factors affecting quantum of sentence.

Conclusion: The High Court maintained the conviction of the appellant under Section 302(b) PPC. However, in view of mitigating circumstances, the death sentence was converted into imprisonment for life with benefit of Section 382(b) Cr.P.C. The compensation awarded under Section 544-A Cr.P.C. and default sentence were maintained. Accordingly, Cr. Jail Appeal No. 393 of 2025 was partly allowed to the extent of modification of sentence, and Death Reference No. 11 of 2025 was answered in negative and disposed of.

11. SINDH HIGH COURT

Mst Samina and 3 others v/s. Mst Dilshad Begum and 13 others
Revision Application No.242 of 2004

Present: *Mr Justice Muhammad Faisal Kamal Alam*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA0NTkxY2Ztcy1kYzgz>
Sindh High Court Citation (2026 SHC HYD 185)

Facts: The case originated as a partition suit filed by Mst. Dilshad Begum and five others (plaintiffs/claimants) against Samina and three others (defendants/ appellants) along with additional co-owners, seeking division and separate possession of two joint properties in Shahi Bazaar, Hyderabad: City Survey No. B/1201 (56.6 sq. yds.) and City Survey No. B/1203 (193.5 sq. yds.). The parties are legal heirs and relatives of three brothers—Karim Bux, Ghous Bux, and Iqbal Ahmed—who were the undisputed co-owners. The share in the first (smaller) property was admitted at 18 paisas in favour of the plaintiffs, leaving the dispute confined to the second property. The plaintiffs claimed a 33.3 paisas share therein, while the defendants/appellants contended it was much smaller. The trial court decreed 50% share to the plaintiffs in the second property, the first appellate court reduced it to the claimed 33.3 paisas, and in revision the High Court of Sindh (judgment dated 06.02.2026) found both lower courts had overlooked the undisputed Sale Deed of 1967 (where Mst. Qadeeran sold only her one-third/middle portion equally to Ghous Bux and Iqbal Ahmed) and the mutation history in the property register, ultimately holding that the plaintiffs' correct share in the second property was 16.65 paisas.

Issue: The central issue in Revision Application No. 242 of 2004 was the correct determination of the share of the plaintiffs/claimants (Respondents Nos. 1–6) in the second property (City Survey No. B/1203, 193.5 sq. yds., Shahi Bazaar, Hyderabad). The claimants asserted 33.3 paisas share entitling them to partition and separate possession under Muslim Hanafi law, while the petitioners/appellants (Samina and others) contended the share was far smaller

(initially ~10 paisas, later aligned with evidence showing ~16.65 paisas). The revision challenged whether the trial court (judgment 08.03.2003) and first appellate court (judgment 03.08.2004) properly appraised the documentary evidence—particularly the undisputed Sale Deed dated 16.11.1967 and Property Register Extract—to fix the true proportionate share, or whether they proceeded on erroneous assumptions about ownership history.

Rule: In partition suits governed by Muslim Hanafi law, co-sharers are entitled to separate possession according to their exact proportionate shares in joint property. Share determination must be founded on reliable documentary proof of title, especially official records such as registered sale deeds and mutation entries in property register cards, which carry high evidentiary value. Courts may not presume one predecessor owned the entire property or a larger share than what the transfer documents expressly convey. When a defined partial share (e.g., the middle portion equating to 33.3%) is sold to two persons equally, each purchaser acquires half of that share (16.665 paisas), and their heirs inherit accordingly. Lower-court findings that ignore or misread such primary documents and result in materially incorrect share allocation are liable to correction in revisional jurisdiction.

Application: The undisputed Sale Deed (Exhibit-74) recorded that Mst. Qadeeran sold only her middle portion of the second property—corresponding to 33.3%—equally to Ghous Bux and Iqbal Ahmed. The Property Register Extract (Exhibit-71/2) confirmed the ownership sequence: initial transfer to Karim Bux, Saeed Khan and Mst. Qadeeran (each ~33.3 paisas); Karim Bux later acquired Saeed Khan’s share (~66.6%); Ghous Bux and Iqbal Ahmed then jointly acquired Mst. Qadeeran’s 33.3% in equal parts. Thus Ghous Bux (predecessors of the claimants) held 16.665 paisas, so the claimants’ share was 16.65 paisas. The appellants’ own witness (Ayaz Ahmed) and the official witness (Ramesh Kumar) effectively confirmed this position through admissions and production of records. Both lower courts failed to appraise these documents correctly: the trial court wrongly assumed Mst. Qadeeran owned the whole property and awarded 50%; the appellate court reduced the figure to the pleaded 33.3% without addressing the sale deed’s clear limitation to one-third share. These errors produced conflicting and unsustainable decrees on share, partition and possession.

Conclusion: The High Court partly allowed the revision, set aside both impugned judgments and decrees, and modified the suit decree to grant the claimants only a 16.65 paisas (16.65%) share in City Survey No. B/1203. The claimants’ claim to 33.3 paisas was rejected on the basis of the contemporaneous sale deed and mutation history. No greater relief was awarded.

12. SINDH HIGH COURT

Khadim Hussain v. Province of Sindh and others
Constitutional Petition No.D-4289 of 2025

Present: *Mr. Justice Muhammad Saleem Jessar and Mr. Justice Nisar Ahmed Bhanbhro*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA0NzQ5Y2Ztcy1kYzgZ>

2026 SHC KHI 187

Facts: The petition was filed by Petitioner challenging the appointment of respondent No. 3, Muntazir Mehdi, as Acting Prosecutor General Sindh through a notification dated 03.02.2025. The petitioner contended that he was senior in the cadre of Additional Prosecutor Generals and thus more entitled to hold the office. He sought issuance of a writ of quo warranto to question the respondent's authority to occupy the public office, arguing that the appointment violated seniority principles and Rule 8-A of the Sindh Civil Servants (APT) Rules, and also sought his own appointment to the post. The Government defended the appointment on the ground that the office of Prosecutor General is a statutory post governed by the Sindh Criminal Prosecution Service Act, 2009, and not by civil service rules, and that the respondent fulfilled all legal qualifications.

Issue: Whether the appointment of respondent No. 3 as Acting Prosecutor General Sindh was unlawful so as to justify issuance of a writ of quo warranto, particularly on the grounds of alleged violation of seniority and Rule 8-A of the APT Rules, and whether the petitioner could claim entitlement to the office?

Rule: The Court relied on Sections 6 and 7 of the Sindh Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2009, which empower the Government to appoint a Prosecutor General on prescribed qualifications and on terms determined by the Government. The Prosecutor General holds office at the pleasure of the Government. The statute specifies eligibility criteria but does not mandate appointment based on seniority. Rule 8-A of the APT Rules applies only to acting charge appointments within the civil service against promotional posts and does not govern statutory tenure posts. For issuance of a writ of quo warranto, the petitioner must show that (i) the office is public, (ii) the holder lacks legal authority or prescribed qualifications, and (iii) the challenge is bona fide without personal or vested interest.

Application: Applying these principles, the Court found that the respondent's name was included among four eligible candidates in the official summary submitted to the Chief Minister. The Government lawfully exercised its discretion in selecting him. The petitioner conceded that respondent No. 3 met all statutory qualifications under Section 7 and did not suffer from any disqualification. The Court held that seniority alone does not confer a right to the post of Prosecutor General, which is a statutory and merit-based appointment rather than a civil service promotion. Consequently, Rule 8-A of the APT Rules was inapplicable. Furthermore, the petitioner sought his own appointment, demonstrating personal interest, which undermined the bona fides required for a quo warranto petition. Since no illegality,

incompetence of appointing authority, or procedural defect was established, the appointment could not be termed unlawful or usurpatory.

Conclusion: The Court concluded that the respondent lawfully held the office of Prosecutor General Sindh under statutory authority, and the prerequisites for issuance of a writ of quo warranto were not satisfied. The petition lacked merit and was dismissed along with all pending applications.

13. SINDH HIGH COURT

Saqlain Mushtaq v. The learned DJ East and another
Constitutional Petition No.D-5020 of 2025

Present: *Mr. Justice Muhammad Saleem Jessar and Mr. Justice Nisar Ahmed Bhanbhro*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA1MDczY2Ztcy1kYzgz>
2026 SHC KHI 208

Facts: The petitioner filed a constitutional petition challenging letters dated 13.03.2025 and 11.08.2025 issued by the District & Sessions Judge (East), Karachi, whereby his appointment as Stenographer (BPS-16) was withheld on the ground that he did not possess a Permanent Residence Certificate (PRC) of the concerned district. The petitioner had applied pursuant to an advertisement dated 15.06.2023, which invited applications from candidates domiciled anywhere in Sindh for the post of Stenographer (BPS-16). He successfully cleared the written test conducted by SIBA Testing Service, secured 72 marks, qualified the skill test and interview, and was placed third on the consolidated merit list and declared “selected.” However, instead of issuing an appointment letter, the respondent sought domicile relaxation from the High Court, and later withdrew the request, effectively denying him appointment. Aggrieved, he invoked constitutional jurisdiction seeking quashment of the impugned letters and enforcement of his selection.

Issue: Whether a duly selected candidate for a provincial post in BPS-16 can be denied appointment on the basis of district domicile/PRC requirements when the governing rules and the recruitment advertisement prescribe eligibility on a provincial domicile basis?

Rule: Appointments to judicial staff are governed by the Sindh Judicial Staff Service Rules, 1992, read with the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974. Rule 14 of the APT Rules mandates that posts in BPS-16 and above are to be filled on a provincial basis according to merit and any prescribed quota, and not on district domicile. Rules 15 and 16 apply district/local restrictions only to lower grades (BPS 1–15). Furthermore, recruitment conditions stipulated in an advertisement are binding and cannot

be altered mid-process. Administrative authorities must also follow due process and cannot deprive a selected candidate of accrued rights arbitrarily or without hearing.

Application: The High Court examined the statutory framework and found that the post of Stenographer falls in Category-F and is a BPS-16 position. Under Rule 14, such posts are filled on a provincial basis. The advertisement itself permitted candidates domiciled anywhere in Sindh, confirming the absence of district restriction. Therefore, insisting upon a district PRC contradicted both the rules and the advertisement. The respondents’ attempt to seek “domicile relaxation” was legally misconceived because no such restriction existed to begin with. The Court also observed that the petitioner had successfully completed all stages of the selection process and thus acquired a vested right to fair consideration. Denying appointment without notice or justification amounted to arbitrariness and violated principles of natural justice. The Court further held that reliance on a prior administrative observation of the Chief Justice regarding domicile relaxation was misplaced, as it did not apply to provincial BPS-16 appointments.

Conclusion: The Court held that rejection of the petitioner’s candidature on district domicile grounds was unlawful, inconsistent with Rule 14 of the APT Rules, and contrary to the advertisement. Consequently, the impugned letters were set aside, the petitioner was declared eligible, and the District & Sessions Judge was directed to forward his case to the Registrar for consideration by the competent authority within 30 days. The petition was therefore allowed.

14. **SINDH HIGH COURT**

Muhammad Saleem Shaikh v. Province of Sindh and others

Const. Petition No. D-2157 of 2008 along with CP. D-2963/2011, D-4061/2013, D-7051/2021 and D-1221/2022

Present: *Mr. Justice Muhammad Saleem Jessar and Mr. Justice Nisar Ahmed Bhanbhro*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA1MDc1Y2Ztcy1kYzgz>
2026 SHC KHI 209

Facts: The petitioners filed multiple constitutional petitions challenging alleged irregularities and manipulation in the Combined Competitive Examination (CCE-2003) conducted by the Sindh Public Service Commission for recruitment to provincial civil services. Earlier, through an order dated 13.02.2020, this directed the Government of Sindh to constitute an Inquiry Commission to investigate alleged malpractice and suggest remedial measures, including an equitable pathway for deserving candidates who may have been wrongfully

deprived. The Commission was formed, conducted proceedings, and submitted its report, concluding that manipulation could not be ruled out but, owing to missing records and lapse of time, no conclusive findings could be made regarding individual candidates. It did not recommend appointment of the petitioners. Subsequently, the petitioners filed miscellaneous applications seeking implementation of the earlier order and directions for their appointment in civil service.

Issues:

- (i). Whether the Court’s earlier directions had been complied with?
- (ii). Whether contempt proceedings were warranted against the authorities?
- (iii). Whether the Court could direct the Government to appoint the petitioners to civil service posts on the basis of CCE-2003 results despite the absence of recommendation by the Sindh Public Service Commission or the Inquiry Commission?

Rule: Under the Sindh Civil Servants Act, 1973 and the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, appointments to posts in Basic Scale 16 and above must be made on the basis of examination or test conducted by the Sindh Public Service Commission, and the Commission’s recommendation is mandatory. The Court’s earlier order only required an inquiry and recommendations, not direct appointments. Judicial review does not extend to substituting the Commission’s statutory role or making appointments directly, as this would amount to judicial overreach. Further, constitutional equality under Articles 25 and 27 does not allow “negative equality,” meaning a candidate cannot claim appointment merely because another allegedly benefited from an irregular or illegal action.

Application: Applying these principles, the Court observed that the Government had complied with its directions by constituting the Inquiry Commission and placing the report on record. The Commission acknowledged irregularities but, due to unavailability of records and passage of more than fifteen years, declined to recommend appointments or make sweeping conclusions. Since no recommendation in favour of the petitioners was issued either by the Commission or by the Sindh Public Service Commission, the statutory precondition for appointment was absent. The Court held that it could not assume the role of a recommending authority or compel appointments directly. The petitioners’ reliance on the alleged appointment of another candidate (Zameer Ahmed Abbasi) was rejected because even if irregular, such action could not create a right through negative equality. Moreover, contempt proceedings were unwarranted as the authorities had substantially complied with the earlier order.

Conclusion: The Court concluded that there was full compliance with its previous directions, no ground for contempt, and no legal basis to order the appointment of the petitioners in the absence of statutory recommendation. Consequently, all miscellaneous applications seeking

implementation and induction into service were dismissed, and the matter was consigned to record without costs.

15. SINDH HIGH COURT

Fasihuddin Khan v. Federation of Pakistan and others
Constitutional Petition No.D-5969 of 2023

Present: *Mr. Justice Adnan-ul-Karim Memon and Mr. Justice Zulifqar Ali Sangi*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA1Mjc1Y2Ztcy1kYzgz>
2026 SHC KHI 246

Facts: The petitioner, Fasihuddin Khan, filed a constitutional petition under Article 199 of the Constitution before the High Court of Sindh seeking a declaration that the respondents' act of not releasing full pension and pensionary benefits was illegal. He was initially appointed as a Laboratory Assistant in 1990 in the defunct PETROMAN, a Federal Government organization, and was later promoted and regularized in 2000. Upon closure of PETROMAN in 2006, he did not opt for the Voluntary Separation Scheme and was subsequently absorbed into PCSIR in 2010 through an Office Memorandum dated 08.09.2010. The memorandum stipulated that his seniority and pension would be reckoned from the date of joining PCSIR. After serving more than twelve years in PCSIR, he retired and claimed that his past service from 1990 to 2010 should also be counted toward pension. The respondents opposed the petition on the grounds of maintainability, laches, and absence of statutory service rules governing PCSIR.

Issues: (i) Whether a constitutional petition under Article 199 of the Constitution is maintainable in service matters concerning PCSIR, which does not operate under statutory service rules?
(ii) Whether the petitioner is entitled to have his past service in PETROMAN counted toward pensionary benefits despite having accepted the terms of absorption in PCSIR.

Rule: It is a settled principle of law that constitutional jurisdiction under Article 199 is not available in service matters where the organization does not operate under statutory service rules. The Supreme Court in PLD 2010 SC 676 and reaffirmed in 2022 SCMR 991 has held that in the absence of statutory rules, rights arising from contractual terms cannot be enforced through constitutional jurisdiction. Furthermore, pension is recognized as a vested right; however, as held in *Haji Muhammad Ismail Memon v. Federation of Pakistan*, such right accrues strictly in accordance with governing rules and terms of service. The doctrine of estoppel and the principle of laches also apply where an employee voluntarily accepts service conditions and challenges them belatedly after retirement.

Application: Applying the above principles, the Court observed that PCSIR admittedly does not have statutory service rules; therefore, the constitutional petition suffered from a jurisdictional defect and was not maintainable. Even on merits, the petitioner had expressly accepted the Office Memorandum dated 08.09.2010, which clearly provided that his seniority and pension would be calculated from the date of joining PCSIR. He continued in service for over twelve years without objection and only raised the claim after retirement. In absence of any statutory provision or policy permitting carry-forward of pensionable service from PETROMAN to PCSIR, the claim lacked legal basis. The reliance on the judgment in Haji Muhammad Ismail Memon’s case was misplaced because pension, though a vested right, must be claimed in accordance with applicable service rules. Moreover, the petition was barred by laches, as the petitioner had acquiesced in the terms of absorption and sought to reopen settled matters after retirement.

Conclusion: The Court held that the petition was not maintainable due to the absence of statutory service rules governing PCSIR. The petitioner was bound by the terms of absorption accepted by him, and there was no legal basis to count past service rendered in PETROMAN toward pensionary benefits. The claim was also barred by laches. Consequently, the constitutional petition was dismissed for being not maintainable and without merit, with no order as to costs.

16. SINDH HIGH COURT

Muhammad Furqan Khalid v. Federation of Pakistan and others
Constitutional Petition No.D-4800 of 2025

Present: *Mr. Justice Adnan-ul-Karim Memon and Mr. Justice Zulifqar Ali Sangi*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA1MzM1Y2Ztcy1kYzgz>
2026 SHC KHI 267

Facts: The petitioner, Muhammad Furqan Khalid, proprietor of M/s Ermi Fresh, is engaged in import and export business and holds a valid Pakistani passport. On 28.08.2025, while attempting to travel from Karachi to London via Dubai on Emirates Flight EK-601, he was off-loaded at Jinnah International Airport after issuance of boarding pass and affixation of exit stamp. An “Off Loaded” stamp was placed on his passport without issuance of any written notice, show cause, or speaking order. Upon inquiry, he was verbally informed that his name had been placed on the Passport Control List (PCL) due to FIR No. 42/2025 registered under the Anti-Money Laundering Act, 2010, allegedly involving illicit transfers of approximately Rs. 1.07 billion. The petitioner had already obtained pre-arrest bail and was regularly attending court proceedings. He challenged the off-loading and placement on PCL as arbitrary, unconstitutional, and violative of his fundamental rights.

- Issue:** (i). Whether the placement of the petitioner's name on the Passport Control List (PCL) and his off-loading from an international flight without issuance of a show cause notice, opportunity of hearing, or a reasoned order was lawful and in accordance with constitutional and statutory requirements?
(ii). Whether the constitutional petition was maintainable despite the availability of an alternate remedy under the Passport Rules, 2021.
- Rule:** The right to travel abroad forms part of the fundamental rights guaranteed under Articles 4, 9, 14, and 15 of the Constitution of the Islamic Republic of Pakistan, 1973. Although this right is not absolute, any restriction must be imposed strictly in accordance with law, through a fair, transparent, and proportionate procedure. Under the Passport Act, 1974 and Passport Rules, 2021, particularly Rules 21 and 22, the Directorate General of Immigration and Passports is empowered to regulate the Passport Control List; however, such powers must be exercised consistent with principles of natural justice, including prior notice, opportunity of hearing, and a reasoned order. Judicial precedents have consistently held that mere registration of an FIR or pendency of criminal proceedings, especially where the accused is on bail and attending trial, does not automatically justify curtailment of the right to travel. Furthermore, the existence of an alternate statutory remedy does not bar constitutional jurisdiction where fundamental rights are infringed or where the impugned action is prima facie without lawful authority or tainted with arbitrariness.
- Application:** In the present case, it was undisputed that the petitioner was off-loaded after completion of immigration formalities and was not served with any show cause notice or written order prior to the restriction on his travel. The respondents failed to demonstrate that any speaking order was passed or communicated to the petitioner contemporaneously. The restriction was thus imposed in secrecy, without adherence to due process. Although the petitioner was nominated in FIR No. 42/2025 and criminal proceedings were pending, he was on pre-arrest bail and regularly attending court, and no material was produced to show violation of bail conditions or likelihood of abscondence. The Court held that pendency of criminal proceedings alone does not justify automatic placement on PCL or denial of travel. The objection regarding alternate remedy under Rule 22(3)(b) was also rejected because the petition involved infringement of fundamental rights and procedural illegality. The Court confined itself to examining the legality of the procedure adopted, rather than adjudicating upon the merits of the criminal allegations. It found that the action of off-loading and restraining travel, without compliance with statutory safeguards and principles of natural justice, was arbitrary and procedurally unlawful.
- Conclusion:** The High Court allowed the petition to the extent that the respondents were directed not to restrain the petitioner from international travel except strictly in accordance with law, after due compliance with statutory requirements and principles of natural justice. The Court held that the impugned off-loading and travel restriction suffered from procedural illegality

and arbitrariness. However, the judgment did not prejudice the pending criminal proceedings, which were directed to continue independently in accordance with law.

17. SINDH HIGH COURT

Mst Maria Zakir v. Khuwaja Nabeel Ahmed and another
Constitutional Petition No.D-567 of 2025

Present: *Mr. Justice Adnan-ul-Karim Memon and Mr. Justice Zulifqar Ali Sangi*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA1MzQ3Y2Ztcy1kYzgz>
2026 SHC KHI 273

Facts: The petitioner, Mst. Maria Zakir, filed a Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 before the High Court of Sindh, Karachi, seeking modification of an order dated 14.09.2024 passed by the Guardian Court. She is the real mother of the minor, Khwaja Moiz Ahmed Siddiqui, and claims to have been solely responsible for his upbringing since her divorce from respondent No.1 in 2021. The impugned order dismissed the father's application for permanent custody but restrained the minor from traveling abroad with the petitioner and allowed overnight visitation at the respondent's residence. The petitioner contended that she intended to move abroad for better employment opportunities for the minor's welfare and that overnight stays exposed the child to emotional manipulation by the respondent's second wife. Conversely, the respondent argued that the petition was not maintainable due to the availability of an alternative remedy under Section 47 of the Guardian & Wards Act, 1890, and alleged that the petitioner had relocated permanently to the United Kingdom and failed to comply with court orders, thereby depriving him of meaningful access to the minor.

Issue: Whether, in exercise of constitutional jurisdiction under Article 199 of the Constitution, the High Court could modify the Guardian Court's order restraining the minor from traveling abroad with the mother and permitting overnight visitation with the father, particularly when an alternative statutory remedy of appeal under Section 47 of the Guardian & Wards Act, 1890 was available, and whether such directions were consistent with the paramount consideration of the welfare of the minor?

Rule: The Court reiterated the settled principle that in custody and visitation matters, the welfare of the minor is the paramount consideration, which supersedes the legal rights of either parent. Welfare encompasses not only physical comfort but also emotional, psychological, educational, and moral well-being. Although an alternative statutory remedy under Section 47 of the Guardian & Wards Act, 1890 is available, constitutional jurisdiction under Article 199 is not absolutely barred where the impugned order is alleged to suffer from

jurisdictional error, material irregularity, or disregard of the minor’s welfare. Furthermore, remarriage of a parent does not automatically disqualify that parent from custody or visitation unless tangible evidence demonstrates harm to the child. Courts must strike a balance between facilitating better opportunities for the child and safeguarding the non-custodial parent’s right to meaningful contact.

Application: Applying these principles, the Court observed that the petitioner is the real mother and that permanent custody had already been declined to the father by the Guardian Court. The impugned order restrained the minor from traveling abroad without recording a clear finding that such travel would be detrimental to the minor’s welfare. The Court held that mere apprehensions of alienation are insufficient to restrict a mother from taking the minor abroad unless supported by cogent material indicating real risk or harm. At the same time, the respondent-father, being the natural guardian, is entitled to reasonable and meaningful access, as denial of visitation may adversely affect the child’s emotional development. Regarding overnight visitation at the father’s residence, the Court found that such arrangements require careful scrutiny when concerns regarding emotional well-being are raised and should not be treated as routine. The Court emphasized that appropriate safeguards, such as undertakings and security bonds, may be imposed to ensure compliance with visitation rights if the child is permitted to travel abroad.

Conclusion: The Court concluded that while the impugned order did not warrant outright interference in constitutional jurisdiction, it required modification to fully protect the welfare of the minor and to balance the rights of both parents. Accordingly, the petition was disposed of with directions permitting the petitioner to travel abroad with the minor subject to undertaking compliance with visitation arrangements; directing the Guardian Court to revisit and regulate overnight visitation in light of the minor’s well-being; affirming the respondent-father’s reasonable visitation rights; and granting liberty to the Guardian Court to modify the schedule in the future strictly in accordance with the welfare of the minor.

18. SINDH HIGH COURT
Muhammad Tariq Mansoor versus Province of Sindh &
C.P. No.D-4890 of 2017

Present: Mr. Justice Yousuf Ali Sayeed and Mr. Justice Muhammad Osman Ali Hadi
Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA1MTk3Y2Ztcy1kYzgZ>
2026 SHC KHI 218

Facts: The petitioner challenged Section 2(n) of the Sindh Factories Act, 2015 (SFA 2015), which defines “worker” and expressly excludes persons employed through third parties

(agents, contractors, sub-contractors, etc.). He argued that this definition is discriminatory and contrary to Articles 8, 18, and 25 of the Constitution of Pakistan 1973. He claimed it deprives contract workers of protections available under other labour statutes, affecting over 800,000 workers in Sindh. He also alleged violation of international human rights instruments (e.g., Universal Declaration of Human Rights). The petition was filed under Article 199 of the Constitution as public interest litigation, without the petitioner claiming any personal grievance.

- Issues:** Whether the petitioner qualifies as an “aggrieved person” under Article 199 to maintain the petition. Whether Section 2(n) of the SFA 2015 is unconstitutional. Whether the petition is a bona fide public interest litigation or a publicity-seeking “private interest litigation.”
- Rules:** Article 199(1)(a) of the Constitution requires the petitioner to be an “aggrieved person” — one who has suffered a direct or indirect legal injury and has a substantial interest in the matter. Public interest litigation must be filed in good faith for genuine public welfare; it cannot be used for publicity, personal agenda, or frivolous claims. Courts must discourage “private interest litigation” disguised as PIL. Legislative wisdom cannot be substituted by judicial views unless there is a clear violation of the Constitution. Courts cannot rewrite statutes or interfere in policy choices of the legislature. A mere assertion of fundamental rights violation is insufficient; the petitioner must substantiate it with specific evidence of harm.
- Application:** The petitioner failed to establish himself as an “aggrieved person.” He had no personal stake and admitted no affected worker had approached him. His claim of acting in public interest was rejected. The court observed that if workers were genuinely aggrieved, they could have been represented pro bono, which the petitioner did not do. The filing appeared motivated by self-publicity. The court cited multiple precedents (including *Abid Hussain Chandio*, *Premier Battery Industries*, and *Senator Khalida Ateeb*) to distinguish genuine PIL from publicity-seeking or private-interest litigation. The definition in Section 2(n) was viewed as beneficial to workers because it eliminates middlemen commissions, allowing workers to receive their full wages. The petitioner never challenged the legislative competence or process by which the SFA 2015 was enacted (under Articles 137 and 142 of the Constitution). No specific, substantiated violation of Articles 8, 18, or 25 was demonstrated — only general assertions were made. The court held that altering the statutory definition would amount to judicial legislation, which is impermissible.
- Conclusion:** The petition was dismissed on 03.02.2026 as frivolous, without merit, and devoid of any legal substance. The court strongly deprecated such petitions filed under the garb of public interest for personal publicity.
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19. SINDH HIGH COURT

Mst Razia v/s. Syed Kaleem Imam IG Sindh & others
Constitutional Petition No.D-292 of 2024

Present: *Mr Justice Amjad Ali Bohio and Mr Justice Ali Haider 'Ada'*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA1MjAxY2Ztcy1kYzgz>
Sindh High Court Citation (2026 SHC SUK 219)

Facts: The facts of the case stem from a portion of land allotted to the Sindh Police Department for a Police Picket that was initially encroached upon by local residents for dumping garbage. The land was later unlawfully converted to commercial use, with a builder constructing a multi-storey building containing shops and flats, in violation of applicable laws and regulations. This misuse originated in proceedings under Constitutional Petition No. D-939 of 2012. In 2019, the High Court of Sindh declared the construction illegal, ordered its immediate demolition, condemned police officials for allowing the misuse for personal gain contrary to Standing Order No. 207 of 2005, and directed disclosure of similar misused police plots with action against responsible officers. The Supreme Court upheld the demolition order in April 2019, affirmed that police land must be used exclusively for policing purposes, and instructed criminal and departmental proceedings against culpable officials. After further interventions, including by Mst. Razia and other occupants, the Supreme Court in January 2023 remitted the matter for implementation to the High Court of Sindh. In the connected 2024 petitions (led by C.P. No. D-292/2024), alleged tenants/ shopkeepers claimed lawful possession via lease/tenancy agreements with police functionaries and payment of rent, resisting eviction notices. The High Court, in its February 2026 judgment, dismissed the petitions, holding the matter final and binding under Supreme Court directives.

Issue: Whether the High Court of Sindh could revisit or decline to implement the Supreme Court of Pakistan's final directions to demolish an illegally constructed commercial building on police land allotted for a Police Picket and to restore the land exclusively for policing purposes, when alleged tenants intervened claiming lawful lease/tenancy agreements, rent payments, and arguing that recent constitutional amendments required fresh consideration of their eviction and possession rights.

Rule: Article 189 of the Constitution of Pakistan provides that decisions of the Supreme Court shall be binding on all other courts to the extent they decide a question of law or enunciate a principle of law. Judicial hierarchy obliges High Courts to implement Supreme Court judgments in letter and spirit without sitting in appeal over them, and this binding force was unaffected by the 26th and 27th Constitutional Amendments. Land allotted to the Police Department for official purposes cannot be diverted for private commercial use or personal gain; the Department, as custodian, holds the exclusive prerogative to determine its use for policing functions (including branches, bureaus and facilities under the 2019 Amendment Act and Police Rules 1934 Rule 3.28). Private leases or tenancies cannot override State proprietary rights or prevail against binding judicial declarations that the construction and occupation are illegal. Continued possession after final adjudication

constitutes unauthorized encroachment on State property reserved for public institutional purposes.

Application: The controversy originated in 2012 when police land meant for a Police Picket was encroached and then used for a multi-storey commercial building. The High Court in 2019 declared the construction unlawful, ordered demolition, and criticised police officials for misuse. The Supreme Court upheld this in 2019, confirmed the illegality of commercial use on policing land, mandated demolition, directed action against responsible officers, and required strict policing-only use of all such plots. In 2023 the Supreme Court remitted implementation to the High Court. In the 2024–2026 batch of petitions, intervenors/tenants argued valid leases, fulfilled obligations, lack of specific police need, and that constitutional amendments necessitated independent review. The High Court rejected these contentions, holding that the matter attained finality at the Supreme Court level, Article 189 preserved binding effect post-amendments, no provision permitted disregard of apex court orders, private arrangements could not defeat State resumption rights for essential policing, and occupants became encroachers after the final declarations. One petition was not pressed; the rest failed for want of any cogent new ground.

Conclusion: All petitions and applications were dismissed, interim orders recalled, and the police authorities were directed to strictly comply with the Supreme Court judgments by resuming possession of the land and using it exclusively for policing purposes in accordance with law.

20. SINDH HIGH COURT

Chandiyo (Applicant) VS Bheeru & Others (Respondent)
Criminal Miscellaneous Application No.S-238 of 2025

Present: Mr. Justice Miran Muhammad Shah

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA0ODI1Y2Ztcy1kYzgz>
2026 SHC MPK 198

Facts: The complainant lodged an FIR under sections 302, 147, 148 and 149 PPC alleging that his sister died after being violently assaulted by her husband and relatives. During investigation, the police submitted a final report under section 173 Cr.P.C. recommending cognizance only under section 322 PPC against one accused, and the Magistrate accordingly deleted the earlier sections. Aggrieved by this reduction of charges, the complainant challenged the order before the High Court.

Issue: Whether the Magistrate lawfully deleted sections 302, 147, 148 and 149 PPC and took cognizance only under section 322 PPC by relying on the police final report, without independently examining the available record in a suspected domestic violence death.

Rule: Under section 173 Cr.P.C., when a final investigation report is submitted, the Magistrate is

not bound to accept the police conclusion mechanically. The law requires the Magistrate to apply independent judicial mind to the FIR, witness statements, medical material, and surrounding circumstances before deciding the proper offences for cognizance, especially where the report proposes dilution of a serious charge.

Application: The High Court observed that the Magistrate placed undue reliance on the investigation officer's report while overlooking the complainant's categorical allegations of sustained domestic violence, eyewitness assertions, and visible injury marks inconsistent with a straightforward accidental death. The medical opinion was inconclusive and internally inconsistent, yet it was treated as decisive. The Court noted that such an approach risks converting potential intentional homicide into an accidental case without proper scrutiny. Since the record disclosed prima facie material suggesting intentional violence, the Magistrate was required to independently reassess the evidence at the stage of section 173 Cr.P.C. proceedings. The failure to do so amounted to improper exercise of jurisdiction, justifying interference.

Conclusion: The High Court set aside the impugned order and directed the Magistrate to reconsider the case by independently assessing the record and taking cognizance in accordance with law, with a fresh challan to be submitted reflecting prima facie offences including section 302 PPC where supported by the material. The decision establishes that courts must actively scrutinize investigation reports at the cognizance stage and cannot reduce serious allegations without careful judicial evaluation.

21. SINDH HIGH COURT

Sukkur IBA University, through its authorized person/Registrar Azhar Ali and others v/s. Bakhtawar
1st Civil Appeal No. S-22 of 2024

Present: *Mr. Justice Khalid Hussain Shahani*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA1NTIxY2Ztcy1kYzgz>
(2026 SHC SUK 316)

Facts: The appellants, including Sukkur IBA University and its former Vice-Chancellor and Registrar, filed a defamation suit against the respondent, Bakhtawar. The appellants claimed that the respondent staged a press conference, levelled false and defamatory allegations against the appellants, and disseminated a video that tarnished the reputation of the university. However, the plaint did not specify the exact defamatory words or imputations made by the respondent. The respondent denied any involvement in defamation, arguing that her actions were based on grievances regarding the public institution and were in the public interest.

- Issue:** Whether a civil action for defamation can be maintained in the absence of pleading and proving the exact defamatory words or imputations allegedly made by the defendant, and whether the trial court was justified in dismissing the suit for pleading and evidentiary deficiencies.
- Rule:** The key legal framework governing defamation claims in Pakistan is the Defamation Ordinance, 2002, which establishes that a false statement or representation injuring a person's reputation is actionable. The Code of Civil Procedure (CPC) under Order VI, Rule 2 mandates that the plaint should contain a concise statement of material facts, not evidence, including specific details of defamatory content. Furthermore, under the Qanun-e-Shahadat Order, 1984, the burden of proof lies on the plaintiff to demonstrate the defamatory content, its falsity, and its publication.
- Application:** The appellants failed to provide the specific words or imputations allegedly uttered or published by the respondent in their plaint, instead resorting to adjectives like “false,” “baseless,” and “defamatory” without identifying the exact content. The omission of the specific defamatory words in the pleadings meant that no concrete cause of action was disclosed, as the law requires specific allegations in defamation cases to be properly pleaded. The appellants were unable to substantiate their claims with actual proof of the defamatory words. Despite alleging a press conference and a video being circulated, no actual content of the alleged defamatory material was presented in evidence. Additionally, the appellants failed to prove the respondent's role in publishing the alleged defamatory statements. The nature of the dispute, based on the evidence, appeared more as a grievance concerning institutional conduct rather than an actionable defamation. The respondent contended that her actions were in good faith and in the public interest, falling within the statutory exceptions to defamation, such as those for grievance-based speech. The appellants did not meet the legal burden of proving their allegations under Article 117 of the Qanun-e-Shahadat Order, 1984, as they failed to produce the alleged defamatory content or demonstrate its falsity and malicious intent.
- Conclusion:** The court concluded that the appellants' suit was not maintainable due to their failure to plead the specific defamatory content and to prove the defamatory nature of the statements. The trial court's decision to dismiss the suit for pleading and evidentiary deficiencies was upheld. Additionally, the claim for Rs.500 million in damages was deemed unsustainable due to the lack of proof of reputational harm or defamatory content. The judgment of the learned trial court was legally sound, and the appeal was dismissed.

SELECTED ARTICLES

Intergenerational Equity in International Climate Law as a Legal Criterion for the Interpretation of State Climate Obligations According to the ICJ

(Multidisciplinary Digital Publishing Institute)

By Eliana Díaz-Cruces, Camilo Zamora-Ledezma, Simone Belli

<https://www.mdpi.com/2075-471X/15/1/10>

The article analyzes the International Court of Justice Advisory Opinion No. 32 of July 2025 on states' obligations regarding climate change. It argues that the Opinion transforms intergenerational equity from an ethical and aspirational principle into a binding interpretative criterion in international climate law. The ICJ consolidates states' duties of prevention, due diligence, cooperation, mitigation, adaptation, and regulation of private actors' emissions, while characterizing climate protection as an erga omnes obligation rooted in human rights, customary international law, and treaties such as the UNFCCC and Paris Agreement.

The Opinion designates the 1.5 °C warming threshold as a central legal benchmark for assessing due diligence, rather than a mere political goal. It does not create new autonomous obligations but strengthens the interpretation of existing ones. The authors trace the principle's evolution from early instruments like the Stockholm Declaration, Brundtland Report and Rio Declaration, through theoretical foundations (Weiss, Rawls, Caney) and Global South/Indigenous perspectives addressing historical inequities.

They explore implications for state responsibility, climate litigation and global governance, and propose institutional mechanisms such as ombudspersons for future generations, climate trusteeships for carbon budgets and ecosystems, and intergenerational impact assessments to ensure long-term accountability. While the Opinion marks a significant advance in climate governance, its non-binding advisory nature, dependence on political will, enforcement gaps, and challenges in vulnerable or fossil-dependent contexts limit immediate impact. Its transformative potential depends on states' ability to integrate these principles into domestic laws, courts and multilateral processes.

SELECTED ARTICLES

Offloading of Airline Passengers in Pakistan: Constitutional Limits, Statutory Authority, and Emerging Judicial Standards (Courting the Law)

By Obaid Ullah Ahmad, Advocate High Court

<https://courtingthelaw.com/2026/02/10/commentary/guest-columnists/offloading-of-airline-passengers-in-pakistan-constitutional-limits-statutory-authority-and-emerging-judicial-standards/>

The article examines the controversial practice of offloading passengers at Pakistani airports, intensified under the current government to curb illegal immigration and human smuggling. This crackdown followed tragedies like the Greece boat incident where dozens of Pakistanis died attempting illegal entry into Europe.

Offloading lacks a single dedicated law but draws from statutes like the Pakistan Immigration Ordinance, 1979, which authorizes checking travel documents and preventing departure for forged or false papers. However, the author argues that current practices often based on mere suspicion without written reasons are unlawful, arbitrary, and exceed statutory limits, as the Ordinance does not permit stops on suspicion alone.

While citizens' fundamental right to free movement (Article 15 of the Constitution of Pakistan, 1973) is subject to reasonable restrictions, offloading must comply with due process. Public frustration persists despite assurances from the Federal Investigation Agency (FIA) and Ministry of Interior that only those with fake, forged, or incomplete documents are stopped, as such cases harm Pakistan's international reputation (e.g., by contributing to overstay issues and passport downgrades).

The author notes partial success: authorities claim the policy has improved Pakistan's passport ranking in the Henley Passport Index from 103rd in 2025 to 98th in 2026. Yet, this comes at a high human cost, many offloaded passengers are from lower-middle-class backgrounds seeking legitimate work abroad to support families, often after borrowing money. Blocking them derails careers, burdens them with debts, and fails to address root causes like unemployment.

The article contrasts Pakistan's approach with India and China, where similar practices aimed to retain talent, but Indian courts have restricted arbitrary use by mandating written reasons. Similarly, the Lahore High Court has ruled that authorities must provide written reasons for offloading, serving as a substantive safeguard for due process and liberty rather than mere formality.

Ultimately, while curbing illegal migration is valid, the author questions whether offloading achieves goals sustainably. Better alternatives include boosting the economy, creating jobs, and attracting investments to reduce incentives for illegal migration, rather than restricting citizens' legitimate travel opportunities.

SELECTED ARTICLES

Police reforms: missed opportunity (Dawn News)

By Afzal Ali Shigri, former IGP Sindh and convener of the Police Reforms Committee, Law and Justice Commission

<https://www.dawn.com/news/1972867/police-reforms-missed-opportunity>

The author, a former Inspector General of Police (IGP) Sindh and convener of the Police Reforms Committee under the Law and Justice Commission, laments that a major opportunity for meaningful police reform in Pakistan was squandered. In 2018, amid declining public trust in the criminal justice system (CJS), a committee of nine retired and seven serving IGPs—along with judicial input—produced a detailed report titled *Police Reforms: Way Forward*. This professional blueprint diagnosed core problems: flawed investigations (due to poor evidence collection, weak forensics, inadequate preparation, and interference) as the main driver of high acquittal rates, which discredit the entire CJS. It highlighted three structural flaws—politicisation of police command/transfers, weak accountability, and deficient investigations from lack of specialisation and resources.

The report proposed a Model Police Law for 21st-century policing: politically neutral, democratically controlled, operationally autonomous, effectively accountable, and professionally specialised. It balanced autonomy with oversight via public safety commissions and independent complaints authorities, arguing that independence without accountability leads to impunity, while accountability without independence leads to subservience.

Key recommendations included:

- Separating investigation from public order duties, with a dedicated investigation wing (headed by an Additional IGP) focused on crime, forensics, legal matters, and data.
- Specialised units for serious crimes (e.g., terrorism, kidnapping, human smuggling).
- Autonomous forensic labs, prioritising scientific/digital evidence.
- Differentiated urban policing models (e.g., police divisions for populations up to 500,000 with specialised wings for operations, investigation, traffic, etc.).

- Better handling of terrorism cases through specialised training, clearer laws, and inter-agency coordination.
- Stronger internal and external accountability mechanisms to address public grievances (e.g., failure to register cases, harassment, abuse).
- Alternative dispute resolution for minor conflicts to ease court burdens.

The report reviewed policing's evolution (from the 1861 Police Act to the 2002 Police Order) and stressed uniform standards across provinces, aligned with constitutional jurisprudence and federal primacy in criminal matters. Despite this thorough, internally developed framework requiring minimal external resources, it was ignored by successive governments. The author attributes this to a lack of political will and maturity: reforms would reduce politicians' discretionary control over postings, transfers, investigations, and deployments—tools of patronage and influence. Political parties promise reforms in manifestos but avoid implementation due to vested interests and short-term calculations.

The consequences are severe: a dysfunctional CJS erodes public trust, hampers economic growth (by undermining property rights, contract enforcement, investment, tourism, and stability), and weakens the fight against terrorism and organised crime. The police must serve the Constitution and public, not factions—requiring security of tenure, transparent oversight, specialisation, and financial autonomy as citizen safeguards.

In conclusion, the blueprint and supporting jurisprudence exist, but the problems from 2018 (fragmented laws, weak investigations, uneven accountability, low public trust) persist unresolved. Policymakers must choose: treat policing as a tool for political convenience or as a professional institution vital to rule of law, economic progress, and national security. The responsibility lies with those in power to turn reform from a slogan into reality.

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