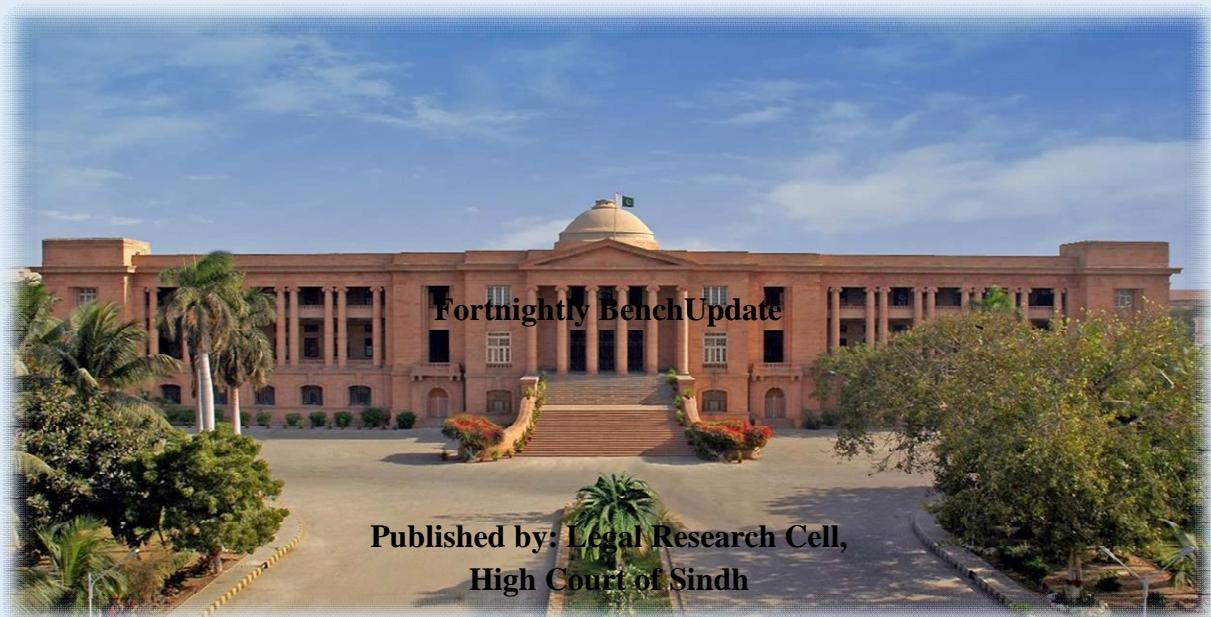




HIGH COURT OF SINDH

Case Law Review



Volume-II| IssueII| 15th -January-2026 to 31th-January-2026



FORTNIGHTLY BENCH UPDATE

(15-01-2026 to 31-01-2026)

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

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1. Supreme Court of Pakistan

Muhammad Ramzan (deceased) through LRs & another v. Muhammad Tasleem & others
 Faquir Muhammad & another v. Muhammad Tasleem & others
 Civil Petitions No. 1054-K & 1055-K of 2023,

Present: **Mr. Justice Yahya Afridi, Chief Justice of Pakistan**

Mir. Justice Justice Shakeel Ahmad

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1054 k 2023.pdf

Facts: The dispute concerned rented shops whose original landlord had died. After his death, one of his sons, being a legal heir and co-owner, served notice on the tenant petitioners informing them of the landlord's death and requiring attornment and payment of rent, including arrears, to the heirs. Service of notice and knowledge of the landlord's death were admitted. Despite this, the tenants did not pay rent to any heir. Instead, they continued depositing rent in court in the name of the deceased landlord, asserting that this protected them from eviction. The heirs filed eviction petitions on the ground of wilful default. The lower courts initially ruled in favour of the tenants, but the High Court set those decisions aside and ordered eviction. The tenants challenged that order before the Supreme Court.

Issues: Whether a tenant who has notice of the landlord's death and of the heirs' status, yet continues to deposit rent in the name of the deceased landlord instead of paying or depositing it in favour of the lawful heirs, commits wilful default rendering him liable to eviction

Rule: Upon the death of a landlord, his legal heirs step into his shoes by operation of law, and attornment follows automatically. No fresh tenancy agreement is required. A co-heir may independently demand rent and initiate eviction proceedings without written consent of other co-owners. Payment or deposit of rent must be made in favour of a legally entitled person; a deposit in the name of a deceased person has no legal effect. Once lawful demand is made and the tenant wilfully refuses compliance, such conduct constitutes default under rent law.

Application: The Court observed that the tenants had admitted knowledge of the landlord's death and receipt of notice requiring payment to the heirs. Their deliberate refusal to pay any heir, coupled with continued deposits in the name of a deceased person, was legally meaningless. The plea that one heir could not demand rent without the others was rejected, since each co-heir is legally entitled to act on behalf of all. The Court reasoned that the tenants' conduct was not a technical mistake but a conscious withholding of rent after lawful demand. Such behaviour satisfied the legal threshold of wilful default and justified eviction. The High Court's reasoning was therefore consistent with settled principles governing succession, attornment, and tenant obligations.

Conclusion: The Supreme Court held that continued deposit of rent in the name of a deceased landlord, after notice of succession, does not amount to valid payment and constitutes wilful default. The tenants were rightly held liable to eviction. Both petitions were dismissed and leave was

declined.

2. Supreme Court of Pakistan

Mst. Naila Javed & another v. Nasir Khan & others,
Civil Petition for Leave to Appeal No. 3767 of 2025,

Present: **Mr. Justice Yahya Afridi, Chief Justice of Pakistan**
Miss. Justice Musarrat Hilali.

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3767 2025.pdf

Facts: The petitioner wife instituted a suit for dissolution of marriage alleging cruelty, non-payment of maintenance, and non-payment of remaining dower. During pendency of the proceedings, the husband contracted a second marriage without obtaining the mandatory permission under section 6 of the Muslim Family Laws Ordinance, 1961. The Family Court did not adjudicate the pleaded grounds of cruelty. Instead, it treated the wife's unwillingness to cohabit as irreconcilable aversion and converted the claim into khula, directing her to forgo her remaining dower. The Appellate Court and the High Court affirmed that approach. Before the Supreme Court, the wife contended that she never sought khula, her claim was grounded in statutory cruelty, and the husband's unlawful second marriage entitled her to dissolution with full retention of dower.

Issues: Whether the petitioner discharged the burden of proving cruelty?
Whether a Family Court may, on its own motion, convert a divorce claim into khula without an express request by the wife?
Whether a wife's alleged aversion alone is a sufficient legal basis to dissolve marriage by khula and deprive her of dower?
Whether the husband's second marriage without statutory permission constitutes a valid ground for dissolution with retention of dower?

Rule: Under the Dissolution of Muslim Marriages Act, 1939, cruelty and statutory grounds entitle a wife to dissolution without forfeiture of dower. Khula is a distinct equitable remedy that rests on the wife's clear and voluntary election to separate, typically accompanied by relinquishment of financial rights. Courts cannot substitute statutory divorce claims with khula in the absence of an unequivocal request. Section 2(ii) of the 1939 Act read with section 6 of the MFLO recognizes that contracting a second marriage without written permission is a statutory wrong giving the wife a right to dissolution. Judicial reasoning must follow pleaded grounds and evidence rather than assumptions about aversion.

Application: The Supreme Court examined the record and found that the wife consistently pleaded cruelty and statutory violations, not khula. The Family Court sidestepped the pleaded grounds and relied solely on perceived aversion, which was improperly derived from prejudicial cross-examination rather than a voluntary declaration. The husband admitted non-maintenance and contracting a second marriage without permission, facts that legally supported cruelty and statutory entitlement to dissolution. By converting the suit into khula and depriving the wife of dower, the lower courts exceeded their jurisdiction and misapplied the governing statutes. The Supreme Court emphasized that khula requires an express and voluntary election by the wife, which was absent. The husband's admitted violation independently justified dissolution while preserving the wife's financial rights.

Conclusion: The Supreme Court held that courts cannot unilaterally transform a statutory divorce claim

into khula absent the wife's clear consent, and that proven cruelty and unlawful second marriage entitle a wife to dissolution with retention of dower. The petition was converted into an appeal and allowed. The marriage was dissolved on the ground of cruelty, and the wife was declared entitled to her remaining dower of Rs. 1,200,000, recoverable through the Family Court.

3. Supreme Court of Pakistan

Shafique Ahmed & others v. Provincial Police Officer, KP & others; Shah Durran v. Provincial Police Officer, KP & others;
 Provincial Police Officer, KP v. Akhtar Ali & others, Civil Petitions No. 1935 to 1938 of 2018 and Civil Appeals No. 174 & 185 to 187 of 2020

Present: **Mr. Justice Shahid Waheed, Mr. Justice Naeem Akhter Afghan, Mr. Justice Malik Shahzad Ahmad Khan, Mr. Justice Aqeel Ahmed Abbasi, and Mr. Justice Shakeel Ahmad.**

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1938 2018.pdf

Facts: Several police officials of Khyber Pakhtunkhwa were dismissed from service through departmental proceedings. Those dismissal orders were later set aside by the competent authority or by the Service Tribunal, resulting in reinstatement with continuity of service. However, the authorities either denied or partially granted back pay for the intervening period. The officials argued that after exoneration and reinstatement, they were entitled to full arrears of salary and allowances. The department maintained that back pay was not automatic and fell within administrative discretion. The Service Tribunal issued differing rulings across the connected matters, leading both the employees and the Provincial Police Officer to approach the Supreme Court.

Issues: The core question was whether a civil servant whose dismissal is annulled automatically becomes entitled to full back pay, or whether the competent authority retains discretion under the service law to determine the extent of arrears. A related issue was how that discretion must be exercised, particularly where the employee is exonerated and claims to have remained unemployed during the intervening period.

Rule: The dispute was governed by section 17 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, especially its second proviso, which authorizes the competent authority to determine arrears of pay when a dismissal is set aside. The Court interpreted this provision in light of Article 10-A of the Constitution, emphasizing that administrative discretion must operate within a culture of justification. Decisions must be fair, rational, proportionate, and supported by reasons. The Court distinguished between unfair dismissal, where procedural or proportional defects exist, and wrongful dismissal, where misconduct is not proved. In wrongful dismissal cases, full back pay is ordinarily the norm unless the authority proves valid grounds to limit it. The burden framework requires the employee to assert lack of gainful employment during the disputed period, after which the authority must prove otherwise if it seeks to deny arrears.

Application: The Court examined each group of cases against this framework. Where employees had been exonerated and there was no proof of alternative employment, denial or reduction of back pay without cogent reasoning was held to be arbitrary. In the petitions arising from partial grants of arrears, the Tribunal failed to justify why full back pay should not follow wrongful

dismissal, so the Supreme Court corrected that error. In the appeal where the Tribunal relied on the “no work, no pay” principle despite exoneration, the Court ruled that such reasoning could not override statutory discretion exercised in a constitutionally compliant manner. Conversely, where the Tribunal had granted full arrears after finding wrongful dismissal, the Supreme Court upheld that outcome, finding it consistent with the governing principles. Throughout, the Court stressed that reinstatement and arrears are distinct questions, but discretion over arrears must be exercised transparently and in line with fairness and proportionality.

Conclusion: The Supreme Court held that annulment of dismissal does not mechanically guarantee back pay, yet in cases of wrongful dismissal coupled with absence of gainful employment, full arrears are the normal and just result unless the authority demonstrates compelling reasons to depart from that position. Applying this principle, the Court allowed the petitions and appeal where back pay had been wrongly denied or curtailed, dismissed the withdrawn petition, and upheld the Tribunal’s grant of full arrears in the remaining appeals.

4. SINDH HIGH COURT

Criminal Appeal No. 129 of 2023
 Daro Khan & another v. The State
 Criminal Appeal No. 73 of 2023
 Raz Muhammad v. The State

Present: **Justice Zafar Ahmed Rajput (Chief Justice)**
Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAyOTMzY2Ztcy1kYzgz>

2026 SHC KHI 66

Facts: The appellants were convicted by the Special Judge-II (Control of Narcotic Substances), Karachi, in Special Case No. 24 of 2022, for offences under Section 9-C read with Sections 14 and 15 of the Control of Narcotic Substances Act, 1997, and sentenced to life imprisonment with fine. The prosecution case was that on 03.08.2019, the ANF, acting on spy information, intercepted three vehicles near Hub River Road Toll Plaza, Karachi. The vehicles were allegedly transporting narcotics from Quetta to Karachi in a convoy. Daro Khan, Baaz Khan, and Raz Muhammad were driving or occupying the respective vehicles. Upon search, commercial quantities of charas and opium, along with a weapon, were recovered from concealed compartments. The appellants were arrested on the spot. Samples were sealed and sent for chemical analysis, which confirmed the recovered substances as narcotics. The trial court convicted the appellants while acquitting two co-accused on a separate factual footing. The appellants challenged the conviction, alleging misreading and non-reading of evidence, broken chain of custody, lack of independent witnesses, absence of proof of conscious possession, defects in Malkhana record, and bias due to the complainant also acting as the investigating officer.

Issue: Whether the prosecution proved conscious possession, safe custody, and lawful recovery of commercial quantities of narcotics beyond reasonable doubt, and whether any misreading or

non-reading of evidence warranted interference with the conviction recorded by the trial court.

Rule: Under Section 9-C of the Control of Narcotic Substances Act, 1997, possession of narcotics in commercial quantity attracts severe punishment.

Once possession is proved, Section 29 of the Act raises a statutory presumption of guilt, shifting the burden onto the accused to rebut the same.

An appellate court may interfere with a conviction only where there is material misreading or non-reading of evidence resulting in miscarriage of justice.

Testimony of police officials is legally admissible and can form the basis of conviction if found confidence-inspiring, even without independent civilian corroboration.

Application: The Court found that the prosecution evidence was consistent on all material points. The complainant and mashir corroborated the interception, recovery, sealing, and sampling of narcotics at the spot. The carrier and Malkhana in-charge established safe transmission and custody of the case property. The chemical examiner's report confirmed the nature of the recovered substances. The argument regarding lack of independent witnesses was rejected. The Court observed that raids at toll plazas and transit points are fast-moving operations where securing civilian witnesses is often impracticable. The testimony of ANF officials, having remained unshaken in cross-examination, was sufficient in law. On the issue of conscious possession, the Court held that each appellant was driving or occupying the specific vehicle from which narcotics were recovered. Their dominion and control over the vehicles, combined with the magnitude and concealment of the contraband, established conscious possession, thereby attracting the statutory presumption under Section 29 of the Act. The appellants failed to rebut this presumption through any plausible explanation or defence evidence. The alleged discrepancies in Register No. 19, weight variations, and seal handling were found to be minor clerical or procedural issues that did not break the chain of custody. The seals remained intact and matched the chemical examiner's report. No evidence of tampering or substitution was produced. The objection that the complainant also acted as the investigating officer was addressed by relying on settled precedent, holding that such dual role does not vitiate proceedings unless mala fide or prejudice is shown, which the defence failed to establish. The Court further held that ownership of the vehicles was irrelevant, as the offence under the Act turns on possession and control, not title.

Finally, the acquittal of the co-accused did not benefit the appellants, as their roles were materially different. The appellants were directly linked to the vehicles carrying narcotics, whereas the acquitted accused were not found to be exercising similar dominion or control.

Conclusion: The High Court dismissed both criminal appeals and upheld the convictions and sentences. The Court held that the prosecution had successfully proved recovery of narcotics in commercial quantity, safe custody, positive chemical analysis, and conscious possession beyond reasonable doubt, and that no misreading or non-reading of evidence was shown.

5. Sindh High Court

Ghulam Shabbir Mahar s/o Shamsuddin Mahar VS The State
Criminal Accountability Appeal No. 10 of 2013

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAzNTg3Y2Ztcy1kYzgz>
2026 SHC KHI 129

Facts: The prosecution case was that Abdul Sattar Sangi, Manager Operations, National Bank of Pakistan, Ghotki Branch, reported embezzlement of Rs. 5.5 million from the Currency Chest maintained in the Strong Room of the branch. The appellant, being Chief Cashier, was responsible for the custody and accounting of cash. The shortages occurred on different dates between 19.12.2003 and 22.08.2004. During internal inquiry, the appellant admitted his guilt through a handwritten statement dated 27.06.2006 and issued a post-dated cheque for Rs. 5.5 million, which was dishonoured on presentation. After investigation, NAB filed Reference No. 18 of 2011. The learned Accountability Court No. I, Sindh at Karachi, by judgment dated 16.09.2013, convicted the appellant under section 9(a)(iii) and (ix) NAO and sentenced him to ten years R.I. with fine of Rs. 4 million, disqualification under section 15(b) NAO, and benefit of section 382-B, Cr.P.C.

Issue: Whether the prosecution proved beyond reasonable doubt that the appellant committed embezzlement of Rs. 5.5 million and whether the conviction and sentence recorded by the Trial Court were sustainable in law.

Rule: The High Court held that a conviction under section 9(a)(iii) & (ix) of the National Accountability Ordinance, 1999 can be sustained where the accused has made a voluntary written confession, duly corroborated by documentary evidence such as official banking records. Mere allegation of coercion is insufficient unless proved by the accused in terms of Article 117 of the Qanun-e-Shahadat Order, 1984. Issuance of a cheque for the embezzled amount further strengthens the prosecution's case. However, where administrative responsibility is shared, such a factor may justify a reduction of sentence, though not acquittal.

Application: The evidence on record, including currency chest registers, vault registers, slips and vouchers, consistently established a deficit of Rs. 5.5 million. Prosecution witnesses, particularly PW-1 and PW-2, proved that the appellant confessed during internal inquiry and issued a cheque equivalent to the embezzled amount from his own account. The plea of coercion was not substantiated by any material, nor was any explanation offered for issuance of the cheque or its non-cancellation. The appellant also did not produce any defence evidence. Learned counsel for the appellant ultimately did not press the appeal on merits and sought reduction of sentence on the ground of joint responsibility of bank officials.

Conclusion: Honorable High Court dismissed the petitions and found that the conviction recorded by the Trial Court was to be lawful and is maintained. However, considering the element of joint responsibility, the sentence is modified by reducing the imprisonment to the period already undergone and the fine from Rs. 4 million to Rs. 2 million, with default sentence of two years R.I. The appellant was directed to deposit the reduced fine with the Nazir on or before 28.02.2026, failing which non-bailable warrants shall be issued. The appeal stands dismissed

with the above modification.

6. SINDH HIGH COURT

Muhammad Sohail Ali v. Province of Sindh and others
Criminal Accountability Appeal No.02 of 2017

Present: **Mr. Justice Muhammad Iqbal Kalhoro, Senior Pusine Judge**
Mr. Justice Syed Fiaz Ul Hassan Shah

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAzNTgxY2Ztcy1kYzgz>
2026 SHC KHI 128

Facts: The appellant, Amjad Hussain, was convicted by the Accountability Court No. III, Karachi, under section 10 of the National Accountability Ordinance, 1999 for allegedly obtaining a sales tax refund of Rs.4,374,792/- through fake and flying invoices during the period September to December 2004. The prosecution alleged that the appellant, proprietor of M/s Akhtar Brothers, in connivance with officials of the Sales Tax Department, used forged invoices of an unregistered entity, M/s World Wide Impex, and received the refund amount through a bank account purportedly opened in his name at Silk Bank, Jodia Bazaar Branch. The trial court convicted the appellant, sentenced him to five years' rigorous imprisonment, imposed fine and disqualifications, and extended benefit of section 382-B Cr.P.C. Aggrieved, the appellant filed the present Criminal Accountability Appeal challenging the conviction primarily on the ground that he never opened or operated the disputed bank account, nor signed any refund-related documents.

Issue: Whether the prosecution successfully established, beyond reasonable doubt, that the appellant had opened and operated the disputed bank account and had signed the documents used to obtain sales tax refund through fake and flying invoices, so as to sustain his conviction under section 10 of the NAO, 1999?

Rule: Under criminal jurisprudence, the burden lies squarely upon the prosecution to prove its case beyond reasonable doubt. Under Articles 59 and 84 of the Qanun-e-Shahadat Order, 1984, expert opinion on handwriting is admissible, and judicial comparison of signatures is permissible only as a supplementary aid and must be exercised with extreme caution. Sole reliance on judicial comparison of disputed signatures, without corroborative oral or expert evidence, is considered unsafe, particularly in cases involving allegations of forgery. Furthermore, where the execution of disputed documents is denied, the prosecution must establish execution through independent, confidence-inspiring evidence, including attesting witnesses, forensic examination, or reliable banking records.

Application: In the present case, the High Court observed that the prosecution failed to establish any credible nexus between the appellant and the disputed bank account at Silk Bank. The bank documents were produced by a bank official summoned as a court witness under section 540 Cr.P.C., who was neither cited nor examined as a prosecution witness during investigation.

The investigating officer failed to verify the appellant's signatures through forensic examination or by comparison with admitted signatures from the appellant's undisputed bank account at Allied Bank. No cheque book of the disputed account was recovered, nor was any evidence produced to show withdrawal or utilization of the credited amount by the appellant. The trial court relied solely on its own comparison of signatures, despite the consistent denial by the appellant at all stages of proceedings. The prosecution also failed to produce any assessment order or procedural record from the Sales Tax Department demonstrating lawful processing or fraudulent manipulation of refund claims. The absence of expert evidence, corroborative banking records, and credible oral testimony rendered the prosecution's case speculative and deficient.

Conclusion: The High Court held that the prosecution failed to prove the guilt of the appellant beyond reasonable doubt. The trial court's reliance solely on judicial comparison of signatures was unsafe and contrary to settled legal principles. Consequently, the conviction and sentence were found to be unsustainable in law. The appeal was allowed, the impugned judgment was set aside, and the appellant was acquitted of the charge under section 10 of the NAO, 1999, as per the reasons for the short order dated 20.01.2026.

7. Sindh High Court

Second Appeal No. 56 of 2015

The Trustees of the Port of Karachi v. R.H. Electric Service

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAvNzU3Y2Ztcv1kYzgz>

2026 SHC KHI 59

Facts: The dispute arose from a contractual agreement dated 10.10.1989 for the installation of an additional DE-PABX system at the KPT Head Office between The Trustees of the Port of Karachi and R.H. Electric Service. The respondent initially filed a recovery suit in 1993, which was later compromised and referred to arbitration by mutual consent of the parties. The appellant raised objections and a counter-claim before the arbitrator, alleging non-completion and defective performance of the work. After considering the pleadings and documentary record, the arbitrator passed an award dated 19.03.1999, holding that the respondent had completed the work and that the final bill of Rs.6,87,421/- had been certified by the appellant's own consultant. The award was made rule of the court but was set aside on appeal and remanded for decision on merits. After remand, despite repeated opportunities, the appellant failed to file a written statement and was debarred, leading to ex-parte proceedings. The trial court again made the award rule of the court in 2011, which was upheld by the lower appellate court in 2015. The appellant then filed a second appeal under Section 100 CPC.

Issue: Whether the concurrent judgments of the courts below in making the arbitral award rule of the court suffered from any jurisdictional defect, procedural illegality, or patent error of law so as to raise a substantial question of law warranting interference by the High Court under Section 100 CPC, and whether the arbitrator committed legal misconduct by allegedly ignoring the observations of the Wafaqi Mohtasib.

Rule: The Court reiterated that judicial review of an arbitral award is limited and supervisory in

nature. Courts are not authorized to reassess or reappraise evidence or act as an appellate forum over the arbitrator's findings. Interference is permissible only where the award suffers from patent illegality, lack of jurisdiction, procedural irregularity, or misconduct apparent on the face of the record. In second appeal under Section 100 CPC, the High Court may interfere only where a substantial question of law or a material procedural defect affecting the merits of the case is established.

Application: Applying these principles, the Court found that the appellant had been afforded sufficient opportunities to file its written statement after remand but failed to do so, resulting in lawful debarment and ex-parte proceedings. The respondent's evidence and the arbitral record, including the certification of the final bill by the appellant's own consultant, remained unrebutted. The Court noted that the appellant had not filed formal objections to the arbitral award before the trial court, thereby limiting the scope of challenge at the second appellate stage. With regard to the allegation of arbitrator's misconduct, the Court applied the rule that the jurisdiction of the Wafaqi Mohtasib is confined to maladministration by government agencies and does not extend to adjudication of contractual rights and liabilities. It further observed that the relevant findings relied upon by the appellant had been expunged by a subsequent order of the Ombudsman. Consequently, the arbitrator was under no legal obligation to treat those observations as binding, and no misconduct or patent illegality was found on the face of the award.

Conclusion: The High Court held that no substantial question of law arose from the concurrent findings of the courts below and that the arbitral award had been lawfully made rule of the court. Accordingly, the second appeal was dismissed as being devoid of merit, and the respondent was permitted to withdraw the decretal amount of Rs. 6,87,421/-, along with any profit accrued thereon, as deposited with the Nazir of the District Judge, Karachi (West).

8. SINDHHIGHCOURT

Muhammad Sohail Ali v. Province of Sindh and others
Constitutional Petition No.D-5962 of 2025

Present: **Mr. Justice Muhammad Saleem Jessar**

Mr. Justice Nisar Ahmed Bhanbhro

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAyOTU5Y2Ztcv1kYzgz>
2026 SHC KHI 68

Facts: The petitioner, a practicing advocate, filed multiple constitutional petitions before the High Court of Sindh challenging various notifications issued between September and November 2025, whereby several government officers were assigned *additional charge* of posts in the Works & Services Department and allied departments. The petitioner contended that these additional charge arrangements were unlawful, not supported by service rules, amounted to appointments on acting/OPS basis, and violated constitutional provisions including Articles 4, 9, 14, 18, 25(1), and 38 of the Constitution of Pakistan. It was argued that such appointments defeated principles of good governance and were contrary to judgments of the Hon'ble Supreme Court discouraging OPS and acting charge appointments. The respondents, through the Assistant Advocate General, raised objections regarding

maintainability, locus standi, res judicata, and defended the impugned notifications as lawful stop-gap arrangements made due to administrative exigencies.

Issue: Whether the assignment of additional charge to the private respondents through the impugned notifications was illegal and without lawful authority so as to warrant issuance of a writ of *quo warranto* under Article 199 of the Constitution?

Rule: A writ of *quo warranto* lies where a public office is held by a person without lawful authority, in contravention of statutory provisions, or without possessing prescribed qualifications. For its issuance, it must be shown that: (i) the office is a public and substantive office created by statute or the Constitution; (ii) the holder lacks legal authority, prescribed qualification, or the appointment procedure was not followed; and (iii) the relator acts bona fide as a member of the public. Rule 9(4) of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974 permits a competent authority, as a stop-gap arrangement, to assign additional charge of a vacant post to an officer under its control until a substitute is appointed or where exigencies of service so demand. The burden lies upon the petitioner to *prima facie* establish illegality in the appointment.

Application: Upon examination of the record, the Court found that the impugned notifications merely assigned additional charge of vacant posts to serving officers as temporary arrangements necessitated by administrative exigencies, particularly for execution of development projects. The petitioner failed to demonstrate that any eligible substitute officer was available at the relevant time or that the appointing authority lacked competence. The Court held that such arrangements fell within the scope of Rule 9(4) of the APT Rules. Furthermore, the Court noted that the petitioner had earlier challenged the same appointments in CP No. D-5882 of 2025, which had already been dismissed, rendering the present petitions barred by the principle of *res judicata*. The Court also found that the petitioner failed to establish bona fides, locus standi, or any nexus between the impugned notifications and alleged bad governance, and observed that repeated litigation on transfers and postings amounted to harassment of public officers. The case law relied upon by the petitioner was distinguished as relating to OPS and acting charge appointments, which were materially different from stop-gap additional charge arrangements.

Conclusion: The Court concluded that the petitioner failed to establish that the private respondents were usurpers of public office or that the impugned notifications were issued in violation of statutory rules or constitutional provisions. No illegality, lack of jurisdiction, or procedural infirmity was shown to justify issuance of a writ of *quo warranto*. Consequently, all the constitutional petitions were dismissed along with pending applications, with directions to place the signed order on record in connected matters.

9.

SINDHHIGHCOURT

Khudai Ram and another v. Province of Sindh and others
Constitutional Petition No.D-220 of 2026

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAzMzQ3Y2Ztcv1kYzgz>

Facts: The petitioners filed a constitutional petition seeking directions for de-sealing of their shops located at Rambo Centre Birds Market, Karachi, and restoration of seized birds, cages, cash, and other articles. They alleged that officials of the Wildlife Department forcibly sealed their shops and seized property without issuing any notice or lawful authority, thereby violating their fundamental right to carry on lawful business under Article 18 of the Constitution. The respondents, on the other hand, contended that the petitioners were engaged in illegal wildlife trade in violation of the Sindh Wildlife Protection Act, 2020, and that the impugned action was taken lawfully to curb illicit trade and protect wildlife, including protected and foreign species.

Issue: Whether the sealing of shops and seizure of birds and other articles by the Wildlife Department without prior notice violated the petitioners' fundamental right under Article 18 of the Constitution, and whether such action was lawful under the Sindh Wildlife Protection Act, 2020?

Rule: Article 18 of the Constitution guarantees the right to carry on a lawful trade or business; however, such right is not absolute and is subject to reasonable restrictions imposed by law. Under Sections 21 and 53 of the Sindh Wildlife Protection Act, 2020, hunting, possession, and trade of wildlife, including birds, is prohibited unless carried out with valid permission or license from the competent authority. The Act empowers wildlife officers to search premises, seize wildlife, and prevent commission of offences without obtaining a warrant where illegal trade is suspected.

Application: The Court observed that although the petitioners claimed protection under Article 18, they failed to produce any valid license or permission permitting them to trade in birds as required under Section 53 of the Act. The statutory scheme clearly mandates permission for wildlife trade, and in absence thereof, such activity constitutes an offence. The Wildlife Department, upon finding the petitioners involved in illegal trade of protected and foreign species, exercised its lawful authority to search the premises, seize the birds, and seal the shops. The Court held that the action taken by the respondents fell within the four corners of the law and did not warrant constitutional interference. However, recognizing that disputed questions of fact were involved, the Court emphasized that such matters should be adjudicated by the appropriate forum. At the same time, the Court underscored that the welfare and humane treatment of the seized birds was of paramount importance and issued directions to ensure their proper care and custody.

Conclusion: The Court concluded that the petitioners' right to trade under Article 18 was subject to statutory restrictions and could not be exercised in violation of the Sindh Wildlife Protection

Act, 2020. Since the petitioners failed to establish lawful permission for wildlife trade, the impugned action of seizure and sealing was lawful and required no interference. The petition was disposed of with directions to ensure the welfare of the seized birds, while allowing the petitioners to seek lawful permission from the Wildlife Department if they intended to continue such trade in accordance with law.

10. SINDHHIGHCOURT

M/S Fishermen's Cooperative Society v. Sindh Labor Appellate Tribunal and 101 others
Constitutional Petition No.D-6544 of 2022

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAzNDQzY2Ztcy1kYzgz>
2026 SHC KHI 126

Facts: The petitioner, M/S Fishermen's Cooperative Society (FCS), challenged the judgment dated 04.08.2022 of the Sindh Labour Appellate Tribunal, Karachi, whereby termination orders dated 31.12.2018 issued against respondent employees were set aside and reinstatement with back benefits was directed. The services of around 335 employees, including respondents, were terminated following an inquiry initiated on a NAB reference, which declared their appointments illegal and void ab initio. The Labour Court had earlier dismissed the grievance petitions filed by the employees; however, the Labour Appellate Tribunal reversed that decision. FCS contended that labour laws were not applicable to it as a welfare organization and that the Tribunal lacked jurisdiction, whereas the respondents asserted illegal termination without notice, inquiry, or due process, coupled with trade union victimization.

Issue: Whether the Fishermen's Cooperative Society falls within the definition of an "establishment" under labour laws, making the respondents "workers" entitled to protection under the Sindh Industrial Relations Act, 2012 and Sindh Terms of Employment (Standing Orders) Act, 2015, and whether the mass termination of respondent employees without notice, reasons, or inquiry was lawful?

Rule: Under the Sindh Industrial Relations Act, 2012 and the Sindh Terms of Employment (Standing Orders) Act, 2015, workers employed in an establishment are entitled to statutory protection. Standing Order 16 mandates that termination of a permanent worker must be by a written order stating reasons and, except in cases of misconduct, requires notice or wages in lieu thereof. Standing Order 21 requires that dismissal on the ground of misconduct can only be imposed after issuance of a show-cause notice, provision of an opportunity of hearing, and conduct of an independent inquiry in accordance with principles of natural justice. Article 10-A of the Constitution guarantees the right to fair trial and due process.

Application: The Court examined the framework, functions, and internal rules of FCS and found that it had long employed workers in various operational roles and had recognized trade unions since the 1960s. The FCS Efficiency and Conduct Rules, 1964 expressly defined employees as “workmen” under labour laws. Therefore, FCS qualified as an establishment and its employees as workers protected by labour legislation. The respondents had worked for over a decade and thus attained the status of permanent workers. Their termination through a common order dated 31.12.2018 neither disclosed any reasons nor complied with the mandatory requirements of Standing Order 16(3). No show-cause notices were issued, no departmental inquiry was conducted, and the respondents were denied the right of audience even in the inquiry relied upon by the petitioner. The Court held that reliance on a NAB-triggered inquiry, without affording due process to the employees, was a gross violation of natural justice and Article 10-A of the Constitution. Any procedural irregularity in appointments was attributable to the petitioner’s own management and could not be used retrospectively to penalize employees. The mass termination was found to be arbitrary, punitive, and motivated by apprehension of accountability proceedings rather than lawful disciplinary grounds.

Conclusion: The High Court held that the respondents were lawful workers entitled to protection under labour laws and that their termination without notice, reasons, or inquiry was illegal and void. Finding no illegality or perversity in the impugned judgment of the Sindh Labour Appellate Tribunal, the Court dismissed the constitutional petition and upheld the order of reinstatement with back benefits, recalling the interim relief earlier granted to the petitioner.

11. SINDH HIGH COURT

Spl. Crl. Anti-Terrorism Appeal No.12 of 2025

Spl. Crl. Anti-Terrorism Jail Appeal No.18 of 2025

Rizwan S/o Muhammad Ramzan

Nadeem S/o Rehmatullah

Appellants [in Spl. Crl. A.T.A. No.12/2025]

Mushtaq S/o Abdul Khaliq @ Ghulam Qadir

Appellant [in Spl. Crl. A.T.J.A. No.18/2025]

Versus

The State Mr. Muhammad Iqbal Awan, Addl. P.G. Sindh

Present: **MR. JUSTICE KHADIM HUSSAIN TUNIO**
MR. JUSTICE AMJAD ALI SAHITO

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAyODgxY2Ztcy1kYzgz>
2026 SHC KHI 62, 2026 SHC KHI 63

Facts: On 18.05.2022, complainant Sikander Bux lodged FIR No. 910/2022 at PS Sachal, Karachi,

reporting that his 28-year-old son, Nazakat Hussain, had gone missing after leaving home in the early hours of 16.05.2022 for some essential work and never returned, with both of his mobile phones switched off, leading the complainant to suspect kidnapping by unknown persons; during investigation, accused Rizwan was initially detained under section 54 Cr.P.C. on 19.05.2022 and formally nominated on 20.05.2022 upon the complainant's identification, while nearly ten months later, on 20.03.2023, accused Nadeem and Mushtaq were arrested by the Anti-Violent Crime Cell on spy information and nomination by Rizwan, the prosecution alleging that Rizwan had called Nazakat to a tea hotel from where he disappeared, that ransom was later demanded through Mushtaq's brother, and that Nazakat was murdered with a screwdriver recovered at the accused's pointation, though the dead body was never recovered and the forensic evidence did not conclusively link the recovered article to the deceased.

Issue: Whether the prosecution had proved beyond reasonable doubt that Rizwan, Nadeem, and Mushtaq kidnapped Nazakat Hussain and then murdered him, so that their convictions (life imprisonment under section 364/34 PPC and, for Rizwan, also under section 302-B PPC as tazir, along with allied consequences) could legally stand, despite the case being largely circumstantial and heavily dependent on alleged disclosures/confessions made to police, delayed witness statements, and disputed forensic linkage?

Rule: The Court applied settled criminal law standards. First, under Article 38 of the Qanun-e-Shahadat Order, 1984, a confession made to a police officer is inadmissible and cannot be proved against an accused. Second, where a case rests on circumstantial evidence, the prosecution must establish a complete, coherent, and unbroken chain of circumstances that leads only to the guilt of the accused and excludes every other reasonable hypothesis. Third, unexplained delay in recording witnesses' statements under section 161 Cr.P.C. seriously dents credibility; even short unexplained delay can be fatal, and longer delay makes reliance unsafe, as emphasized in *Muhammad Asif v. The State* (2017 SCMR 486) and other precedents cited. Fourth, benefit of doubt is a right: even a single reasonable doubt entitles an accused to acquittal, as reiterated in *Muhammad Mansha v. The State* (2018 SCMR 772). The Court also referred to authority that extra-judicial confession is a weak form of evidence and cannot found conviction unless voluntary, truthful, and corroborated, particularly where made before police, referencing *Muhammad Aslam v. The State* (2003 SCMR 862).

Application: The Court found the prosecution story unreliable on multiple core points. The FIR was lodged against unknown persons and was silent about any allegation that Rizwan called the deceased to a tea hotel or that any of the appellants were involved. The "Rizwan called Nazakat" narrative surfaced later through testimony and was treated as a material improvement, especially because the complainant admitted in cross-examination that this call and meeting were not stated in the FIR or earlier statements. The Court also found the complainant's own conduct damaging to the prosecution: he admitted that Rizwan had obtained bail on the basis of the complainant's affidavit of "no objection," which showed

uncertainty and weakened the later claim of clear involvement. The prosecution then attempted to connect the appellants mainly through alleged disclosures/confession before police while in custody. The Court held such material legally inadmissible under Article 38, and emphasized that the trial court had effectively relied on a solitary piece of inadmissible evidence. On the “last seen” angle, PW-13’s statement was recorded after around nine to eleven months with no plausible explanation, and the witness admitted missing details in his 161 statements. The Court treated this delay as fatal to reliability, relying on Supreme Court guidance that unexplained delay, even of a day or two, can undermine safety of reliance, and therefore an eleven-month delay made the testimony highly suspect. On forensic linkage, the prosecution argued the screwdriver recovery and DNA supported guilt, but the Court found the DNA did not connect the screwdriver to the deceased; instead, it matched the DNA profile of the mother, which was not enough to prove murder or link the weapon to the act. The Court further highlighted investigative lapses: no dead body was recovered, the alleged place of abduction was inspected after about a year, and relevant witnesses’ statements were not properly recorded. With these weaknesses, the chain of circumstantial evidence was broken and incomplete, leaving room for reasonable doubt. Because criminal conviction must rest on proof beyond reasonable doubt, the Court held the prosecution failed to discharge its burden.

Conclusion: The appeals were allowed and the convictions and sentences were set aside; all appellants were acquitted and ordered to be released if not required in any other case.

12. SINDH HIGH COURT

Tahira Khatoon and others v. Federation of Pakistan and others

Constitutional Petition No.D-3950 of 2024

Present: **Mr. Justice Adnan-ul-Karim Memon**
Mr. Justice Abdul Mobeen Lakho

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAzMzAzY2Ztcv1kYzgz>
2026 SHC KHI 111

Facts: The petitioners, Pakistani citizens and permanent residents of Karachi, include MstTahiraKhatoon, her daughter Mst. Sonia, and her minor grandson. They had resided in South Africa for several years. During a visit to Pakistan, they applied for computerized passports; however, due to negligence on the part of the passport authorities, fresh passports were issued without proper cancellation of earlier records, resulting in an erroneous reflection of duplicate passports. Although the petitioners never possessed or used two passports, their passports were confiscated at Karachi Airport in 2015, and they were compelled to approach FIA authorities. Subsequent litigation led to correction of records and issuance of fresh passports, enabling lawful travel. Despite this, upon applying for passport renewal in South Africa, the petitioners were again denied renewal due to the continued existence of duplicate passport

entries and their placement on the Passport Control List (PCL). Repeated representations and a legal notice failed to resolve the issue, causing prolonged hardship and restriction on their right to travel.

Issue: Whether the continued reflection of duplicate passports in official records and the petitioners' placement on the Passport Control List, arising from administrative negligence and without due process, lawfully justified the refusal of passport renewal and restriction on the petitioners' right to travel under Article 199 of the Constitution?

Rule: Under the Passport Act, 1974, and the Constitution of the Islamic Republic of Pakistan, 1973, citizens possess a fundamental right to lawful travel, subject only to restrictions imposed strictly in accordance with law and due process. Arbitrary blacklisting or inclusion on the Passport Control List without substantiated grounds and procedural fairness is impermissible. Administrative errors by state authorities cannot be allowed to prejudice fundamental rights. While Rules 21 and 22 of the Passport Rules, 2021 permit placement on the PCL based on security recommendations, such power must be exercised reasonably, proportionately, and without indefinite delay.

Application: In the present case, the Court found that the issuance of duplicate passports was solely attributable to the negligence of the passport authorities, and not to any misrepresentation or unlawful conduct by the petitioners. At no point did the petitioners possess or attempt to use two valid passports simultaneously. The respondents' failure to correct official records despite repeated approaches perpetuated the hardship. Although the respondents contended that the petitioners' inclusion on the PCL was based on security recommendations, the Court held that procedural delays or pending recommendations could not indefinitely suspend the petitioners' fundamental right to travel. The continued refusal to renew passports, without timely review or corrective action, amounted to an unjustified and disproportionate restriction.

Conclusion: The Court concluded that the petitioners had suffered undue hardship due to administrative lapses beyond their control. It directed the competent authorities to review and, if appropriate, remove the petitioners' names from the Passport Control List, correct the passport records to eliminate any reference to duplicate passports, and facilitate the issuance and renewal of passports without delay. The petition was disposed of with directions to ensure compliance with law, due process, and protection of the petitioners' fundamental rights.

13. SINDH HIGH COURT

Ghullam Mustafa Supro v. National Bank of Pakistan and others
Constitutional Petition No.D-3376 of 2021

Present: **Mr. Justice Adnan-ul-Karim Memon**
Mr. Justice Abdul Mobeen Lakho

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAzMzU5Y2Ztcy1kYzgz>

2026 SHC KHI 116

Facts: The petitioner joined the National Development Finance Corporation (NDFC) in 1989, later merged into the National Bank of Pakistan (NBP), and rendered service until his superannuation in 2020. He was dismissed in 2000, but the dismissal was set aside by the Federal Service Tribunal (FST) in 2003 with reinstatement and a direction for a De Novo inquiry. The inquiry exonerated him in 2004. Despite this, he was again dismissed in 2005 on the same allegations. After prolonged litigation, he was reinstated in 2011 pursuant to a mercy appeal, with the intervening period treated as extraordinary leave without pay. Upon retirement, NBP restricted his pensionary and provident fund benefits to only nine years of service, ignoring his prior service and reinstatement orders. His departmental appeals were not decided, compelling him to invoke constitutional jurisdiction seeking refixation of pension and release of full retirement benefits.

Issues:

- (i) Whether the constitutional petition was maintainable despite NBP's non-statutory service rules; whether the petitioner was entitled to continuity of service following reinstatement and exoneration?
- (ii) Whether an undertaking obtained at the time of mercy reinstatement barred his lawful claims; and whether NBP lawfully restricted pensionary and provident fund benefits to a limited period of service?

Rules: It is a settled principle that constitutional jurisdiction is not ousted merely because service rules are non-statutory when the employer is a public sector entity performing public functions. Once an order of dismissal is set aside, it is deemed non-existent in law, and the employee is entitled to continuity of service and consequential benefits. Pension is a vested right earned through qualifying service and is not a bounty. Accrued service and financial rights cannot be waived through coercion, undertakings extracted under economic duress, or executive action, nor can they be taken away retrospectively. Arbitrary denial of pensionary benefits violates Articles 4, 9, 14, and 25 of the Constitution.

Application: Applying these principles, the Court held that NBP, despite framing non-statutory service rules, remains amenable to constitutional jurisdiction. The controversy involved legal consequences of admitted facts and prior judgments, not disputed questions of fact. The FST judgment restoring the petitioner's service and the De Novo inquiry exonerating him wiped out the stigma of dismissal and entitled him to continuity of service. The subsequent dismissal on identical allegations was void and without lawful authority. The undertaking obtained at the time of mercy appeal was held unenforceable insofar as it sought to extinguish vested service and pensionary rights, as it was extracted under compulsion after years of litigation. The restriction of pension and provident fund benefits to nine years ignored restored continuity of service and amounted to arbitrary and discriminatory treatment. NBP's plea regarding discontinuation of employer contribution could not defeat accrued rights arising from earlier service.

Conclusion: The Court concluded that the petition was maintainable and that the petitioner was legally entitled to counting of his entire qualifying service for pensionary and retirement benefits. NBP's action of limiting benefits to nine years was declared illegal, arbitrary, and without lawful authority. The respondents were directed to recalculate and release all lawful retirement and pensionary benefits, including refixation of pension, within one month, and the petition was disposed of accordingly.

14. SINDH HIGH COURT

C.P. No. D-116 of 2026, High Court of Sindh, Karachi.
 Ashfaque Ali Panhwar versus Province of Sindh & others (Respondent)

Present: Mr. Justice Yousuf Ali Sayeed

Mr. Justice Zulfiqar Ali Sangi.

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAzMDIxY2Ztcy1kYzgz>

2026 SHC KHI 77

Facts: The petitioner, Ashfaque Ali Panhwar, filed a constitutional petition under Article 199 of the Constitution of Pakistan challenging the Bus Rapid Transit (BRT)/Mass Transit Projects initiated by the government in Karachi and other regions. He argued that these projects are funded through massive foreign and domestic loans, imposing a heavy financial burden on the public via taxes. He claimed the projects often remain incomplete, are commercially unviable, and result in wastage of public funds. Additionally, he alleged that the government's monopolization of the transport sector through these loan-financed initiatives violates Article 18 of the Constitution (freedom of trade, business, or profession), as Pakistan is a capitalist country. He further contended that these actions breach Articles 4 (lawful treatment), 9 (security of person), 23 (property rights), 24 (protection of property), and 25 (equality of citizens). The petitioner sought a declaration that the projects are unconstitutional and illegal, directed the respondents to disclose details of loan amounts and bus purchases, and requested that the projects be handed over to the public for operation. The case was heard on 20.01.2026 as a fresh matter, with applications for urgency, office objections, and miscellaneous matters also addressed.

Issues: Whether the BRT/Mass Transit Projects, funded by loans and allegedly leading to public financial burden, incomplete execution, and government monopolization of transport, violate Articles 4, 9, 18, 23, 24, and 25 of the Constitution of Pakistan?

Whether the court should intervene in the initiation and management of such projects, including directing disclosures and handovers, or if this constitutes judicial interference in executive policy matters?

Rule: The court applied the principle of trichotomy of powers (separation of powers among the judiciary, executive, and legislature) as enshrined in the Constitution of Pakistan. Judicial intervention in executive policy decisions is prohibited to avoid overreach, which undermines constitutional democracy. The court cited two Supreme Court precedents:

Mian Irfan Bashir vs. The Deputy Commissioner (D.C) Lahore and others (PLD 2021 Supreme Court 571): Emphasizes that judges must not encroach on legislative or executive domains based on polycentric considerations beyond their expertise, as this constitutes judicial overreach, adventurism, or imperialism. Judges are bound to interpret law within constitutional limits, not substitute their will for that of the legislature or executive.

Chief Executive Officer, Multan Electric Power Company Ltd. vs. Muhammad Ilyas and others (2021 SCMR 775): Reiterates that judicial overreach occurs when courts interfere in executive functions, such as disregarding policies or mandates, violating separation of powers. Courts must uphold foundational constitutional values like the rule of law and independence of the judiciary without derogating from their oversight role.

Application: The court analyzed the petition as squarely falling within the executive domain, involving policy decisions on infrastructure projects like BRT/Mass Transit systems, which include funding, execution, and operation. Granting the relief sought—declaring the projects unconstitutional, compelling disclosures, and ordering handovers—would amount to judicial overreach, as it involves interfering in economic, social, and political matters beyond the judiciary's expertise and constitutional mandate. Applying the cited Supreme Court judgments, the court noted that such interference transforms adjudication into policy-making, eroding public trust in the judiciary and shaking democratic foundations. The petitioner's claims of constitutional violations were not deemed sufficient to warrant a writ, as they pertain to executive discretion rather than justiciable rights enforceable by the court. The matter does not present a fit case for judicial review, as it risks violating the separation of powers.

Conclusion: The petition was dismissed in limine (at the threshold) as misconceived, along with all miscellaneous applications. The urgent application was granted solely for expedited hearing, but the main case was rejected. The petitioner was ordered to pay costs of Rs. 25,000 to the High Court Clinic within seven days of the order dated 20.01.2026.

15. Sindh High Court

C.P. No. D-4926 of 2025

C.P. No. D-4927 of 2025, High Court of Sindh, Karachi.

Shah Nawaz (Petitioner) VS Federation of Pakistan & others (Respondent)

Present: **Mr. Justice Yousuf Ali Sayeed**

Mr. Justice Zulfiqar Ali Sangi.

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAzMDIzY2Ztcy1kYzgz>
2026 SHC KHI 78

Facts: The petitions challenge the transfer/shifting of two private limited companies, M/s. Al Ansar Travel & Tours and M/s. Karwan-e-Al Member Hajj Group (both Hajj operators), from the remit of Al NafiMunazzam (Pvt) Ltd. to Al-Barr Munazzam (Pvt) Ltd. This action was taken by the Ministry of Religious Affairs & Interfaith Harmony based on applications submitted by the companies through their Chief Executives, who are the son and daughter of the petitioner. The petitioner claims to be the major shareholder of both companies and states that he appointed his son and daughter to their executive positions in good faith. He alleges

that the applications for transfer were made without his consent or knowledge. The case was heard on 21-01-2026 as a priority matter, addressing office objections, a miscellaneous application (CMA No. 20593 of 2025), and the main case.

Issues: Whether the transfer of the Hajj operator companies by the Ministry, based on applications from their Chief Executives, can be challenged by the petitioner under constitutional jurisdiction?

Whether the petitioner has locus standi (legal standing) to maintain the petitions against the Ministry's actions, given that the transfers were requested by the companies themselves and the dispute appears to involve family/internal company matters?

Rule: Under constitutional law, particularly in petitions under Article 199 of the Constitution of Pakistan, a petitioner must have locus standi to challenge government actions. Private disputes, such as intra-family or internal corporate conflicts, do not confer standing to impugn official decisions that were taken at the behest of the affected entities themselves. Such challenges would only be actionable by the entities directly involved (e.g., the companies), and not by individual shareholders in cases where the action aligns with the entities' requests. The court cannot entertain petitions that essentially stem from private grievances lacking a public or constitutional dimension.

Application: The court analyzed that the Ministry's decision to transfer the companies was based on voluntary applications from the companies' Chief Executives, rendering it an action taken at the companies' own request. The petitioner's claims of lack of consent highlight a grievance against his own son and daughter, which constitutes a private family or corporate dispute rather than a justiciable issue against the Ministry. As a result, the petitioner lacks locus standi to challenge the Ministry's actions in this forum, as he is not the aggrieved party in the constitutional sense—the companies themselves would need to contest the transfer, but they cannot do so logically since they initiated it. Entertaining such petitions would improperly extend constitutional jurisdiction to resolve personal conflicts.

Conclusion The petitions were found to be misconceived and were dismissed accordingly on 21-01-2026. No costs or further directions were mentioned.

16. SINDHHIGHCOURT

Yasir Hayat and others v. Province of Sindh and others
Constitutional Petition No.D-272 of 2023

Present: **Mr. Justice Adnan-ul-Karim Memon**
Mr. Justice Abdul Mobeen Lakho

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAzMjEzY2Ztcy1kYzgz>
2026 SHC KHI 86

Facts: The petitioners are lawful owners of Plot No. D-14, Block-A, Scheme-2, North Nazimabad, Karachi, measuring 1000 square yards, which they purchased for valuable consideration and sin respect whereof mutation was effected on 09-04-2018. The plot is situated on Sher Shah Suri Road, a road declared commercial through City District Council Resolution No. 383

dated 06-01-2004. Relying on this declaration, the petitioners applied for change of land use from residential to commercial by submitting the prescribed Z-Form to the Master Plan Department, KMC. All statutory and procedural requirements were fulfilled, including newspaper publication inviting objections, to which no objections were received. The application had reached an advanced stage, and the only remaining formality was issuance of challan for commercialization charges. However, the respondents failed to issue the challan, citing the Supreme Court's order dated 22-01-2019, which imposed a ban on change of land use throughout Karachi.

Issue: Whether the petitioners, whose plot lies on a declared commercial road and whose application for change of land use had substantially matured prior to 22-01-2019, are entitled to issuance of a challan for commercialization charges and consideration of their case despite the Supreme Court's blanket ban on change of land use imposed after that date?

Rule: Under Article 199 of the Constitution, the High Court may issue appropriate directions where public authorities fail to act in accordance with law. Judicial precedent establishes that plots abutting a declared commercial road may attain commercial status subject to fulfillment of statutory requirements and payment of commercialization charges. However, the Supreme Court of Pakistan, through its order dated 22-01-2019 passed in Civil Petition No. 815-K/2016, imposed a complete ban on change of land use of residential and amenity plots in Karachi, directing authorities not to entertain pending or future requests and to strictly enforce the Master Plan. Any exception to this ban requires careful scrutiny in light of the Supreme Court's directives.

Application: In the present case, it is undisputed that Sher Shah Suri Road is a declared commercial road and that the petitioners completed all procedural and codal requirements for commercialization before the cut-off date of 22-01-2019. The respondents themselves acknowledged that the application had matured and that no objection or deficiency remained pending except issuance of the challan. However, in view of the Supreme Court's binding directions, the High Court refrained from adjudicating the merits of the petitioners' entitlement to commercialization. Instead, it held that the competent authority must examine whether the petitioners' case falls within any permissible exception under the Supreme Court's judgment and determine the matter accordingly. The authority was therefore required to apply its mind, hear all concerned, and pass a reasoned speaking order in compliance with the Supreme Court's mandate.

Conclusion: Without expressing any opinion on the merits of the petitioners' claim, the High Court disposed of the petition by directing the competent authority to decide the matter through a speaking order within two months, strictly in accordance with law and the Supreme Court's judgment dated 22-01-2019. The petition was accordingly disposed of along with all pending applications, with directions for immediate communication and compliance.

17. HIGH COURT OF SINDH

C.P No.S-298 of 2024

Sajeel Ahmed v.the learned Additional District Judge-I and 02 others

Present: **Mr. Justice Arbab Ali Hakro**

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzAzMTQ5Y2Ztcy1kYzgz>

2026 SHC HYD 83

Facts: The parties married on 05.01.2021 with dower fixed at 18 tola gold and Rs.500,000. The wife filed a family suit alleging non-payment of dower, non-return of dowry articles, and non-payment of maintenance since March 2022. The Trial Court ordered interim maintenance, which the husband failed to pay, leading to his defence being struck off. The suit was decreed and the appellate court upheld the decree, after which the husband invoked Article 199 before the High Court.

Issue: Whether, in a composite family suit, the defence could be struck off under Section 17-A of the Family Courts Act, 1964 only in respect of the maintenance claim, and whether the remaining claims of dower and dowry could be decreed without the husband's evidence.

Rule: Section 17-A of the Family Courts Act, 1964 authorizes striking off the defence solely in relation to a maintenance claim for non-compliance with an interim maintenance order and does not extend to independent claims such as dower or dowry articles. A Nikahnama entry regarding dower creates only a rebuttable presumption, and once non-receipt is alleged, the burden shifts to the husband to prove payment. Under Article 199, constitutional jurisdiction is confined to correcting jurisdictional errors or perverse findings.

Analysis: The Court acknowledged that the defence could lawfully be struck off only to the extent of the maintenance claim, not for dower or dowry. However, it found that the Trial Court still recorded the wife's evidence and repeatedly gave the husband opportunities to lead rebuttal evidence on all claims, which he chose not to use. His failure to prove delivery of dower or return of dowry left the wife's testimony unrebutted, justifying the decrees on merits rather than merely on the penal consequence of Section 17-A.

Conclusion: The petition was dismissed and the concurrent judgments were maintained. The Court held that striking off the defence under Section 17-A is confined to maintenance claims and does not relieve the court from assessing evidence on dower and dowry, and that a Nikahnama entry does not conclusively prove payment of dower, placing the burden on the husband to establish delivery when non-receipt is alleged. The Court also observed that oral evidence may be relied upon to establish dowry where documentary proof is ordinarily unavailable.

18.

SINDH HIGH COURT

Criminal Bail Application No. 2578 of 2025
 Ammar v. The State

Present: Justice Tasneem Sultana

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2026 SHC KHI 139

Facts: The applicant sought post arrest bail in Crime No 231 of 2025 registered by FIA Anti Human Trafficking Circle Karachi under Sections 3 2 13 and 14 of the Foreigners Act 1946 read with Sections 420 468 471 and 109 PPC. The prosecution alleged that the applicant arrived from Saudi Arabia at Jinnah International Airport on an emergency Pakistani passport marked NIL BY GOP During immigration clearance the passport and stamps were suspected to be forged Technical examination later reported that the base passport was genuine but personalized data entries showed signs of tampering The applicant allegedly failed to establish Pakistani nationality and NADRA data was not traceable. The applicant argued that the passport was genuine no forged material was recovered from him and he produced documentary material relating to his parents including CNICs and civil registration traces showing Pakistani nationality He maintained that the case required further inquiry. The prosecution contended that tampering indicated substitution of identity that under Section 9 of the Foreigners Act the burden was on the applicant to prove he was not a foreigner and that Section 14A restricted release on bail

Issue: Whether in view of suspected tampering in personalized passport data and doubtful nationality status there existed reasonable grounds to believe the applicant committed the alleged offences or whether the matter fell within further inquiry under Section 497 2 CrPC entitling him to bail?

Rule: Under Section 497 CrPC bail is refused where reasonable grounds exist for believing the accused guilty of an offence falling within the prohibitory clause If sufficient grounds exist for further inquiry bail shall be granted. Section 9 of the Foreigners Act places the burden on the person concerned to prove that he is not a foreigner. Section 14A bars bail where reasonable grounds exist for believing guilt under Section 14 2. The Supreme Court has consistently held that at bail stage deeper appreciation of evidence is not permissible and bail cannot be refused as advance punishment particularly in documentary cases where evidence is in prosecution custody

Application: The Court conducted a tentative assessment and observed that the technical report confirmed the passport itself was genuine Only personalized data entries reflected alleged tampering Determination of when the alteration occurred who made it whether the applicant had knowledge and whether the alteration occurred before or after issuance required recording of evidence at trial. On the question of nationality although NADRA data was not traceable the applicant produced documentary material relating to parentage including identity documents

and foreign residency records linking his parents to Pakistan. The authenticity and legal effect of these documents required evaluation through evidence. The offences under Sections 420 and 471 PPC are bailable. Section 468 PPC does not fall within the prohibitory clause. FIA was still verifying documents and had not sought cancellation of passport. The applicant was not required for further investigation and no recovery was pending. The Court held that the material on record did not establish reasonable grounds for believing guilt but instead disclosed sufficient grounds for further inquiry under Section 497 2 CrPC.

Conclusion: The High Court allowed post arrest bail holding that the case squarely fell within further inquiry. The applicant was admitted to bail subject to furnishing solvent surety of Rs 200000 and PR bond in the like amount. The observations were declared tentative and not to influence the trial.

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