HIGH COURT OF SINDH

Case Law Review

Fortnightly Bench Update

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FORTNIGHTLY BENCH UPDATE

(01-09-2025 to 15-09-2025)

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

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1. THE SUPREME COURT OF PAKISTAN
Shafqat Ali v. Mst Zaib Un Nisa and ors
Civil Petition No. 74 of 2025

Present: **Mr. Justice Amin-ud-din Khan**
Mr. Justice Syed Hassan Azhar Rizvi

Source: **https://www.supremecourt.gov.pk/downloads_judgements/c.p.742025.pdf**

Facts: Respondent No.1, Mst. Zaib-un-Nisa, filed a Family Suit before the Family Judge, Taxila, seeking recovery of her dower, dowry articles, and maintenance for her minor child. On 17.12.2016, the Family Judge decreed that she was entitled to **seven (07) tolas of gold or, in the alternative, Rs.100,000 as dower**, along with maintenance. Since the gold ornaments mentioned in Column 15 of the Nikahnama had been given to her at the time of marriage but were later taken back by her husband (the petitioner, Shafqat Ali), she sought recovery of either the ornaments or their current market value during execution proceedings. On 10.07.2018, the Executing Court accepted her stance and ordered recovery of seven tolas of gold or its **prevailing market value**. However, in Revision, the Additional District Judge (05.11.2018) set aside this order, holding that she was only entitled to the fixed sum of Rs.100,000. Dissatisfied, Respondent No.1 approached the Lahore High Court through Writ Petition No. 3346/2018, which was accepted on 20.11.2024, restoring the Executing Court's order. Against this, the petitioner filed Civil Petition No. 74 of 2025 before the Supreme Court of Pakistan.

Issue: Whether the decree passed by the Family Judge, which awarded respondent No.1 either seven (07) tolas of gold or an alternative sum of PKR 100,000, entitled her to claim the **current market value** of seven tolas of gold, or whether her entitlement was restricted to the fixed sum of PKR 100,000 as interpreted by the Revisional Court?

Rule: Under Pakistani Family Law, the entries in a *Nikahnama* regarding dower are to be interpreted according to their true meaning. Column 13 usually relates to prompt dower in monetary terms, while Columns 15 and 16 record obligations concerning gold ornaments or other property, and these are treated as **independent commitments** rather than mere alternatives. It is a settled principle, as laid down in *Haji Muhammad Nawaz v. Samina Kanwal & others (2017 SCMR 321)*, that where a decree explicitly provides alternative modes of satisfaction—for instance, the return of gold ornaments or payment of their value—the decree-holder has the right to elect the option that is more beneficial, and the executing court does not go beyond the decree by directing payment of the ornaments' current market value if return in specie is not possible. Furthermore, in *M. Hamad Hassan v. Mst. Isma Bukhari & others (2023 SCMR 1434)*, the Supreme Court reaffirmed that once the trial and appellate courts have adjudicated upon the facts, constitutional courts may only exercise limited supervisory jurisdiction and cannot reappraise evidence or substitute their own findings unless there is a clear misreading or non-reading of the record.

Application: In the present case, the Family Judge's judgment and decree dated 17.12.2016 explicitly stated that respondent No.1 was entitled to recover either seven tolas of gold or an alternative sum of Rs.100,000 as dower. Since the ornaments mentioned in

Column 15 of the *Nikahnama* had been taken back by the petitioner, the Executing Court, through its order dated 10.07.2018, directed recovery of the ornaments or their prevailing market value. The Revisional Court, however, altered this order on 05.11.2018, holding that respondent No.1 was entitled only to Rs.100,000, construing the gold as being given in lieu of that amount. The High Court, upon constitutional petition, reversed the Revisional Court's order and restored the Executing Court's decision, holding that the decree provided two distinct options and that the decree-holder had the discretion to choose the more advantageous one. The Supreme Court endorsed this reasoning, noting that the Revisional Court had exceeded its jurisdiction by reinterpreting the decree contrary to established principles, while the High Court had correctly applied the law and relevant precedents, particularly *Haji Muhammad Nawaz*.

Conclusion: The Supreme Court upheld the judgment of the Lahore High Court, affirming that respondent No.1 was entitled to recover either the return of seven tolas of gold or the prevailing market value of those ornaments, rather than being confined to the fixed amount of Rs.100,000. The Court observed that the High Court had rightly corrected the error committed by the Revisional Court, which had improperly restricted the decree-holder's entitlement. Finding no legal infirmity, misreading, or jurisdictional error in the High Court's reasoning, the Supreme Court dismissed the Civil Petition for Leave to Appeal filed by the petitioner and refused leave to appeal.

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2. THE SUPREME COURT OF PAKISTAN
Mst Ambreen Akram v. Asad Ullah Khan
Civil Petition No. 1107-L of 2025
Civil Appeal No. 247-L of 2017

Present: **Mr. Justice Mansoor Ali Shah**
Mr. Justice Aqeel Ahmed Abbasi

Source: **https://www.supremecourt.gov.pk/downloads_judgements/c.p._1107_l_2015.pdf**

Facts: The case arises from the marriage between the petitioner, Ambreen Akram (the wife), and the respondent, Asad Ullah Khan (the husband), which was solemnized through the contract of marriage (nikahnama) on November 2, 2012. Although the rukhsati (the bride's departure to the husband's residence) was initially scheduled for February 2013, the respondent delayed it for over a year. In October 2013, the petitioner approached the Family Court in Faisalabad, claiming maintenance from the date of marriage, citing the respondent's failure to perform rukhsati. The Family Court proceeded ex-parte after the respondent failed to attend the reconciliation proceedings, awarding maintenance of Rs. 3,000 per month from the date of marriage until the subsistence of the marriage, in its judgment on March 12, 2014. Both parties then appealed the decision before the District Court in Faisalabad. In the meantime, the respondent divorced the petitioner on May 2, 2014. The District Court partly allowed the petitioner's appeal on October 27, 2014, increasing the maintenance amount to Rs. 5,000 per month.

Issue: The case presents two foundational questions that address the intersection of Islamic law, constitutional rights, and social realities. First, it concerns when a Muslim woman becomes entitled to maintenance within a marriage under Islamic law and

constitutional principles. Second, it explores under what circumstances, if any, a husband may be excused from his marital obligation to pay maintenance to his wife.

Rule: Under Islamic law, maintenance (nafaqa) is a right owed to a wife upon the solemnization of a valid marriage. The majority view in Islamic jurisprudence, particularly the Ḥanafī school of thought, asserts that maintenance is due from the moment the marriage contract (nikah) is established, irrespective of whether the marriage is consummated. Pakistani law supports this view, with provisions in the Muslim Family Laws Ordinance (MFLO) and the Family Courts Act, 1964, affirming that a wife's entitlement to maintenance is a legal right that arises immediately upon the solemnization of the marriage, regardless of whether the marriage is consummated or the wife resides with her husband. This right is further protected under the Constitution of Pakistan, which guarantees dignity, equality, and the protection of the family unit, as outlined in Articles 14, 25, and 35.

Application: In this case, the marriage between the petitioner (wife) and the respondent (husband) was validly solemnized, but the respondent delayed the rukhsati (bride's departure to the husband's residence) for over a year. Despite this, the wife claimed maintenance from the date of the marriage, which was denied by the respondent who argued that maintenance should only be due once the marriage is consummated or the wife resides with him. The Family Court initially ruled in favor of the wife, awarding her maintenance from the date of marriage. However, the Lahore High Court reversed this decision, citing the lack of consummation as grounds for denying maintenance. The Court, upon review, clarified that maintenance is not contingent on consummation or physical presence with the husband. Instead, it is a legal entitlement arising from the contract of marriage itself. The husband's failure to fulfill his marital obligations, such as providing a marital home and facilitating rukhsati, did not relieve him of his duty to provide maintenance. The Court emphasized that the husband was not excused from his responsibility to support his wife, especially given that the non-consummation was due to his own neglect. Furthermore, the Court rejected the traditional patriarchal view that a wife's entitlement to maintenance depends on her obedience or physical submission. The entitlement to maintenance was recognized as a right stemming from the marital contract, ensuring the wife's dignity and financial security. The Court also underscored that the denial of maintenance under these circumstances would violate the wife's constitutional rights, including her right to dignity and equality.

Conclusion: The Supreme Court of Pakistan set aside the judgment of the Lahore High Court and affirmed the wife's right to maintenance from the date of marriage. The Court held that maintenance is a binding legal duty that arises upon the solemnization of the marriage, irrespective of consummation or rukhsati. The husband was not excused from paying maintenance because he failed to fulfill his obligations, and the wife's inability to cohabit was due to the husband's own inaction. The Court ruled that the maintenance period would continue until the period of iddat following the divorce. The petition was accepted, and the connected civil appeal was allowed. Additionally, the Court emphasized the importance of gender-sensitive judicial language and recommended that judges in family law cases adopt language that reflects the constitutional values of dignity, equality, and non-discrimination, as well as the lived realities of litigants.

3. SINDH HIGH COURT
Riaz Ahmed v. Mst Hajra Bibi and another
Criminal Acquittal Appeal No. 483 of 2025

Present: **Mr. Justice Zafar Ahmed Rajput**
Mr. Justice Muhammad Hassan (Akber)

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjgwNDk5Y2Ztcy1kYzgz**
2025 SHC KHI 2262

Facts: Succinctly, Riaz Ahmad (**deceased**) was married to Hajra Bibi (**Respondent**) in 2014. In October 2019, Siraj fell ill and was shifted through different hospitals for treatment, until he ultimately passed away on 9.10.2019 at SIUT. The younger brother of the deceased (**Appellant**), lodged FIR on 12.02.2020 under sections 302/34 PPC. alleging that Hajra Bibi had administered poison to the deceased. The first investigation concluded with an "A" class report for want of evidence, but after change of investigation, a "C" class charge-sheet was filed on the basis of a post-mortem conducted after exhumation of the body in January 2021, about fifteen months after death. At trial, fourteen witnesses were examined, but neither there was any eye witness for administering poison nor medical officers established poisoning as the cause of death. The Trial Court, acquitted Hajra Bibi by extending the benefit of doubt, which was challenged by the appellant in the present Acquittal Appeal.

Issue: The issue before the High Court of Sindh was whether interference was justified with the Acquittal of the respondent, Mst. Hajra Bibi, who had been charged under sections 302/34 of the Pakistan Penal Code for allegedly administering poison to her husband. The appellant contended that the Trial Court erred in granting acquittal by extending the benefit of doubt.

Rule: In an appeal against Acquittal under section 417(2) of the Criminal Procedure Code, the scope of interference is considerably narrower than in appeals against conviction. The accused benefits from a double presumption of innocence; the presumption that every accused is innocent until proven guilty, strengthened by the fact of Acquittal. Superior courts in Pakistan have consistently held that such acquittals cannot be overturned unless the findings of the trial court are shown to be perverse, arbitrary, artificial, speculative, or manifestly unreasonable, as was held in the cases of '*The State v. Abdul Khaliq' (PLD 2011 SC 554)*, '*Ghulam Sikandar v. Mamrez Khan' (PLD 1985 SC 11)*, and '*Tariq Pervez v. The State' (1995 SCMR 1345)*.

Application: Applying this principle to the facts, the Court observed that FIR was lodged after an inordinate and unexplained delay of four months, which undermined its credibility. More significantly, the case lacked any direct evidence. None of the medical officers from the various hospitals where the deceased was treated reported that poisoning was the cause of death. Even the exhumation and post-mortem conducted fifteen months after the death did not conclusively establish poisoning. The Investigation Officers admitted that there was no eyewitness to the alleged administration of poison, and all material prosecution witnesses, including close relatives of the deceased, conceded in cross-examination that they had not themselves seen the respondent administer any substance to the deceased and had merely relied on hearsay of the complainant's assertion. In these circumstances, the Trial Court had rightly extended the benefit of

doubt to the accused and acquitted her. The High Court found that the judgment was based on a proper appreciation of evidence and that the appellant failed to point out any illegality, irregularity, or misreading of evidence.

Conclusion: The Court concluded that no grounds existed to justify interference with the Acquittal. Since the findings of the Trial Court did not suffer from perversity or miscarriage of justice, the acquittal of the respondent stood confirmed. Accordingly, the High Court dismissed the appeal on 02.09.2025.

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4. **SINDH HIGH COURT**
M/s Yunus Textile Mills Ltd v. The Province of Sindh and others
C.P Nos.D-1154, 1155, 1547, 1838, 2188, 2221, 426, 5326, 5798, 625, 626, 640, 6667 of 2020, C.P Nos.D-3929, 4804 & 6843 of 2021, C.P Nos.D-5468 & 6598 of 2022, C.P No.D-2083 of 2023 C.P Nos.D-635 of 2024

Present: **Mr. Justice Muhammad Iqbal Kalhoro**
Mr. Justice Muhammad Osman Hadi

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/Mjc5Nzc3Y2Ztcy1kYzgz**
2025 SHC KHI 2191 to 2025 SHC KHI 2210

Facts: The facts of the case center around a group of petitioners' textile manufacturers and exporters based in Karachi who challenged a notification dated 30.10.2019 issued by the Karachi Water and Sewerage Board (KWSB), through which water tariff rates were increased by 9% with retrospective effect from 01.07.2017. The petitioners claimed that the increase was imposed without obtaining prior approval from the Government of Sindh (GoS), as allegedly required under the Karachi Water and Sewerage Board Act, 1996 ("the 1996 Act"). They argued that such approval was mandatory under Sections 7 and 8 of the Act, and that any delegation of power by the GoS (Government of Sindh) to the KWSB to effectuate such an increase without express sanction was ultra vires. The petitioners further contended that the notification was procedurally flawed due to irregularities in the relevant Board meeting, that the increase amounted to a tax (not a fee) without reciprocal service, and that the retrospective effect of the notification was impermissible.

Issues: Whether the KWSB could lawfully increase water tariffs by 9% with retrospective effect without obtaining fresh approval from the Government of Sindh, and whether the impugned notification was ultra vires the 1996 Act and thus liable to be struck down under constitutional jurisdiction?

Rules: The rule applied by the Court involved interpretation of Sections 7(ii), 7(xii), and 8(4) of the 1996 Act, which collectively govern the procedure for proposing, approving, and implementing changes in water tariffs. These provisions indicate that while KWSB may propose and collect fees, the ultimate authority to sanction the rates lies with the Government. Additionally, Section 13 of the Act provides an appellate framework whereby any party aggrieved by a decision of the Board must appeal to the Government before seeking judicial intervention. The Court also referred to established principles of constitutional law, particularly the doctrine that constitutional jurisdiction under Article 199 of the Constitution is not to be invoked when an adequate statutory remedy exists.

Application: The Court examined the arguments and found that prior approvals by the Government of Sindh in the form of a Notification dated 04.10.2001, a Notification dated 29.09.2016, and Cabinet Meeting Minutes dated 30.09.2019—had already authorized KWSB to revise water tariffs annually up to a maximum of 9%. Therefore, the Court concluded that the impugned 2019 Notification did not require fresh approval, as it remained within the limits previously sanctioned by the GoS. Furthermore, the Court emphasized that the petitioners had already initiated the appellate process under Section 13(1)(b) of the 1996 Act by approaching the Chairman of KWSB but failed to exhaust the full statutory remedy by appealing to the Government under Section 13(1)(a). Because the petitioners had chosen to bypass this available remedy and had instead filed constitutional petitions directly, the Court held that the petitions were not maintainable under Article 199. Moreover, the Court declined to adjudicate on the factual controversies raised—such as whether services were actually being rendered, whether the charges constituted a tax, and whether the Board meeting was valid—on the ground that such matters require evidence and are not suited for resolution in writ jurisdiction.

Conclusion: Honorable High Court dismissed the petitions on the basis that the petitioners failed to exhaust the statutory remedies available to them and that the constitutional jurisdiction of the Court was not a substitute for such remedies. The petitioners were, however, granted liberty to pursue appropriate statutory avenues, including remedies under the newly enacted Karachi Water and Sewerage Corporation Act, 2023, which now governs such matters and provides for a dedicated Water and Sewerage Tribunal. Thus, the Court affirmed that the impugned notification was not invalid per se, and the constitutional petitions were dismissed as not maintainable.

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5. **SINDH HIGH COURT**
Naeem Hussain
v.
The Province of Sindh

Present: **Mr. Justice Muhammad Karim Khan Agha**
Mr. Justice Adnan-ul-Karim Memon

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjgwNTQ1Y2Ztcy1kYzgz**
2025 SHC KHI 2264

Facts: The petitioners were recruited as Sub-Engineers in the Public Health Engineering Department of the Government of Sindh in October 2018 on a contract basis, with their contracts extended multiple times. They argue that their posts and work are permanent, and thus they should not have been hired on a contract basis. They seek a declaration that their initial appointment should be treated as a permanent appointment from the date they were hired and that contract appointments for permanent posts are unconstitutional.

Issue: Whether a temporary or contract appointment can be made against a permanent position, especially when the selection process is for a regular appointment, and whether the Sindh Public Service Commission (SPSC) is responsible for assessing the suitability of contract employees for regularization into permanent posts?

Rule: The Sindh Civil Servants Act, 1973, distinguishes between regular and ad-hoc/contract appointments. According to Section 2(1)(a) of the Act, "ad hoc appointments" are outside the prescribed recruitment methods, and contract and work-charged employees are not considered civil servants, meaning they do not receive the same benefits and protections as permanent staff. The Sindh Public Service Commission (SPSC) is responsible for conducting competitive exams and tests for the initial appointment of candidates to permanent posts, not for converting temporary or contract positions into permanent ones. According to case law, including **Muhammad Ashraf Tiwana v. Pakistan (2013 SCMR 1159)** and **Federation of Pakistan v. Muhammad Azam Chattha (2013 SCMR 120),** regularization is a prospective action, meaning that the seniority of a regularized employee starts from the date of regularization, not the date of their initial appointment.

Application: The petitioners argue that since their posts are permanent, they should have been appointed directly without being subjected to a contract. The counsel argues that contract appointments for permanent posts are unconstitutional and discriminatory, amounting to exploitation. However, the Assistant Advocate General argued that the petitioners were hired on a six-month contract, and their contracts were extended based on performance. Moreover, the SPSC's role in the regularization of employees is to ensure that merit-based standards are upheld, especially for posts in BPS-16 and above. The court considered that, according to the Sindh Civil Servants Act, there is no concept of a "contract post." All appointments should be made through a transparent, merit-based process overseen by the SPSC. The issue of regularization through a competitive process and whether it can be backdated to the original appointment date was also raised. The court examined the principles established in several Supreme Court cases, which clarified that regularization cannot be backdated to the initial contract date.

Conclusion: The court disposed of the petition, reaffirming that the petitioners' contract appointments could not be treated as permanent appointments from the date of their initial contract. Regularization must follow the established competitive selection process, and the status of contract employees changes to permanent only upon the regularization process being completed, which would be prospective and not retrospective. Therefore, the petitioners' request to backdate their permanent status was not granted. However, the court directed the respondents to re-evaluate the petitioners' cases based on the principles from the **Shahnawaz** case, as their appointment appeared to have followed a competitive selection process.

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6. SINDH HIGH COURT
Dr Altaf Hussain and others v.Federation of Pakistan and others

Present: **Mr. Justice Muhammad Faisal Kamal Alam**
Justice Ms. Sana Akram Minhas

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjgwMzk1Y2Ztcy1kYzgz**
2025 SHC KHI 2240

Brief Facts: The petitioners, comprising medical professionals such as doctors, surgeons, and paramedical staff, were employed on a temporary basis by the Water and Power Development Authority (WAPDA) between 2011 and 2012. In 2015, WAPDA issued

letters re-engaging them on temporary terms, allegedly to disrupt their continuity of service and avoid their regularization. The petitioners approached the High Court seeking regularization. By order dated 28.04.2021 ("HC Disposal Order"), the High Court directed WAPDA to consider the petitioners for regular appointment through a fresh interview as per recruitment rules, considering the principles laid down in the Dr. Naveeda Tufail case (2003 SCMR 291), and ordered that their posts shall not be filled in the meantime. WAPDA later claimed to comply with the order through a written test and terminated those who failed. The petitioners challenged this through various CMAs, including a contempt petition, claiming non-compliance with the court's order.

Issue: Whether WAPDA's reliance on a written test (instead of conducting interviews) and its subsequent termination of petitioners for failing that test constitutes non-compliance with the High Court's directive to regularize the petitioners based on a fresh interview in accordance with applicable recruitment rules, and whether such conduct warrants contempt of court proceedings?

Rule: The governing rule is found in paragraph 7 of the High Court's Order dated 28.04.2021, which mandates:

1. Fresh interviews must be conducted.
2. These interviews must follow the applicable recruitment rules.
3. The process must consider the Supreme Court's ruling in Dr. Naveeda Tufail, which recognized the legitimate expectation and fair treatment of long-serving temporary employees.

Further, the WAPDA Medical Service Rules, 1982 – the applicable recruitment rules – stipulate selection through interview by the Selection Board and do not require a written test for appointments in medical and dental posts.

Application: The Court found that WAPDA misinterpreted and selectively applied the Court's directions by introducing a written test through Pakistan Testing Service, which is not required under the Medical Service Rules, 1982. The High Court reaffirmed that these 1982 Rules governed the recruitment process and explicitly do not mandate a written test. This position was also implicitly upheld by the Supreme Court in two instances: when WAPDA's challenge to the HC Disposal Order was dismissed as not pressed, and again when the Supreme Court dismissed WAPDA's CPLA 1580/2022, which specifically questioned whether written tests could be bypassed. The Court ruled that WAPDA had no lawful basis to impose a written test, terminate the petitioners on its basis, or delay implementation of the Court's order. However, as WAPDA's conduct was based on its interpretation of the order and not a deliberate defiance, the contempt of court charge was not established. Instead, the Court treated the contempt petition as a plea for enforcement of its previous orders.

Conclusion: The Court concluded that WAPDA was bound to conduct fresh interviews only, as per the Medical Service Rules, 1982, and could not impose additional conditions such as a written test. The terminations based on the written test conducted on 5.12.2021 were declared to be without lawful authority and of no legal effect. WAPDA was directed to complete the

process of conducting fresh interviews and communicate the results to the petitioners within 45 days of the judgment. All three CMAs (including the contempt application) were disposed of accordingly, with no costs awarded.

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7. **SINDH HIGH COURT**
M/s UBL v. M/s Shirimati Pushpa Bai
Constitutional Petition No. D-886 of 2015

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

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjgwNDYxY2Ztcy1kYzgz
2025 SHC LAR 2247

Facts: Shirimati Pushpa Bai, the widow of a deceased policyholder, filed a suit in the civil court seeking payment of Rs. 250,000 under an insurance policy offered by United Bank Ltd. The bank accepted the claim but argued it was time-barred. The Trial Court ruled in favor of the Respondent, and the Appellate Court upheld the decision. The Respondent then filed an execution application, which the Executing Court allowed. The Petitioners challenged the execution proceedings, claiming the matter should fall under the exclusive jurisdiction of the Insurance Tribunal.

Issue: Whether the Petitioners (United Bank Ltd) were entitled to challenge the execution proceedings of a decree passed by the Trial Court and upheld by the Appellate Court, arguing that the claim in question fell under the exclusive jurisdiction of the Insurance Tribunal under the Insurance Ordinance, 2000?

Rule: The key legal provisions in this case include Section 122 of the Insurance Ordinance, 2000, which confers exclusive jurisdiction to the Insurance Tribunal to entertain claims related to insurance policies. Additionally, the Code of Civil Procedure (CPC) governs the execution proceedings. Under Section 115 of the CPC, the Petitioners had the right to challenge the judgments of the Trial and Appellate Courts through revision, but they failed to do so.

Application: The Petitioners argued that the case involved an insurance claim, which should fall under the exclusive jurisdiction of the Insurance Tribunal under the Insurance Ordinance, 2000. They also claimed the suit was time-barred and that the civil courts lacked jurisdiction. However, the Respondent, Shirimati Pushpa Bai, filed a suit in the civil court for a life insurance claim, which was ruled in her favor by both the Trial and Appellate Courts. The Executing Court later proceeded with execution. The Court noted that the Petitioners did not challenge the decree on jurisdictional grounds during the revision stage, causing the decree to attain finality. Moreover, the Insurance Tribunal's jurisdiction only applied to claims against insurance companies, and the bank in this case was not an insurance company.

Conclusion: The Constitutional Petition was dismissed. The Court concluded that the execution proceedings were conducted in accordance with the decree and found no legal or procedural irregularities in the orders passed by the Executing Court. Since the Petitioners did not raise the jurisdictional issue at the trial or appellate stages, the

matter had attained finality, and it could not be revisited during the execution proceedings. Therefore, the petition was dismissed with no order as to costs.

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8. **SINDH HIGH COURT**
Dost Ali Solangi and another v. Province of Sindh and others

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

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjgwMTU3Y2Ztcy1kYzgz**
2025 SHC SUK 2223

Facts: The petitioners sought to quash the proceedings in Criminal Misc. Application No. 2978/2025, which was filed by Respondent No. 5 under Section 22-A(6)(i) Cr.P.C. for the registration of a second FIR concerning the same incident already covered by FIRs No. 170/2025, 171/2025, and 172/2025. The petitioners argued that the registration of multiple FIRs for the same incident violated Section 154 Cr.P.C, supported by precedents set by the Supreme Court, particularly in the case of Mst. Sughra Bibi vs. The State (PLD 2018 SC 595), which disallowed the recording of second FIRs.

Issue: Whether a second FIR could be registered for the same incident, which had already been covered by multiple FIRs. The petitioners challenged the proceedings initiated by Respondent No. 5, who sought the registration of a second FIR under Section 22-A(6)(i) Cr.P.C for an incident already recorded in FIRs No. 170/2025, 171/2025, and 172/2025?

Rule: The relevant rule in this case is Section 154 of the Code of Criminal Procedure (Cr.P.C), which allows only one FIR to be registered for the same incident. The law as established by the Supreme Court in the case of Mst. Sughra Bibi vs. The State (PLD 2018 SC 595) dictates that multiple FIRs for the same occurrence cannot be recorded. The court held that while different versions of the same incident can be recorded during the investigation under Section 161 Cr.P.C, only one FIR should be registered.

Application: The petitioners argued that the registration of a second FIR for the same incident was not permissible under Section 154 Cr.P.C and the Supreme Court's ruling. They pointed out that the incident in question had already been covered by the FIRs mentioned, and that the application filed by Respondent No. 5 was therefore not maintainable. Respondent No. 5, however, contended that the delay in recording the FIRs justified the need for a second FIR. Despite this, the court found that the learned Ex-Officio Justice of Peace lacked jurisdiction to entertain such a request and that the respondent's intent seemed to be to challenge the already existing FIRs by introducing a counter-claim through a second FIR.

Conclusion: The court concluded that the application for the second FIR was not maintainable as per the law. The learned Ex-Officio Justice of Peace had no jurisdiction to entertain such an application, and the request was based on a mistaken interpretation of the law. Therefore, the court quashed the proceedings in Criminal Miscellaneous Application No. 2978/2025 and dismissed the request to register a second FIR. The petitioners were

granted the relief they sought, and the case was disposed of accordingly.

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9. **SINDH HIGH COURT**
Muhammad Fareed vs. Islamuddin & another

Present: **Mr. Justice Shamsuddin Abbasi**
Mr Justice Ali Haider 'Ada'

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjgwMzg5Y2Ztcy1kYzgz**
2025 SHC LAR 2238

Facts: The complainant, Mst. Azeema, filed an FIR on January 14, 2021, alleging that on December 26, 2020, Imran Ali (the applicant) along with co-accused, forcibly abducted her 12-year-old daughter Rubina from their home. The accused, armed with pistols, allegedly dragged Rubina outside and took her in a car. After failing to get Rubina returned, the FIR was registered. Initially, some co-accused were convicted, but they were later acquitted on appeal due to contradictory testimonies. Imran Ali, who had absconded, was arrested in June 2025, and a supplementary challan was filed against him.

Issue: Whether Imran Ali, who was arrested in a kidnapping-related case, was entitled to post-arrest bail given the contradictions in the prosecution's evidence and the acquittal of his co-accused?

Rule: The rule in this case is that the benefit of doubt can be extended at the pre-trial or bail stage if the prosecution's evidence creates reasonable doubt. Additionally, absconding alone is not enough to deny bail when the case is otherwise doubtful or subject to further inquiry.

Application: The court applied the rule by examining the prosecution's evidence, which had been deemed contradictory in relation to the co-accused who had been acquitted on appeal. Since Imran Ali's case was similarly placed, he was entitled to the same consideration. The court also noted that absconding alone did not invalidate his entitlement to bail, especially when the evidence against him was questionable. Moreover, the delay in filing the FIR and the complainant's actions added to the doubts about the prosecution's case.

Conclusion: In conclusion, the court held that Imran Ali was entitled to post-arrest bail due to the doubts surrounding the prosecution's case. The contradictions in the evidence, the acquittal of his co-accused based on similar grounds, and the unexplained delay in registering the FIR all contributed to reasonable doubt. The court emphasized that absconding alone is not sufficient grounds to deny bail when the case involves further inquiry and doubt. Therefore, Imran Ali was granted bail on furnishing a surety of Rs. 100,000 and a personal bond in the same amount, subject to the satisfaction of the trial court. The court made it clear that its observations were tentative and would not influence the trial court's final decision based on the merits of the case.

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10. **SINDH HIGH COURT**
M/s Food Axis Pvt Ltd v. Federation of Pakistan and others
Constitutional Petition No. D-6565 of 2020, D-6566 of 2020, D-245 of 2017

Present: **Mr. Justice Adnan Iqbal Chaudhry**
Mr. Justice Muhammad Jaffar Raza

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/Mjc5MjgzY2Ztcy1kYzgz**
2025 SHC KHI 2164

Facts: The petitioners have challenged the issuance of Show Cause Notices, which were issued by the Inland Revenue authorities for various tax periods. The notices were alleged to have been issued beyond the statutory period of limitation set under Section 11(5) of the Sales Tax Act, 1990. The petitioners argued that these notices were unlawful and beyond the prescribed time limit, thus violating their rights.

Issues: 1. Whether the issuance of the Show Cause Notices beyond the statutory limitation period is permissible under the Sales Tax Act, 1990?
2. Whether court has got jurisdiction to entertain petitions challenging Show Cause Notices after the limitation period?

Rule: Section 11(5) of the Sales Tax Act, 1990: This section provides that a Show Cause Notice must be issued within five years from the relevant date.
Notification under Section 74 of the Act (issued during the COVID-19 pandemic): This extended the period for issuing notices by six months until December 31, 2020.

Application: The court analyzed the Show Cause Notices and the timing of their issuance. It was observed that some of the notices were issued beyond the statutory five-year limitation period, with reference to the "relevant date" defined in the Act. The court referred to prior case law where the Supreme Court held that a Show Cause Notice issued beyond the limitation period is time-barred and cannot be acted upon. The court also examined whether the notification extending the limitation period due to COVID-19 was applicable to the notices in question. It was concluded that the notification only applied to notices where the limitation expired after June 30, 2020, and not for periods prior to this date.

Conclusion: C.P. No. D-6565/2020 and C.P. No. D-6566/2020: The court partly allowed the petitions, ruling that the Show Cause Notices issued beyond the limitation period were invalid and should be set aside, except for the periods covered by the notification extending the limitation due to COVID-19. C.P. No. D-245/2017: The petition was partly allowed, and the Show Cause Notice was upheld for the tax period not barred by the limitation, which was up until October 2011.The petitions were disposed of in the above terms, with the respondents being allowed to proceed in accordance with the law for the tax periods within the prescribed limitation.

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11. **SINDH HIGH COURT**
M/s Belting Enterprises and another v. Federation of Pakistan and others
Constitutional Petition No. D-4201 of 2025

Present: **Mr. Justice Adnan Iqbal Chaudhry**
Mr. Justice Muhammad Jaffar Raza

Source: **https://caselaw.shc.gov.pk/caselaw/viewfile/Mjc5ODA5Y2Ztcy1kYzgz**
2025 SHC KHI 2211

Facts: The Petitioners are challenging the summons dated 18.07.2025 and 01.08.2025, issued under Section 37 of the Sales Tax Act, 1990, by the Investigation Officer at the Regional Tax Office, Hyderabad. The summons required the Petitioners to produce evidence concerning an inquiry into tax fraud involving M/s. Moosa Corporation and a suspected fake supplier in the supply chain. Although the summons mentioned a related FIR, it was related to departmental proceedings, not criminal proceedings.

Issues: Whether the summons issued by the Investigation Officer is within his jurisdiction after the enactment of Section 30AB of the Sales Tax Act by the Finance Act, 2024. Whether Petitioner No. 2, who is an authorized representative, is required to comply with the summons. Whether the summons is valid despite Petitioner No.1 not being registered as a taxpayer with the Regional Tax Office, Hyderabad?

Rule: The relevant law here is Section 30AB of the Sales Tax Act, 1990, which addresses inquiries into tax fraud, and Section 37 of the same Act, granting powers to Inland Revenue officers to summon individuals in relation to tax fraud investigations.

Application: Section 30AB clarifies that the jurisdiction to investigate tax fraud remains with the authorities under Section 30 of the Act, allowing the Investigation Officer to issue the summons. The summons is related to an inquiry and not to tax assessment, which means that the requirement for Petitioner No.1 to be registered with the tax office is irrelevant. Reliance on previous cases like *Aachee Garments* and *Taj International* was found misplaced because the circumstances in those cases differed, particularly regarding the basis of the summons.

Conclusion: The Court dismissed the petition as there was no merit in the arguments. The summons issued by the Investigation Officer was valid, and the Petitioners failed to demonstrate any abuse of process or lack of jurisdiction. The petition was dismissed along with the listed application.

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12. **SINDH HIGH COURT**
Nunchi Marine Pte Ltd. Vs Cnegyico Pk Limited (formerly Byco Petroleum)
Judicial Miscellaneous Application ("JM") No. 21 of 2025

Present: **Mr. Justice Muhammad Junaid Ghaffar**

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjgwNDQzY2Ztcy1kYzgz**
2025 SHC KHI 2246

Facts: The Applicant, Nunchi Marine Pte Ltd, filed a Judicial Miscellaneous Application under Section 6 of the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 (2011 Act) to seek recognition and enforcement of a final award rendered by the Singapore International Arbitration Centre (SIAC) on 9 April

2024. The award was issued pursuant to a dispute arising from a contract between the Applicant and the Respondent, Cnergyico Pk Ltd (formerly Byco Petroleum). Under the agreement dated 11 May 2021, the Applicant shipped 55,000 Metric Tons of Senipah Blend Crude Oil valued at USD 38,545,469.73. The crude oil was discharged at Karachi Port on 11 August 2021, and the Respondent was liable to pay the full amount within 30 days. However, the Respondent paid only USD 23,464,115, leaving an outstanding balance of USD 15,081,354.27. The Applicant then invoked the arbitration clause in the agreement and initiated arbitration proceedings in Singapore. Despite various adjournments and opportunities to contest, the Respondent did not actively participate in the proceedings, eventually withdrawing its counsel in April 2023. The final award from the SIAC Tribunal ruled in favor of the Applicant, directing the Respondent to pay the outstanding amount, interest, and costs of the arbitration. The Applicant sought enforcement of the award under the 2011 Act and the New York Convention. The Respondent raised objections, claiming that the award should not be enforced on the grounds that it was rendered without providing them a proper opportunity to present their case, violating the principles of fair trial and natural justice under Article 10A of the Constitution of Pakistan. The Respondent also argued that enforcement would be contrary to public policy under Article V(2)(b) of the New York Convention.

Issue: Whether the SIAC award should be recognized and enforced under Section 6 of the 2011 Act and Article V of the New York Convention. Whether the Respondent's objections, based on public policy and lack of a fair opportunity to contest, justify refusing enforcement?

Rule: Section 6 of the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 provides the legal framework for recognizing and enforcing foreign arbitral awards in Pakistan, in line with the New York Convention. Article V of the New York Convention (1958) outlines the grounds for refusing the recognition and enforcement of foreign arbitral awards. Article V(1) includes grounds such as incapacity, improper notice, or the award exceeding the scope of the arbitration agreement. Article V(2)(b) allows refusal if recognition or enforcement would be contrary to public policy in the country where enforcement is sought.

Application: The Court examined the conduct of the Respondent during the arbitration proceedings. The Applicant argued that the SIAC award was final, binding, and should be enforced. The Applicant emphasized that the Respondent had been given numerous opportunities to contest the case, including multiple adjournments and extensions, but had failed to appear or actively participate in the proceedings. The Tribunal had provided ample time to the Respondent to file its counter-memorial and respond to the claims, but the Respondent continued to seek adjournments and eventually withdrew its counsel, further delaying the process. On the other hand, the Respondent contended that it was denied a fair trial and that it was not given a proper opportunity to present its case. The Respondent cited financial difficulties, including restrictions imposed by the State Bank of Pakistan on remitting funds to foreign counsel, as a reason for not fully participating in the arbitration. The Respondent argued that the enforcement of the award would violate the principles of natural justice and be contrary to public policy under Article V(2)(b) of the New York Convention. However, the Court found that the Tribunal had made multiple efforts to accommodate the Respondent, including granting extensions

and offering additional time to respond to the proceedings. Despite these efforts, the Respondent's failure to actively engage in the arbitration was viewed as a deliberate attempt to avoid the proceedings. The Court concluded that the Respondent's claims of being condemned unheard were unfounded, as they had been properly notified and given adequate opportunities to present their case. The Court further noted that the Respondent did not provide sufficient evidence to support its claims regarding financial constraints or issues with the State Bank of Pakistan. The Tribunal's findings and the Respondent's conduct led the Court to reject the claim that the award violated public policy or natural justice.

Conclusion: The Court ruled in favor of the Applicant, recognizing and enforcing the SIAC award as binding. The Judicial Miscellaneous Application was granted, and the award was recognized as a decree of the Court. The Respondent's objections, based on public policy and fair trial grounds, were dismissed. The Court emphasized the minimal interference allowed by Pakistani courts in international arbitration, especially under the New York Convention, and noted the pro-enforcement policy that underpins international arbitration. The Court concluded that the Respondent had failed to defend the case properly and that the award should be enforced, with the Applicant granted judgment in the amount stated in the award, which would be executed as a Court decree. The matter was converted into execution proceedings, with the office instructed to prepare the decree accordingly.

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13. **SINDH HIGH COURT**
Muhammad Usman v. Muhammad Yousuf and others
Constitutional Petition No. S-1335 of 2019

Present: **Mr. Justice Arshad Hussain Khan**

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjgwNzg5Y2Ztcy1kYzgz**
(2025 SHC KHI 2293)

Facts: Muhammad Yousuf (respondent) filed an ejectment application under Section 15 of the Sindh Rented Premises Ordinance, 1979 against Muhammad Usman (petitioner) regarding the first floor of Abdullah Manzil, Karachi. He alleged default in rent payment since October 2006 and claimed a bona fide personal need for the premises. The Rent Controller allowed the application, directing eviction. On appeal, the VII Additional District Judge upheld the decision, holding that the petitioner was a tenant and had defaulted. The petitioner then filed this constitutional petition before the High Court, denying the landlord-tenant relationship, disputing ownership of the respondent, and asserting that he had purchased the premises on a pugree basis in 1989.

Issue: Whether the concurrent findings of the lower courts establishing the landlord-tenant relationship, holding the petitioner liable for default in rent, and recognizing the landlord's bona fide personal need were legally valid and sustainable under constitutional jurisdiction?

Rule: The case was decided under the Sindh Rented Premises Ordinance, 1979, particularly Sections 15 and 18. The relevant legal principles emphasized were: (i) a tenant cannot

challenge the ownership title of the landlord once the tenancy is admitted; (ii) service of notice under Section 18 is merely an intimation of ownership change, and if the tenant already has knowledge of such change, failure to pay rent thereafter constitutes willful default; (iii) payment of pugree does not create or transfer ownership rights; and (iv) the High Court's jurisdiction under Article 199 of the Constitution of Pakistan is supervisory in nature, limited to correcting jurisdictional errors, illegality, or perversity.

Application: The Court found that the petitioner had admitted to entering the premises as a tenant and had also deposited rent in the name of the original landlord. The record, including receipts and the Iqrarnama by the landlord's son, confirmed the landlord-tenant relationship. Despite knowledge of the transfer of ownership in 2006, the petitioner continued to deposit rent in the deceased landlord's name, amounting to willful default. His claim of pugree ownership was rejected, as pugree does not confer ownership. The respondent's bona fide personal need was unrebutted since the petitioner neither cross-examined nor produced evidence against it. Given the consistent findings of both forums below, the High Court held that no illegality or miscarriage of justice existed to warrant interference.

Conclusion: The High Court dismissed the constitutional petition, upholding the concurrent findings of the Rent Controller and the appellate court. The petitioner was found to be a tenant, guilty of willful default in rent payment, and unable to challenge the respondent's ownership or bona fide personal need. The eviction order was therefore sustained.

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14. **SINDH HIGH COURT**
Akhtar Ali v. The State
Abdul Salam Mandhro v. The State
Criminal Bail Applications Nos. 1514 & 1519 of 2025

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

Source **https://caselaw.shc.gov.pk/caselaw/view-file/MjgwODYxY2Ztcy1kYzgz**
2025 SHC KHI 2307

Brief Facts: An Enquiry was initiated by FIA Anti-Corruption Circle Karachi (Enquiry No.48/2022) into the affairs of the Pakistan Audit Department Employees Cooperative Housing Society (PADECHS). After the supersession of the Society in 2014, its administration was allegedly usurped by certain officers of the Cooperative Societies Department in connivance with land grabber Abdul Salam Mandhro and his associates. They allegedly misplaced genuine records, presented fake memberships before court, engineered elections in September 2020, and installed a dummy management. Thereafter, bogus plot files were created and sold to the public, generating crime proceeds of approximately Rs. 130 million which were laundered through various accounts and used to purchase properties in DHA Karachi. Officials of the Cooperative Department, including Inspectors, Assistant Registrars, and Registrars, were accused of facilitating the scheme by withholding genuine records, approving layout plans, and ignoring members' complaints. Sub-Registrars allegedly registered leases based on

forged documents. Consequently, FIR No. 16/2024 was registered under sections 409, 419, 420, 468, 471, 472, 473, 109, and 34 PPC read with section 5(2) of the Prevention of Corruption Act, 1947, against twenty-three accused persons including the present applicants.

Issue: The Bail Applications were filed on the sole ground of Statutory delay in conclusion of trial, as provided in the third proviso to section 497 of the Code of Criminal Procedure. The first issue before the Court was whether the applicants were entitled to be released on bail on such ground, while the learned Special Court had rejected the bail on the ground that for counting one year under the above provision, the "date of framing of Charge" would be the starting point.

The second Issue was whether in the facts of the present case, the Applicants would be considered hardened, desperate, or dangerous criminals, as provided under the fourth Proviso to section 497 Cr.P.C.

Rule: Section 497(1) Cr.P.C. provides that when an accused charged with a non-bailable offence has remained in detention for more than one year (in cases not punishable with death), and the trial has not concluded, the court shall direct release on bail unless the delay was caused by the accused or unless the accused falls under the exceptions in the fourth proviso. The exceptions include being a previously convicted offender for a capital offence, being considered a hardened, desperate, or dangerous criminal, or being accused of terrorism punishable with death or life imprisonment. The Honourbale Supreme Court in *'Shakeel Shah v. State'* (2022 SCMR 1) clarified that the period of detention is to be counted from the date of arrest and not from the framing of the Charge. In *'Nadeem Samson v. State'* (PLD 2022 SC 112) it was further held that a statutory right to bail accrues once this time lapses, subject to the narrowly construed exceptions.

Application: In applying these principles on the first Issue, the Court observed that the applicants had been Charged under sections 409, 419, 420, 468, 471, 472, 473, 109, and 34 PPC read with section 5(2) of the Prevention of Corruption Act, 1947. None of these offences are punishable with death and therefore the case of the applicant would fall under the category covered under section 497(1)(a). The applicants were arrested on 16 May 2024, and by the time of hearing in September 2025, they had been detained for more than one year and three months. As held in *Shakeel Shah* and *Nadeem Samson* cases, the date of detention of the applicant would be relevant and not the date of framing of Charge. The status of trial was that the trial had not yet commenced; no Charge was framed as yet, and the trial court was vacant. Certified court diaries also confirmed that no delay in proceedings was caused by the applicants.

On the second Issue, the complainant argued that the applicants should be denied bail as they were hardened, desperate, and dangerous criminals under the fourth proviso. However, the Court found no evidence to support this contention, as the applicants were not previously convicted, and the allegations in the present FIR pertained to documentary and financial fraud rather than violent conduct. The Court distinguished the cited precedents where exceptions were applied in cases involving physically violent crimes or matters under the National Accountability Ordinance 1999, where considerations for grant of bail before 2022 amendments were "extra ordinary circumstances" under Article 199 of the Constitution of Pakistan 1973. In contrast,

here the statutory ground under section 497 Cr.P.C. squarely applied, and none of the exceptions were attracted.

Conclusion: On a tentative assessment, the Court held that the applicants were entitled to the benefit of bail under the statutory ground of delay in conclusion of trial. Both the applicants were admitted to post-arrest bail subject to furnishing surety bonds of Rs. 200,000 each. The Applicants were directed to cooperate with the trial court and to avoid unnecessary adjournments. Thus, the bail applications were allowed.

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15. **SINDH HIGH COURT**
Zeeshan Mirza v. The State
Criminal Bail Application No. 1967 of 2025

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

Source **https://caselaw.shc.gov.pk/caselaw/view-file/MjgwODY1Y2Ztcy1kYzgz**
2025 SHC KHI 2309

Brief Facts: The complainant, a businessman, became acquainted with the applicant, who was the proprietor of a real estate agency named "Zar Zameen." The applicant persuaded the complainant to invest a sum of Rs. 9,000,000/- with a promise of profit. An investment agreement was executed, under which the applicant undertook to repay the principal amount along with Rs. 4,000,000/- as profit by 31.01.2025. However, the applicant failed to make the promised repayment. Upon repeated demands, he issued five cheques totaling Rs. 13,000,000/- in favour of the complainant. These cheques were deposited into the complainant's bank account but were dishonoured due to insufficient funds. Consequently, FIR No. 295/2025 was lodged under Section 489-F PPC at Police Station Darakhshan, Karachi.

Issue: Whether the applicant was entitled to post-arrest bail when the cheques were allegedly issued as "Surety" in the course of a business agreement, thereby making the case one of Further Inquiry and not falling within the prohibitory clause of section 497 Cr.P.C.?

Rule: Issuance of cheque with dishonesty and for repayment of a loan or discharge of an obligation and dishonour of cheque were the pre-requisites under Section 489-F PPC. Maximum sentence under the provision is three years. The settled rule is that under Section 497 Cr.P.C., bail may be granted where the offence does not fall under the Prohibitory clause or where the matter calls for Further Inquiry. The gist of the ratio settled by Supreme Court in '*Mian Allah Ditta v. The State*' (2013 SCMR 51), '*Ali Anwar Paracha v. The State*' (2024 SCMR 1596), '*Abdul Rashid v. The State*' (2023 SCMR 1948), and '*Muhammad Tanveer v. The State*' (2023 SCMR 581) is that where cheques were issued as Security or Guarantee and that the payment involved is subject matter of a business dispute *sub judice* before the Civil Cout, makes it a case of Further Inquiry. Also, 489-F does not fall under Prohibitory clause of section 497 Cr.PC. another rule set by the Supreme Court in _____ was that mere filing of multiple FIRs against a person would not be a ground for this entitling him to the grant of bail.

Application: Applying these rules and in defects of the present case, it was an admitted position that there was a documented investment agreement between the parties and as per clause 4 of the said agreement, the set checks were issued as surety. Filing of civil suit No.7068 of 2025 where in the subject matter the subject checks were the core dispute between the parties and its tendency were also not disputed. The maximum punishment under section 489F being three years also did not bring the case under the domain of prohibitory clause of section 497 Cr.P.C. All these facts make it a case of further enquiry as envisaged under section 497Cr.P.C., entitling the applicant to grant of bail.

Conclusion: In conclusion, the Court held that, on a tentative assessment, the ingredients of Section 489-F were not fully attracted because the cheques were issued only as Surety in a business transaction and the matter was already *sub judice* in civil Court for adjudication. The applicant's case therefore fell within the scope of Further Inquiry under Section 497(2) Cr.P.C., and since the offence did not fall within the prohibitory clause, bail was granted. The Court accordingly allowed the bail application, admitting the applicant to post-arrest bail upon furnishing a bond of Rs. 100,000/- with one surety of like amount. The observations made were expressly held to be tentative and not binding upon the trial court.

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16. **SINDH HIGH COURT**
Ghulam Mustafa Shaikh v. The State
Criminal Miscellaneous Application No. 452 of 2025 (cancellation of bail)

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

Source **https://caselaw.shc.gov.pk/caselaw/view-file/MjgwODYzY2Ztcy1kYzgz**
2025 KHI 2308

Brief Facts: The facts of the case are that the complainant, who had returned to Karachi after working in Saudi Arabia, alleged that during his absence he had provided large sums of money, both through bank transfers and cash, to Sikandar Ali Abro for the purchase of property. Upon his return, Sikandar failed to deliver the promised property and instead issued five cheques totaling Rs. 62,300,000/- on different dates in 2024. These cheques, drawn on UBL and Bank Al Habib, were deposited in the complainant's account but were dishonoured upon presentation. The complainant lodged an FIR, and while three bail applications of Sikandar had earlier been dismissed, his fourth bail application was allowed by the learned VIIIth Additional Sessions Judge, Karachi (East) on 19.05.2025, leading the complainant, Ghulam Mustafa Shaikh, to file the present application before the High Court seeking cancellation of bail.

Issue: Whether the bail granted to Respondent No.2 by the Trial Court in connection with dishonoured cheques amounting to Rs. 62,300,000/- ought to be cancelled on the ground that the bail order was perverse, based on misreading of evidence, and contrary to settled principles.

Rule: The principles for cancellation of bail under section 497(5) Cr.P.C. differ fundamentally from those for granting bail. Bail may only be cancelled if the order

granting it is patently illegal, erroneous, or perverse resulting in miscarriage of justice, or if subsequent conduct of the accused demonstrates misuse of bail. The Supreme Court in *Munir Ahmad v. The State* (2014 SCMR 1669) held that bail is not to be cancelled merely because another view is possible. In *Suba Khan v. Muhammad Ajmal* (2006 SCMR 66), it was clarified that differing judicial opinions on the merits are not sufficient grounds for cancellation. *Bashiran Bibi v. Nisar Ahmad Khan* (PLD 1990 SC 83) affirmed that bail under section 497(2) Cr.P.C. is a matter of right when evidence suggests further inquiry. The Court in *Sami Ullah v. Laiq Zada* (2020 SCMR 1115) provided detailed guidelines: bail may be cancelled only where the order is patently illegal, or if the accused misuses liberty by pressurizing witnesses, attempting to abscond, interfering with investigation, repeating offences, or if fresh incriminating material comes to light. Otherwise, superior courts are reluctant to interfere, given the constitutional guarantee of liberty.

Application: The record showed that the complainant had advanced substantial sums to Respondent No.2, who in turn issued cheques totaling Rs. 62,300,000/- that were dishonoured. However, the Trial Court considered that the alleged transactions involved disputed property dealings, that money trail was yet to be established, that allegations of forgery required proof, and that both parties had presented different versions supported by documentary evidence. The offences alleged did not fall within the prohibitory clause, and the accused had already been in custody since 17.10.2024 for several months. In these circumstances, the Trial Court found that the case fell within the ambit of further inquiry under section 497(2) Cr.P.C. and granted bail. The applicant's contention that three prior bail applications had been dismissed was not enough to warrant cancellation, as the Trial Court's order was supported by reasoning grounded in Supreme Court precedents. Importantly, no material was shown to establish misuse of the concession of bail, such as attempts to abscond, tamper with witnesses, or commit similar offences.

Conclusion: The High Court held that no illegality, perversity, or miscarriage of justice was demonstrated in the order granting bail, nor was any misuse of liberty by the accused established. Applying the settled principles, the Court found no exceptional grounds to justify cancellation of bail. Consequently, the application for cancellation was dismissed, and the bail granted to Respondent No.2 remained intact.

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17. **SINDH HIGH COURT**
Hussain & another v. Mst. Rubina & another
Criminal Miscellaneous Application No. S-716 of 2025

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

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/Mjc5NjQ5Y2Ztcy1kYzgz**
2025 SHC KHI 2179

Brief Facts: The facts of the case are that the dispute arose within a family living together in the same house at Soldier Bazaar, Karachi. The applicants, two brothers—one a professor and the other an accountant—resided there with their aged parents, while their divorced sister, the respondent, also lived in the house with her son. The mother was suffering from cancer and both parents were senior citizens. The conflict began in

November 2024 over the handling and distribution of parental assets, which led the sister to file an application under sections 22-A and 22-B Cr.P.C. seeking registration of an FIR against her brothers. The matter was transferred to the learned Additional Sessions Judge-I/Ex-officio Justice of Peace, Karachi East, who on 07.08.2025, without issuing notice or hearing the applicants, allowed the application and directed registration of FIR as well as action under the Protection of Parents Ordinance, 2021. This prompted the brothers to approach the High Court under section 561-A Cr.P.C. challenging the legality and propriety of the said order.

Issue: Whether the order of the Ex-officio Justice of Peace directing registration of FIR against the applicants under section 22-A & B Cr.P.C. and invoking the Protection of Parents Ordinance, 2021 was valid, or whether it was passed mechanically, without jurisdiction, and warranted interference under section 561-A Cr.P.C. to prevent abuse of process and secure the ends of justice?

Rule: Under **section 22-A(6) Cr.P.C.**, a Justice of Peace may direct registration of an FIR, but this power is discretionary and not mechanical. In *Khizer Hayat v. IGP Punjab* (PLD 2005 Lahore 470), it was held that such discretion must be exercised cautiously to prevent misuse of criminal law for personal motives. The Supreme Court in *Jamal Khan* (2021 SCMR 468) and *Rai Ashraf* (PLD 2010 SC 691) emphasized that FIRs should not be ordered where disputes are civil in nature or where mala fides are apparent. In *Jamshed Ahmad* (1975 SCMR 149), registration of FIR was refused where an alternative remedy by way of criminal complaint was available. As regards the **Protection of Parents Ordinance, 2021**, its jurisdiction lies with the Deputy Commissioner and not with the Justice of Peace, as clarified in *Ali Akram v. Mian Muhammad Akram* (PLD 2022 Lahore 559). Lastly, section 561-A Cr.P.C. empowers the High Court to intervene to prevent abuse of process and to secure justice.

Application: The dispute arose within a family where the applicants (two brothers, one a professor and the other an accountant) and the respondent (their divorced sister, from the medical field) lived with their aged parents, the mother suffering from cancer. Tensions escalated in November 2024 over distribution of parental assets, leading the sister to file an application under sections 22-A & B for registration of FIR. The Ex-officio Justice of Peace, without issuing notice or affording hearing to the brothers, straightaway ordered registration of FIR against them and additionally directed protection measures under the Parents Protection Ordinance, 2021. The High Court noted that the impugned order was mechanical, passed without hearing, and exceeded jurisdiction by invoking the Ordinance, whose forum lies with the Deputy Commissioner. Furthermore, the dispute was primarily civil and familial in nature, requiring careful assessment of motives, background, and available remedies. The Justice of Peace had failed to apply the settled principles laid down by superior courts. The High Court observed that discretionary relief required full disclosure of facts by the complainant and cautious judicial application, both of which were lacking.

Conclusion: The High Court set aside the impugned order dated 07.08.2025, holding it to be without jurisdiction and passed mechanically. Instead, the SHO, Soldier Bazaar, Karachi, was directed to conduct an inquiry into the statements and evidence of both

parties. Only if a cognizable offence was clearly established upon inquiry would proceedings under section 154 Cr.P.C. be initiated. The Court also emphasized that, to protect the aged parents, the SHO must ensure their safety while urging all parties to make sincere efforts for internal resolution of their family disputes. The Criminal Miscellaneous Application was accordingly disposed of.

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18. **SINDH HIGH COURT**
Nano @Razi Khan v. The State
Criminal Appeal No. S-140 of 2024

Present: **Mr. Justice Khalid Hussain Shahani**

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjgxMjM3Y2Ztcy1kYzgz**

Brief Facts: The appellant, Nano @ Razi Khan, was convicted by the learned Additional Sessions Judge-IV/Special Court (Anti-Rape)/GBV, Khairpur, in Sessions Case No. 523/2019 under Sections 302 and 311 of the Pakistan Penal Code for allegedly participating in the honor-based double murder of Ali Nawaz and Mst. Sameena. The case was initiated on the basis of spy information received by police officials, which led to the recovery of the deceased bodies. The FIR named multiple accused, including the appellant, who was later arrested and put to trial. The prosecution examined several witnesses, most of whom were police officials. The key civilian witness, Mst. Sughran—the mother of the deceased woman—was declared hostile and denied naming the appellant as an assailant. The trial court, despite the lack of direct evidence, convicted the appellant and sentenced him to life imprisonment on two counts.

Issue: Whether the conviction and sentence of the appellant could be legally sustained when based solely on uncorroborated spy information, testimonies of police officials, and in the absence of direct or reliable circumstantial evidence linking him to the commission of the crime?

Rule: Under Article 44 of the Qanun-e-Shahadat Order, 1984, oral evidence must be direct and not hearsay. Article 8 of the same law provides a statutory privilege protecting the identity of police informants. The Supreme Court of Pakistan has consistently held (e.g., *Muhammad Arshad v. The State*, *Azeem Khan v. Mujahid Khan*) that in cases involving capital punishment, the prosecution must prove its case beyond reasonable doubt with admissible, reliable, and preferably direct or strongly corroborated circumstantial evidence. Spy information may initiate an investigation but cannot serve as substantive evidence for conviction without corroboration.

Application: The Court found that the prosecution's case was fundamentally flawed, relying entirely on hearsay and uncorroborated spy information without producing any direct eyewitness to the incident. The complainant ASI admitted that he was not an eyewitness and that the information he received was vague and unspecified. The spy informer was not produced or identified. Importantly, Mst. Sughran, the mother of one of the deceased and the most relevant witness, turned hostile and explicitly stated that the appellant was not involved in the murders. Her testimony, rather than supporting the prosecution, reinforced the defense case. The prosecution failed to establish the

appellant's presence at the crime scene or prove any specific motive linked to him. Moreover, the Court drew a clear legal and functional distinction between spy information and admissible evidence, holding that the prosecution had conflated the two. Given the lack of any unbroken chain of circumstantial evidence and the contradiction in prosecution testimonies, the case was not proved beyond reasonable doubt.

Conclusion: The High Court concluded that the prosecution failed to discharge its burden of proof and that the conviction based solely on hearsay and unverified spy information was legally unsustainable. The benefit of doubt was extended to the appellant, leading to the acceptance of his appeal. The conviction and sentence imposed by the trial court were set aside, and the appellant Nano @ Razi Khan was acquitted of all charges vide short order dated 11.09.2025, with directions for his immediate release unless required in another case.

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19. THE LAHORE HIGH COURT
Civil Revision No. 830-D of 2016
Syed Imtiaz Hussain v. Muhammad Hussain and others

Present: **Mr. Justice Mirza Viqas Rauf**

Source: https://sys.lhc.gov.pk/appjudgments/2025LHC5519.pdf
(2025 LHC 5519)

Facts: The applicants, legal heirs of Syed Imtiaz Hussain (deceased), filed a suit for partition and separate possession of joint property against the respondents before the Civil Judge, Chakwal. The suit was preliminarily decreed on 11.02.2010 by consent, directing partition to be done according to the parties' respective possession. A local commission was appointed, and after objections and reappointment, a final decree was passed on 23.04.2011. However, the decree sheet was not prepared as the plaintiffs failed to submit requisite stamp papers. The respondents appealed against the final judgment on 05.03.2015. The decree sheet was later prepared on 21.03.2016 on direction of the appellate court. The appellate court accepted the appeal on 20.06.2016, which led to the filing of this civil revision by the applicants.

Issue: Whether the appeal filed by the respondents was maintainable and within limitation despite the absence of a decree sheet at the time of filing, and whether the appellate court rightly exercised jurisdiction in setting aside the final decree?

Rule: Under **Section 96 and Order XLI Rule 1 of the CPC**, an appeal lies against a *decree*, not merely a judgment, and must be accompanied by a copy of the decree. However, the courts have held (e.g., *2001 MLD 1624*, *2008 CLC 232*, *2022 SCMR 73*) that where a decree has not been prepared due to the court's act or delay, the appeal remains valid and limitation starts from the date of decree preparation. Furthermore, under the legal maxim *actus curiae neminem gravabit*, no party should suffer due to the act or omission of the court.

Application: The High Court held that although the appeal was initially filed without the decree sheet, this was due to the plaintiffs' (applicants') failure to supply the necessary stamp papers

for its preparation. The appellate court rightly directed the trial court to prepare the decree and allowed its inclusion in the record once available. Thus, the appeal was not barred by limitation. The Court emphasized that the appellate court is empowered to mold relief, especially when the decree is finalized during the pendency of the appeal. The judgment of the appellate court, which reversed the trial court's final decree, was based on sound legal reasoning and proper appreciation of procedural law. The High Court also noted the general principle that findings of the appellate court are to be preferred over those of the trial court unless they are legally flawed.

Conclusion: The High Court upheld the appellate court's judgment, finding no material irregularity or legal infirmity. The civil revision was dismissed, confirming that the respondents' appeal was maintainable and not barred by time due to the procedural default on the applicants' part.
