



HIGH COURT OF SINDH

Case Law Review



Fortnightly Bench Update



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FORTNIGHTLY BENCH UPDATE

(16-03-2026 to 31-03-2026)

An Overview of Recent Judgments of 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. FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
Shahbaz Masih v. Additional Sessions Judge, Lahore & others
F.C.P.L.A. No. 536 of 2025

Present: Mr. Justice Syed Hasan Azhar Rizvi
Mr. Justice Muhammad Karim Khan Agha

<https://www.fccp.gov.pk/download/evJpdiI6llp3WHgwaWIEd1ozT0JCYTZGYnQwWUE9PSIsInZhBHvIjoiNldkKzhYYVhwUWNDMEhtY0s3Z2hCUT09IiwibWFjIjoiYjgzMDhlN2M5ZGUyYmI0Y2JmYmJiY2I3NDc1YmEwODQzOWNIYjczNDQ4NzMyOWQ0ODNkNTcwNzdiNmZlNTZjZiIsInRhZyI6IiJ9>

Facts: The petitioner, Shahbaz Masih, alleged that his daughter Maria Bibi had been kidnapped and lodged an FIR; however, during investigation she appeared before a Magistrate and recorded a statement under section 164 Cr.P.C. stating that she had voluntarily married respondent No. 6. The petitioner challenged this by claiming that she was a minor, that the marriage was void, and that the Nikahnama was forged. His writ petition, revision, and petition under section 491 Cr.P.C. for recovery of his daughter were all dismissed, mainly on the basis that she had consistently affirmed her free will. The High Court upheld these findings, and the petitioner then approached the Federal Constitutional Court seeking recovery of his daughter on the ground of illegal detention.

Issue: Whether the custody of the petitioner's daughter with respondent No. 6 amounts to illegal detention under section 491 Cr.P.C. when the marriage is disputed on grounds of minority and validity?

Rule: Proceedings under section 491 Cr.P.C. are limited to examining illegal detention and cannot resolve disputed questions such as age or validity of marriage. A Muslim male may marry a Christian female, and child marriage, though punishable under the Child Marriage Restraint Act, 1929, is not void unless expressly declared by law. A statement under section 164 Cr.P.C. carries strong evidentiary value, and prior findings between the same parties operate as res judicata.

Application: The Court relied on the girl's consistent statement that she married of her own free will, negating any allegation of illegal detention. It held that issues of minority, validity of marriage, and alleged forgery involve disputed facts that cannot be decided in summary proceedings under section 491 Cr.P.C. The Court further rejected the interfaith objection and observed that even if the girl were minor, the law does not render such marriage void. It also noted that an earlier High Court judgment had already declared her custody lawful, which had attained finality and could not be reopened.

Conclusion: The petition was dismissed as no illegal detention was established, and the custody of the girl with her husband was held lawful.

2. SUPREME COURT OF PAKISTAN

**Iftikhar Ahmed v. The Rector, National University of Science and Technology
Civil Petition No.1545 of 2019**

Present: Mr. Justice Sardar Tariq Masood
Mr. Justice Muhammad Ali Mazhar

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1545 2019.pdf

Facts: The petitioner, Iftikhar Ahmed, was serving as Assistant Controller of Examinations at NUST. An inquiry was initiated against him on allegations of leaking question papers of the NUST Entry Test-2011. Upon conclusion of the inquiry, he was found guilty of misconduct and removed from service with effect from 30.03.2012. He filed an appeal before the Federal Service Tribunal, which was dismissed for lack of jurisdiction. Thereafter, he approached the Islamabad High Court through a writ petition, which was disposed of with directions to the respondent to reconsider his case on merits and humanitarian grounds. Subsequently, the departmental appeal was allowed, and the petitioner was reinstated as Assistant Director (BPS-17) with effect from 30.03.2012. He was granted full pay and allowances for the period from 30.03.2012 to 20.12.2012. However, for the period from 21.12.2012 to 05.09.2016, the respondent declined to grant back benefits on the ground that the petitioner was gainfully employed at UET Taxila as Deputy Director QEC (BPS-18). This period was treated as extraordinary leave without pay. The petitioner challenged this denial before the Islamabad High Court, which dismissed the writ petition. Hence, he filed the present civil petition before the Supreme Court.

Issue: Whether a reinstated employee is entitled to full back benefits for the entire period of removal from service despite being gainfully employed elsewhere during that period?

Rule: Under settled principles of service law, back benefits are compensatory in nature and are granted to an employee who remained jobless due to wrongful dismissal or termination. Where it is established that the employee was gainfully employed during the relevant period, he is not entitled to back benefits for that period. It is further established in Abdul Hafeez Abbasi v. Managing Director, PIA that an employee claiming back benefits must plead and prove that he did not earn any income through employment or business during the pendency of proceedings.

Application: The petitioner contended that despite being employed elsewhere, he was entitled to full back benefits from NUST for the entire period of his removal. The Court examined the record and found that the petitioner had been gainfully employed at UET Taxila as Deputy Director QEC (BPS-18) during the disputed period. This employment was not only regular but also in a higher pay scale than his previous position at NUST (BPS-17). The Court held that the concept of back benefits is to compensate an employee who remained without employment due to wrongful dismissal. Since the petitioner had been continuously employed and earning during the relevant period, the basis for awarding back benefits did not exist. The reliance placed by the petitioner on Abdul Hafeez Abbasi's case was found misplaced, as that judgment clearly requires proof that the employee remained jobless, which was not the case here. Accordingly, the Court held that the respondent lawfully treated the relevant period as extraordinary leave without pay and rightly denied back benefits for that duration.

Conclusion: The Supreme Court dismissed the civil petition and refused leave to appeal, holding that no illegality or irregularity existed in the judgment of the Islamabad High Court. The petitioner was not entitled to back benefits for the period during which he was gainfully employed at UET Taxila.

3. SUPREME COURT OF PAKISTAN

Hira Rauf v. Rear Admiral (Retd) Mushtaq Ahmed & others
Criminal Appeal No.10-K of 2024

Present: **Mr. Justice Muhammad Ali Mazhar**
Mr. Justice Syed Hasan Azhar Rizvi
Mr. Justice Aqeel Ahmed Abbasi

Source: https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 10 k 2024.pdf

Facts: The appellant challenged contempt proceedings initiated on the allegation that a High Court order dated 03.09.2024 had been violated. A contempt application was filed under Article 204 of the Constitution and Sections 3 and 4 of the Contempt of Court Ordinance, 2003. The learned Single Judge, without conducting a preliminary hearing, directly fixed a date for framing of charge and issued notice to the Advocate General. The appellant challenged this action before the Division Bench of the High Court, which disposed of the appeal by directing continuation of proceedings. Aggrieved, the appellant approached the Supreme Court, contending that the mandatory requirement of preliminary hearing under Section 17(3) of the Ordinance had been ignored.

- Issue:** Whether the court can proceed with contempt proceedings and fix a date for framing of charge without first providing an opportunity of preliminary hearing to the alleged contemnor under Section 17(3) of the Contempt of Court Ordinance, 2003?
- Rule:** Section 17(3) of the Contempt of Court Ordinance, 2003 mandates that before taking cognizance and proceeding to frame charge, the court must provide the alleged contemnor an opportunity of preliminary hearing and must be prima facie satisfied that a case of contempt exists.
- Application:** The Supreme Court examined the record and found that the learned Single Judge had fixed a date for framing of charge without granting any preliminary hearing to the alleged contemnor. This was a clear violation of the mandatory procedure prescribed by law. The Court also noted that even the respondents' counsel admitted that no preliminary hearing had taken place and that procedural lapses had occurred. The Division Bench failed to address this defect and allowed the matter to proceed without correcting the illegality. The Court held that the requirement of preliminary hearing is a mandatory safeguard ensuring due process and fairness in contempt proceedings, which carry penal consequences. The failure to comply with this requirement vitiated the proceedings.
- Conclusion:** The Supreme Court allowed the appeal, set aside the orders of the Single Judge and the Division Bench to the extent of contempt proceedings, and remanded the matter. The Court directed that if contempt proceedings are to be initiated, the court must first provide a preliminary hearing and then determine whether a prima facie case exists.
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4. SINDH HIGH COURT

Bankers Equity Limited v. East West Insurance Company Limited & Others First Appeal No. 26 of 1995

- Present:** **Mr. Justice Muhammad Faisal Kamal Alam**
Ms. Justice Sana Akram Minhas
- Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4NzQ1Y2Ztcy1kYzgZ>
2026 SHC KHI 676
- Facts:** The appellant, Bankers Equity Limited (BEL), had financed a project of Respondent No.3 for establishment of a ghee manufacturing unit and disbursed funds through letters of credit in favor of the supplier (Respondent No.2). Due to failure in supply and completion of machinery, a revised agreement was executed and an advance payment guarantee was issued by the respondent insurance company in favor of BEL to secure performance of the supplier. When the supplier

failed to perform its obligations, BEL invoked the insurance guarantee and subsequently filed a banking suit before the Banking Tribunal for recovery of the guaranteed amount solely against the insurance company. The Tribunal dismissed the suit on the ground that the insurance company was not a “customer” within the meaning of the Banking Tribunals Ordinance, 1984, and that the claim did not fall within “finance.” The present appeal was filed against that dismissal.

Issue: The Whether the insurance guarantee constituted “finance” under the Banking Tribunals Ordinance, 1984 so as to bring the insurance company within the definition of “customer” and confer jurisdiction upon the Banking Tribunal?

Rule: The Court held that for the Banking Tribunal to assume jurisdiction, the claim must arise out of “finance” extended by a banking company to a “customer” within the meaning of the 1984 Ordinance. Although “finance” includes guarantees, such inclusion applies only to guarantees ancillary to or connected with a financing transaction. Independent commercial guarantees linked to performance of contracts do not fall within the statutory definition. Furthermore, the nature and enforceability of a guarantee must be determined strictly in accordance with its terms, and a guarantor’s liability cannot extend beyond what is expressly undertaken.

Application: Applying these principles, the Court examined the insurance guarantee and found that it was issued to secure performance of supply obligations under commercial contracts and not to secure repayment of any financial facility. The guarantee was conditional in nature, as liability depended upon proof of default by the supplier, and it did not constitute an unconditional “on-demand” instrument. The Court further held that the guarantee was independent of the financing arrangement between BEL and Respondent No.3, and therefore could not be treated as “finance” within the meaning of the Ordinance. Consequently, the insurance company could not be categorized as a “customer.” Since the claim arose from an alleged breach of a commercial contract rather than recovery of finance, the Banking Tribunal lacked jurisdiction.

Conclusion: The appeal was dismissed, and the order of the Banking Tribunal was upheld.

5. SINDH HIGH COURT

**Wise Communication System Pvt. Ltd v. Federation of Pakistan & other
H.C.A 1/2025**

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4MjE5Y2Ztcy1kYzgz>
2026 SHC KHI 636

Facts: The appellants, telecommunication companies, had filed civil suits in the High Court of Sindh seeking, inter alia, refund of excess payments made towards Access Promotion Contribution (APC) under the relevant regulatory framework. These disputes originated from proceedings initiated by the Pakistan Telecommunication Authority (PTA), primarily at Islamabad, where enforcement orders and departmental decisions were passed against the appellants. The appellants had earlier challenged such actions before the Islamabad High Court and Lahore High Court, but those proceedings were either dismissed or withdrawn. Despite this, the appellants instituted suits in Karachi, asserting that PTA had offices across Pakistan and that part of the cause of action arose within Karachi. The trial Court returned the plaints under Order VII Rule 10 CPC on the ground of lack of territorial jurisdiction, holding that the appropriate forum was Islamabad. The appellants challenged this order through the present High Court Appeals.

Issue: Whether the High Court of Sindh at Karachi had territorial jurisdiction to entertain the suits, or whether the plaints were rightly returned for presentation before the competent Court at Islamabad.

Rule: The Court held that territorial jurisdiction depends upon where the cause of action substantially arises and where material events giving rise to the dispute occur. Mere presence of offices of a party in a particular location does not confer jurisdiction unless a part of the cause of action has arisen there. Additionally, where earlier proceedings and decisions have taken place in a particular jurisdiction and attained finality, subsequent litigation should not be used to bypass that forum.

Application: Applying these principles, the Court found that the core dispute arose from regulatory actions taken by PTA at Islamabad, including enforcement orders and recovery proceedings. The appellants had previously invoked jurisdiction of the Islamabad and Lahore High Courts in respect of the same subject matter, and those decisions had attained finality. The Court rejected the argument that presence of PTA's offices in Karachi could confer jurisdiction. It held that no adverse action had been taken in Karachi, and no substantial part of the cause of action arose there. The filing of suits in Karachi was therefore not justified and appeared to be an attempt at forum shopping. The trial Court had correctly exercised jurisdiction under Order VII Rule 10 CPC by returning the plaints for presentation before the proper forum, without non-suiting the appellants.

Conclusion: The High Court dismissed the appeals and upheld the order returning the plaints for presentation before the competent Court at Islamabad.

6. SINDH HIGH COURT

M/s. Pak Suzuki Motors Company Limited v. The Collector and others Special Customs Reference Application Nos. 795–836 of 2024

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4NzQxY2Ztcv1kYzgz>
2026 SHC KHI 671, 2026 SHC KHI 672, 2026 SHC KHI 674

Facts: The applicant company, Pak Suzuki Motors Company Limited, is engaged in the manufacturing and assembly of vehicles in Pakistan and imports Completely Knocked Down (CKD) kits comprising sub-components, components, assemblies and sub-assemblies for this purpose. These imports were made under concessional regimes provided through SRO 655(I)/2006 and SRO 656(I)/2006, which aim to promote localization in the automotive sector. Subsequently, the Customs Department initiated proceedings through show cause notices alleging that the applicant had wrongly claimed exemption from Additional Customs Duty (ACD) under SRO 845(I)/2021. The department contended that exemption was available only to complete CKD vehicles and not to individual components or sub-components. The applicant contested this position, asserting that the imported items were integral parts of CKD kits used for manufacturing vehicles up to 1000cc and were therefore entitled to exemption. Despite this, the Order-in-Original and Appellate Tribunal upheld the department's stance and imposed ACD along with penalties. The applicant then filed references before the High Court.

Issue: Whether sub-components, components, assemblies and sub-assemblies imported as part of CKD kits are entitled to exemption from Additional Customs Duty under SRO 845(I)/2021 read with relevant SROs.

Rule: The Court held that exemptions under fiscal notifications must be interpreted in light of their purpose and scheme. Where a statutory framework treats CKD kits and their constituent parts as an integrated whole for manufacturing purposes, components forming part of such kits cannot be artificially separated to deny exemption. Furthermore, penal provisions under customs law require proof of mens rea and actus reus, and mere difference of opinion or interpretation cannot justify imposition of penalties.

Application: Applying these principles, the Court found that the Customs Department had created an artificial distinction between CKD kits and their constituent components, despite the fact that the statutory scheme and SROs clearly treated them as part of a unified manufacturing process. The record showed that the imported goods were used for manufacturing vehicles within the prescribed engine capacity and that duties,

including ACD, were paid where applicable. The Court also noted that the automated customs system required CKD kits to be declared in separate parts, which led to confusion during audit. Importantly, no evidence of mis-declaration, fraud, or misuse of the concession was established. Even a reconciliation exercise conducted by the department confirmed that the goods were used for vehicles within 1000cc, yet this finding was ignored. The invocation of penal provisions was held unjustified, as the department failed to establish any mens rea or wrongful act. The impugned decisions were found contradictory and based on misinterpretation of the relevant SROs.

Conclusion: The High Court allowed the references, set aside the orders of the Customs Authorities and the Appellate Tribunal, and held that the applicant was entitled to exemption from Additional Customs Duty on the imported goods.

7. HIGH COURT SINDH
Muhammad Shehneel s/o Raees v. The State
Criminal Bail Application No.1733 of 2025

Present: Mr. Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4NjU3Y2Ztcy1kYzgz>
2026 SHC KHI 670

Facts: The case arose from FIR No.144/2024 registered at Police Station Awami Colony, Karachi, regarding the murder of Muhammad Faizan, who was reported by his father, Mehmood Alam, after receiving information on 12.02.2024 that his son had been injured and shifted to JPMC, where he was later found dead due to firearm injuries inflicted by unknown persons at Eid Gah Football Ground near Korangi. Initially, suspicion was expressed against one Tahir Baglol, a close friend of the deceased, but during investigation the applicant Muhammad Shehneel was implicated without being named in the FIR. The prosecution's case primarily relied on the statement of a sole eyewitness, Gul Bahar, who allegedly identified the applicant during an identification parade, though he later failed to identify him in court and admitted irregularities in the identification process. No weapon or incriminating material was recovered from the applicant, and no specific motive was attributed to him. The applicant sought post-arrest bail under Section 497 Cr.P.C, contending false implication and weaknesses in the prosecution case, while the State opposed bail on the basis of identification evidence and the serious nature of the offence.

Issue: The core issue before the Sindh High Court was whether the applicant, Muhammad Shehneel, was entitled to post-arrest bail under Section 497 Cr.P.C. in a murder case falling within the prohibitory clause, and specifically whether his case qualified for

“further inquiry” under Section 497(2) Cr.P.C.?

Rule: Under Section 497 Cr.P.C., bail in offences punishable with death or life imprisonment is ordinarily refused unless the Court finds no reasonable grounds to believe the accused committed the offence or that the case calls for further inquiry. The principle is that at bail stage, only a tentative assessment is permissible and deeper appreciation of evidence is not allowed. Identification evidence and material collected during investigation, if connecting the accused with the offence, are sufficient to decline bail unless serious doubt exists

Application In the present case, the FIR was initially registered against unknown persons, and the applicant was later implicated during investigation. The defence argued that there was no direct role, no recovery of weapon, no motive, and that the sole eyewitness failed to identify the accused in court and admitted irregularities in the identification parade. It was also contended that the identification parade was delayed and doubtful. On the other hand, the prosecution maintained that the offence was heinous and fell within the prohibitory clause, and that the applicant was identified during an identification parade conducted before a Magistrate. It was further argued that the Magistrate’s evidence was yet to be recorded and therefore the identification could not be discredited at bail stage. The Court observed that the case primarily rested on the testimony of eyewitness Gul Bahar and his identification of the applicant during the identification parade. Although discrepancies and retraction were pointed out, the Court held that examining such contradictions would amount to deeper appreciation of evidence, which is impermissible at the bail stage. The Court further noted that the identification parade and other material tentatively connected the accused with the offence. Additionally, the Court emphasized that the applicant had previously sought bail, and the grounds raised again were largely based on reappraisal of the same evidence, which does not justify granting bail. The seriousness of the offence and absence of strong grounds for further inquiry weighed against the applicant.

Conclusion: In offences falling within the prohibitory clause, bail shall be refused where there exists tentative material, including identification evidence, connecting the accused with the crime, and where alleged discrepancies require deeper appreciation of evidence, which is the domain of the trial Court, not the bail stage.

8. HIGH COURT SINDH

**Minhaj-Ur-Rehman S/O Mehtab-Ur-Rehman v. The State
Criminal Bail Application No.2363 of 2025**

Present: **Mr. Justice Jan Ali Junejo**

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4NjUxY2Ztcy1kYzgz>
2026 SHC KHI 668

Facts: The case relates to FIR No.321/2022 registered at Police Station Haidri Market, Karachi, concerning the murder of Burhanuddin, who sustained fatal firearm injuries at a barber shop in North Nazimabad and was later declared dead at Abbasi Shaheed Hospital, after which the police lodged the FIR due to refusal of the legal heirs to initiate proceedings. During investigation, the applicant Minhaj-ur-Rehman was arrested on 23.05.2022 and allegedly disclosed his involvement along with a co-accused, leading to the recovery of a 9mm pistol and a motorcycle purportedly used in the commission of the offence. The prosecution case is based on circumstantial evidence, particularly these recoveries, with no direct eyewitness account, while the applicant remained in custody for about three years and sought bail on grounds of false implication, lack of direct evidence, and delay in trial, which was opposed by the State on the basis of incriminating material and the gravity of the offence.

Issue: The principal question before the Sindh High Court was whether the applicant, Minhaj-ur-Rehman, was entitled to post-arrest bail under Section 497 Cr.P.C. in a murder case falling within the prohibitory clause, and whether prolonged custody entitled him to bail on the ground of statutory delay despite incriminating material on record?

Rule: The governing rule under Section 497 Cr.P.C. is that bail in offences punishable with death or life imprisonment is not to be granted unless there are no reasonable grounds to believe that the accused has committed the offence, or the case calls for further inquiry. At the bail stage, only a tentative assessment of evidence is permissible. Furthermore, under Article 40 of the Qanun-e-Shahadat Order, 1984, recovery made pursuant to information provided by an accused while in custody is admissible and can connect the accused with the offence. Bail on the ground of statutory delay may be considered where the delay in trial is not attributable to the accused.

Application In this case, the prosecution alleged that the applicant was arrested during investigation and made a disclosure leading to recovery of the weapon of offence and motorcycle used in the crime. These recoveries were treated as prima facie admissible and sufficient to tentatively connect the applicant with the commission of the offence. The defence argued that the case was based solely on circumstantial evidence, that the FIR was lodged by police due to refusal of legal heirs, and that the applicant had been in custody for about three years, entitling him to bail on statutory grounds. The Court, however, observed that the recoveries made at the instance of the applicant constituted incriminating material and provided reasonable grounds to believe his involvement. It further held that the case did not fall within the ambit of further inquiry under Section 497(2) Cr.P.C. With regard to delay, the Court

examined the record and found that adjournments were also attributable to the defence and other factors such as strikes, therefore the delay was not solely the fault of the prosecution. Consequently, the applicant could not claim the benefit of statutory bail. The Court also noted that earlier bail applications had already been dismissed on merits, reinforcing the conclusion that no new grounds were made out.

Conclusion: The Court concluded that there were reasonable grounds to believe that the applicant was connected with the commission of the offence, the case did not call for further inquiry, and the plea of statutory delay was not made out; therefore, the applicant was not entitled to bail and the application was dismissed.

9. HIGH COURT SINDH

Clifford Smith v. The State

Criminal Bail Application No.1462 of 2025

Present: Mr. Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4NjUzY2Ztcv1kYzgz>
2026 SHC KHI 669

Facts: The case relates to FIR No.321/2022 registered at Police Station Haidri Market, Karachi, concerning the murder of Burhanuddin, who sustained fatal firearm injuries at a barber shop in North Nazimabad and was later declared dead at Abbasi Shaheed Hospital, after which the police lodged the FIR due to refusal of the legal heirs to initiate proceedings. During investigation, the applicant Minhaj-ur-Rehman was arrested on 23.05.2022 and allegedly disclosed his involvement along with a co-accused, leading to the recovery of a 9mm pistol and a motorcycle purportedly used in the commission of the offence. The prosecution case is based on circumstantial evidence, particularly these recoveries, with no direct eyewitness account, while the applicant remained in custody for about three years and sought bail on grounds of false implication, lack of direct evidence, and delay in trial, which was opposed by the State on the basis of incriminating material and the gravity of the offence.

Issue: Whether bail can be granted in a case of attempted rape of a minor when there is slight delay in FIR, absence of medical and Section 164 Cr.P.C. evidence, and allegation of false implication?

Rule: Bail under Section 497 Cr.P.C. is refused where there are reasonable grounds connecting the accused with a heinous offence. “Further inquiry” applies only where evidence creates real doubt. In sexual offences against minors, minor delay in FIR and investigative lapses do not automatically weaken the prosecution at bail stage.

Application The Court relied on three key things: first, the minor victim clearly nominated the

accused; second, the accused was apprehended on the spot and produced before police; third, supporting material like arrest memo existed. The delay of two hours was considered natural and explained. The lack of medical report and Section 164 statement was treated as fault of investigation, not benefit to accused. The defence story of property dispute was unsupported. The Court also made it clear that bail stage is only a tentative assessment, not a full trial. So even if the complainant later says, “no objection,” it does not weaken the case at this stage

Conclusion: The case did not fall under “further inquiry.” There were reasonable grounds to believe involvement of the accused, so bail was refused under Section 497(1) Cr.P.C.

10. HIGH COURT SINDH

C.P. No. S-274 of 2025

Mst. Shakeela Anjuman v. Raja Rashid Asghar

Present: Mr. Justice Muhammad Hasan Akber

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4NzQ3Y2Ztcy1kYzgz>
2026 SHC MPK 677

Facts: The case arose out of a custody dispute between Mst. Shakeela Anjum (mother) and Raja Rashid Asghar (father), who were married in 2009 and had a son, Noor-e-Haq, aged about 14 years; after their divorce by mutual agreement in 2021, the minor continued to reside with the mother since birth, but in 2024 the father filed a guardianship application under section 25 of the Guardian and Wards Act, 1890, seeking custody, which was allowed by the Guardian Court and upheld on appeal mainly on the grounds of the mother’s remarriage and the child’s academic performance, leading the mother to challenge these concurrent findings before the High Court of Sindh; during the proceedings, it also emerged that the child had strong emotional and social ties with the mother, the mother’s second marriage had already ended, and the child expressed his preference to continue living with her while maintaining a relationship with his father.

Issue: The core issue before the High Court of Sindh was whether the concurrent findings of the Guardian Court and Appellate Court granting custody of the minor to the father, primarily on the grounds of the mother’s remarriage and the child’s educational performance, were sustainable in law, and whether such custody determination aligned with the welfare and rights of the minor?

Rule: The Court applied principles under the Guardian and Wards Act, 1890, read with constitutional protections under the Constitution of Pakistan (notably Articles 25, 25A, 35, 11(3), 37(e)), and judicial precedents including Arif Fareed v. Bibi Sara,

Dr. Muhammad Asif v. Dr. Sana Sattar, Mst. Madiha Younus v. Imran Ahmed, and Muhammad Riaz v. Mst. Surriya Jabeen. The governing legal standard emphasized a transition from the traditional “welfare of the child” doctrine to a broader “rights of the child” approach, in line with the United Nations Convention on the Rights of the Child. The Court also reiterated that writ jurisdiction in family matters is limited and should not substitute statutory forums unless there is a clear miscarriage of justice.

Application

The Court critically examined the reasoning of the lower courts and found that reliance solely on the mother’s remarriage and the child’s academic performance was insufficient to determine custody. The Court emphasized that custody matters must be decided holistically, considering the psychological, emotional, educational, and social well-being of the child. During proceedings, the Court directly interacted with the minor, who expressed a clear preference to remain with his mother, with whom he had lived since birth and developed stable social and emotional ties. The Court also noted that the mother’s second marriage had already dissolved and that she had a stable independent residence. The Court highlighted modern child rights jurisprudence, stressing the importance of hearing the child’s voice, minimizing exposure to parental conflict, and ensuring continued access to both parents. It also pointed out systemic gaps in interim custody arrangements under Section 12 of the Guardian and Wards Act, advocating for structured guidelines to avoid fragmented and adversarial litigation. Importantly, the Court facilitated a consensual arrangement between the parents, crafting a detailed and structured custody and visitation plan that balanced the child’s need for stability with his right to maintain meaningful contact with his father. This included regular visitation, shared participation in important events, financial maintenance, and educational monitoring mechanisms.

Conclusion:

The Court held that the paramount consideration is not merely parental conduct such as remarriage, but the overall rights, welfare, and expressed wishes of the minor. Accordingly, the impugned judgments were modified, granting permanent custody to the mother while ensuring structured visitation and involvement of the father.

11. SINDH HIGH COURT
Mst Shazia v. Federation of Pakistan
Constitutional Petition No. D-1638 of 2026

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4MDY3Y2Ztcy1kYzgz>
2026 SHC KHI 615

- Facts:** The petitioner, Mst. Shazia, filed a constitutional petition before the High Court of Sindh seeking directions to jail authorities for grant of remissions in her sentence under Rule 787 of the Sindh Prisons and Corrections Services Rules, 2019. She had been convicted under Sections 6 and 9 of the Control of Narcotic Substances Act, 1997 in FIR No. 618 of 2023 registered at Police Station Saedabad, Karachi. Her conviction was upheld by the appellate court. The grievance of the petitioner was that despite eligibility under provincial prison rules, she was denied remissions. The State opposed the petition, relying on amendments made in 2022 to the CNS Act, which restricted remissions.
- Issue:** Whether a convict under the Control of Narcotic Substances Act, 1997, after the 2022 federal amendment, is entitled to remissions under the Sindh Prisons and Corrections Services Rules, 2019, particularly when the provincial law does not impose such restriction?
- Rule:** The Court relied on Section 9(A)(1) of the Control of Narcotic Substances Act, 1997 (as amended in 2022), which explicitly bars the grant of remissions to persons convicted under the Act, except that remission may be granted to juveniles or females at the discretion of the Federal Government. Additionally, Article 143 of the Constitution of the Islamic Republic of Pakistan, 1973 provides that in case of conflict between federal and provincial laws, the federal law prevails and the provincial law becomes void to the extent of inconsistency.
- Application:** The Court observed that the petitioner was convicted for an offence committed in October 2023, after the enforcement of the 2022 federal amendment to the CNS Act. Therefore, the statutory bar on remissions was fully applicable to her case. The argument that she was tried under a provincial amendment lacking such restriction was rejected, as federal law prevails over provincial law in case of conflict. The Court further noted that although the law provides discretionary relief for female convicts, such remission can only be granted by the Federal Government and not by jail authorities under provincial rules. The petitioner failed to demonstrate any illegality or violation of her rights in the jail authorities' refusal to grant remission.
- Conclusion:** The Court held that the petitioner was not entitled to remission under the Sindh Prison Rules due to the overriding effect of the federal amendment to the CNS Act, 1997. As no illegality or constitutional violation was established, the petition was dismissed in limine, and the relief sought was declined.
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12. SINDH HIGH COURT

Muhammad Ibrahim Nadeem and others v. Federation of Pakistan Constitutional Petition No. D-4751 of 2025

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4MjIxY2Ztcy1kYzgz>
2026 SHC KHI 637

Facts: The petitioners, being legal heirs of late Dr. Nadeem Akber, claimed ownership of a residential property situated in Askari-V, Malir Cantonment, Karachi after his death in July 2025. They challenged an impugned notice issued by the National Accountability Bureau (NAB) directing surrender of the property, contending that their father was neither an accused nor involved in any NAB proceedings. However, the record revealed that during investigation of a corruption case relating to embezzlement of funds for the Sukkur–Hyderabad Motorway project, one accused Ashiq Hussain Kaleri confessed to purchasing the subject property through proceeds of crime. Dr. Nadeem Akber himself admitted, in his statement under Section 161 Cr.P.C., that he had sold the property to the accused for Rs. 73 million and received Rs. 68 million. Subsequently, the property was frozen under Section 12 of the National Accountability Ordinance, 1999 (NAO), and later surrendered by the accused through a plea bargain approved by the Accountability Court. Dr. Nadeem Akber did not challenge these proceedings during his lifetime, and the petitioners later approached the High Court challenging the impugned notice.

Issues: Whether the petitioners, as legal heirs of Dr. Nadeem Akber, could challenge the impugned notice issued by NAB for surrender of the property, despite the property having already been frozen and surrendered through plea bargain proceedings that had attained finality? Whether such action violated their fundamental rights under Articles 23 and 24 of the Constitution?

Rule: Under Section 12 of the NAO, 1999, NAB and the Accountability Court are empowered to freeze properties suspected to be proceeds of crime, including those in possession of third parties. Section 13 provides a specific mechanism for aggrieved persons to file objections within 14 days and to appeal thereafter. Furthermore, Section 25(b) allows plea bargain whereby an accused may voluntarily surrender assets acquired through illegal means, subject to court approval. It is a settled principle that where a statute provides a specific remedy, constitutional jurisdiction should not be invoked bypassing such remedy, especially when orders have attained finality. Additionally, fundamental rights under Articles 23 and 24 are subject to lawful restrictions and cannot be invoked to protect property derived from proceeds of crime.

Application: The Court observed that the subject property was sold by Dr. Nadeem Akber to the accused, who admitted purchasing it from proceeds of crime. The property was lawfully frozen by the Accountability Court under Section 12 NAO, and later surrendered through plea bargain under Section 25(b), which was duly approved by

the Court. Dr. Nadeem Akber, despite being aware of these proceedings, failed to file objections or appeal under Section 13 NAO. Consequently, the orders attained finality. The petitioners, after his death, attempted to challenge the impugned notice without disclosing material facts, including the prior sale transaction and NAB proceedings. The Court held that such concealment and delay barred relief under constitutional jurisdiction. It further held that the petitioners could not claim fundamental rights over property that had already been transferred for consideration and later surrendered as proceeds of crime. Their claim was deemed an afterthought aimed at deriving double benefit—retaining sale proceeds while reclaiming the property.

Conclusion: The High Court concluded that the petition was not maintainable, as the petitioners failed to avail the statutory remedies provided under the NAO, and the relevant orders had already attained finality. The impugned notice was found to be lawful and issued in compliance with valid court orders. The petitioners failed to establish any violation of fundamental rights. Accordingly, the petition was dismissed along with pending applications.

13. SINDH HIGH COURT

Shakeela and others v. Federation of Pakistan and others Constitutional Petition No. D-72 of 2026

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4MjkzY2Ztcy1kYzgz>
2026 SHC KHI 652

Facts: The petitioners, belonging to the Dasti Baloch family, approached the High Court under Article 199 of the Constitution seeking issuance of CNIC to Petitioner No.1, CNIC and Form-B to Petitioner No.2, and Form-B to Petitioner No.3. They contended that despite submitting complete documentation—including parents' CNICs, death certificates, and birth certificates—and making repeated visits to NADRA, their applications were not processed, and no reasons were provided for the delay. NADRA, on the other hand, argued that the applications were under verification as per legal procedures and denied any arbitrary refusal, asserting that delays were administrative and that alternative remedies were available to the petitioners.

Issue: Whether the failure or delay by NADRA in issuing CNICs and Form-Bs to the petitioners, without communicating specific deficiencies or lawful reasons, amounts

to arbitrary action violating the petitioners' fundamental right to identity under the Constitution?

Rule: It is a settled principle that a CNIC is a fundamental component of a citizen's right to identity and is essential for exercising constitutional rights such as access to services, employment, and movement. Courts have consistently held that NADRA cannot withhold or delay issuance of CNICs arbitrarily and must provide clear legal justification supported by evidence if identity documents are denied. Any administrative action affecting identity rights must comply with due process and cannot be based on vague or unsubstantiated grounds. Furthermore, denial or unjustified delay in issuance of identity documents infringes upon constitutional guarantees of life, dignity, and equality.

Application: In the present case, the petitioners demonstrated that they had fulfilled all documentary and procedural requirements and had repeatedly approached NADRA without success. NADRA failed to produce any concrete evidence of discrepancies, fraud, or ineligibility, and merely relied on a general assertion of "verification" without specifying deficiencies or communicating them to the petitioners. The Court found this explanation insufficient and contrary to established legal principles, as administrative verification must be transparent, justified, and communicated. The absence of any documented reason or lawful ground for delay indicated arbitrary conduct on part of NADRA, thereby infringing the petitioners' fundamental right to identity.

Conclusion: The Court concluded that NADRA's failure to process the petitioners' applications without lawful justification constituted arbitrary and unlawful action. Accordingly, the petition was disposed of with directions to NADRA to process the petitioners' CNIC and Form-B applications within two weeks, requiring the petitioners to appear before the relevant office to complete formalities, while emphasizing that arbitrary denial of identity documents is impermissible under the law.

14. SINDH HIGH COURT

**M/s Frontier Constabulary v. Saleem-ur-Rehman and others
Constitutional Petition No. D-4863 of 2023**

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4MjkxY2Ztcy1kYzgz>
2026 SHC KHI 651

- Facts:** The petitioner company, M/s Frontier Constabulary, filed a constitutional petition under Article 199 of the Constitution seeking to set aside three impugned orders passed by the National Industrial Relations Commission (NIRC), including an ex-parte order dated 06.12.2018, dismissal of its application under Section 12(2) CPC, and the appellate order of the Full Bench. The petitioner contended that the private respondent, a security guard, had voluntarily abandoned service and that the grievance proceedings were conducted ex-parte due to non-service of notice, allegedly sent to an old address. The petitioner argued that the ex-parte order was obtained through fraud and misrepresentation. Conversely, the respondent and the Assistant Attorney General maintained that notices were duly served at the address available in the service record, and the petitioner failed to prove fraud or any jurisdictional defect. Both the Single Member and Full Bench of NIRC upheld the ex-parte order and dismissed the petitioner's claims.
- Issue:** Whether a constitutional petition under Article 199 is maintainable against concurrent findings of fact by competent forums under the Industrial Relations Act, 2012, particularly where the petitioner alleges non-service of notice and seeks recall of an ex-parte order under Section 12(2) CPC without substantiating fraud or misrepresentation.
- Rule:** It is a settled principle of law that constitutional jurisdiction under Article 199 cannot be invoked as an appellate forum to re-appraise evidence or disturb concurrent findings of fact unless the impugned orders suffer from jurisdictional defect, patent illegality, mala fide, or material irregularity. Ex-parte proceedings are valid where proper service has been affected through recognized modes, and non-appearance is attributable to the party's own negligence. Furthermore, Section 12(2) CPC can only be invoked where a judgment or order has been obtained by fraud or misrepresentation, which must be specifically pleaded and strictly proved through cogent evidence. Mere allegations are insufficient. Additionally, termination of employment without due process, including disciplinary proceedings, violates settled labor law principles and renders such termination void.
- Application:** In the present case, the High Court observed that both the Single Member and Full Bench of NIRC had concurrently found that notices were duly served upon the petitioner at the address recorded in its service record. The petitioner failed to provide any documentary evidence or even a specific date to substantiate its claim of change of address. Consequently, the plea of non-service was held to be baseless, and the ex-parte order was deemed lawful. Furthermore, the petitioner's application under Section 12(2) CPC lacked specific pleadings and evidence of fraud or misrepresentation, which are essential prerequisites for invoking the provision. The Court also noted that no disciplinary proceedings or inquiry had been conducted against the respondent prior to termination, thereby weakening the petitioner's claim

of voluntary abandonment. Importantly, the petition merely sought re-evaluation of factual findings already adjudicated upon by competent forums, without demonstrating any jurisdictional defect, illegality, or violation of natural justice. Therefore, the case did not meet the threshold for interference under Article 199.

Conclusion: The High Court concluded that the constitutional petition was not maintainable as it challenged concurrent findings of fact without establishing any jurisdictional defect, illegality, or procedural irregularity. The ex-parte order was validly passed after proper service, and the petitioner failed to prove fraud as required under Section 12(2) CPC. Accordingly, the petition was dismissed along with pending applications, with no order as to costs.

15. SINDH HIGH COURT

Muhammad Ali v. Province of Sindh and others

Constitutional Petition No. D-218 of 2026

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4MTU5Y2Ztcy1kYzgz>
2026 SHC KHI 621

Facts: The petitioner, Muhammad Ali, filed a constitutional petition before the High Court of Sindh alleging the custodial death of his son, Hamdan. According to the petitioner, Hamdan had gone missing on 29.12.2025 and was later shown arrested in multiple FIRs (Nos. 05/2026, 03/2026, 04/2026, and 10/2026) during habeas corpus proceedings. He remained in police custody under remand granted by the Anti-Terrorism Court until 19.02.2026. However, on 17.02.2026, Hamdan, along with two others, was allegedly killed during a police encounter within the jurisdiction of Shah Latif Town, Karachi. The petitioner contended that the deceased was handcuffed, did not attempt escape, and thus the police narrative was doubtful. It was further alleged that the authorities failed to inform the family, withheld postmortem and medico-legal reports, and harassed the petitioner. Despite approaching relevant forums, including the Magistrate under Section 176 Cr.P.C., FIA, and the National Commission for Human Rights, no effective action was taken, prompting the present petition.

Issue: Whether the death of the petitioner's son, who was admittedly in police custody at the time of the alleged encounter, constituted a custodial death requiring an independent and transparent investigation under the Torture and Custodial Death (Prevention and Punishment) Act, 2022, and whether the inquiry being conducted by police authorities was sufficient in law?

Rule: The Court examined the Torture and Custodial Death (Prevention and Punishment) Act, 2022, which provides protection against torture and custodial death by public officials. Under Section 5 of the Act, exclusive jurisdiction to investigate such offences lies with the Federal Investigation Agency (FIA), under the supervision of the National Commission for Human Rights. The law mandates that offences of custodial death are cognizable, non-compoundable, and non-bailable, and punishable under Section 302 of the Pakistan Penal Code. The Court also relied on constitutional protections under Articles 4, 9, 10, 14, and 25, and guidance from the Supreme Court in PLD 2011 SC 799, which emphasized accountability of law enforcement and protection of life. Additionally, procedural safeguards under Cr.P.C. and Police Rules, 1934 were considered relevant.

Application: Applying the above legal framework, the Court observed that it was undisputed that the deceased was in police custody and under judicial remand at the time of the incident. The fact that the deceased was handcuffed and did not attempt escape raised serious doubts about the official version of a police encounter. The allegations of suppression of medical evidence and failure to inform the family further strengthened the suspicion of misconduct. Although a departmental inquiry had already been initiated under the supervision of the DIG Special Branch, the Court emphasized that such circumstances required a transparent, impartial, and legally compliant inquiry. The Court acknowledged that under the 2022 Act, the FIA has exclusive jurisdiction; however, it allowed the ongoing departmental inquiry to proceed under strict supervision, with directions that if sufficient incriminating material emerges, the matter must be referred to the FIA. The Court also imposed safeguards, including restricting operational duties of the accused officials, ensuring participation of the petitioner in the inquiry, and mandating provision of all relevant reports to the petitioner.

Conclusion: The Court concluded that the circumstances surrounding the death of the petitioner's son prima facie indicated a custodial death requiring serious scrutiny. While disposing of the petition, the Court directed that a departmental inquiry be completed within one month under high-level supervision, with the possibility of referral to the FIA if evidence warrants. It further ordered strict oversight of police conduct, protection of the petitioner's rights, and provision of all relevant documents to ensure transparency and accountability. The petition was accordingly disposed of with these directions.

16. SINDH HIGH COURT

Mst. Rashida Khatoon v. Mst. Parveen Shabbir & Others
IInd Appeal No. 24 of 2009

Present: Mr. Justice Arshad Hussain Khan

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4MjMxY2Ztcy1kYzgz>
2026 KHI 640

Facts: The matter arose out of a dispute concerning a commercial plot situated in North Karachi. The respondent was the original allottee who had purchased the plot through a public auction and subsequently executed a general power of attorney, which was followed by a sub-power of attorney authorizing sale. The appellant entered into an agreement to sell dated 30.10.2003 with the sub-attorney for a total consideration of Rs.500,000. Pursuant to this agreement, the appellant paid a substantial portion of the consideration, amounting to approximately Rs.416,027, including payment of official dues to the concerned authority, and was also given partial possession along with original documents of the property. A dispute later arose when the respondent denied the agreed sale consideration and asserted that the actual price was Rs.1,000,000 and that the appellant had failed to pay the remaining amount. The appellant instituted a suit for declaration, specific performance, and injunction. The trial court, after evaluating oral and documentary evidence, decreed the suit in favor of the appellant. However, the lower appellate court reversed the findings and dismissed the suit. Aggrieved by this reversal, the appellant preferred a second appeal before the High Court under Section 100 of the Code of Civil Procedure.

Issue: The central question before the Court was whether the lower appellate court had misread the evidence and misapplied the law in reversing the findings of the trial court, and whether such errors gave rise to a substantial question of law under Section 100 CPC justifying interference by the High Court. A further issue was whether the appellant had established entitlement to specific performance of the contract.

Rule: The Court reiterated that under Section 100 CPC, the jurisdiction of the High Court in second appeal is confined to cases involving a substantial question of law. Such a question arises where findings of fact are the result of misreading or non-reading of evidence, misapplication of legal principles, or improper exercise of jurisdiction. It is also a settled principle that when an appellate court reverses findings of a trial court, it must independently evaluate the evidence and provide cogent reasons for such reversal. Furthermore, the law does not prohibit a seller from transferring property at a price lower than its market value, and mere disparity in price cannot invalidate a lawful agreement.

Application: Applying these principles, the High Court examined the record and noted that the execution of the agreement to sell was not in dispute between the parties. The controversy was confined to the quantum of consideration. The trial court had

carefully appreciated the evidence, including payment receipts, agreements, and powers of attorney and had also taken into account the admitted conduct of the parties, particularly the delivery of partial possession and original documents to the appellant. These circumstances strongly supported the appellant's version of the transaction. In contrast, the lower appellate court reversed these findings without adequately addressing the documentary evidence and instead relied on conjectural reasoning regarding the alleged higher value of the property and construction costs. The High Court found that such reasoning was unsupported by any documentary proof and that the respondent had failed to substantiate claims regarding higher expenditure. The appellate court also failed to provide convincing reasons for discarding the well-reasoned findings of the trial court. The High Court further observed that the mere assertion that the property was worth more than the agreed consideration was legally irrelevant and could not invalidate a duly executed agreement. The approach adopted by the lower appellate court thus amounted to misreading and non-reading of material evidence, which directly attracted the scope of interference under Section 100 CPC.

Conclusion: The High Court concluded that the impugned judgment of the lower appellate court suffered from serious legal infirmities, including misapplication of law and improper appreciation of evidence. Consequently, the appeal was allowed, the judgment and decree of the appellate court were set aside, and the decree passed by the trial court granting specific performance was restored.

17. SINDH HIGH COURT

Mst. Shaista Qaiser v. Zain Ameen & Others
IIInd Appeal No. 61 of 2025

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4MzQxY2Ztcy1kYzgz>
2026 KHI 659

Facts: The appellant instituted a civil suit seeking declaration, possession, cancellation of documents, mesne profits, and permanent injunction in respect of a residential plot situated in Gulistan-e-Johar, Karachi. The appellant claimed that she had purchased the property in 2015 for Rs.200,000 from a welfare association and was issued membership and allotment documents. She asserted lawful ownership on the basis of these documents. According to her case, in 2021 the respondents allegedly dispossessed her and constructed on the property using what she described as fake and fabricated documents. The respondents contested the claim and moved an application under Order VII Rule 11 CPC for rejection of the plaint. The trial court allowed the application and rejected the plaint on the ground that the appellant had no registered title. The appellate court upheld this decision. The appellant then filed

a second appeal before the High Court challenging the concurrent findings of both courts below.

Issue: The core question before the Court was whether a suit for declaration and consequential reliefs is maintainable when the plaintiff relies solely on unregistered documents issued by a private association, and whether the rejection of the plaint under Order VII Rule 11 CPC was legally justified. A further issue was whether any substantial question of law arose under Section 100 CPC to justify interference with concurrent findings.

Rule: The Court applied the principle that under Section 42 of the Specific Relief Act, a declaratory decree can only be granted where the plaintiff establishes a pre-existing legal character or right. It further relied on Section 54 of the Transfer of Property Act, which requires transfer of immovable property of value exceeding Rs.100 to be effected through a registered instrument. The Court also reiterated that under Order VII Rule 11 CPC, the court examines only the averments in the plaint and accompanying documents to determine whether a cause of action exists or whether the suit is barred by law. Additionally, in second appeal under Section 100 CPC, interference is permissible only where a substantial question of law arises, particularly in cases involving misapplication of law or perversity in findings.

Application: The High Court observed that the appellant's claim was entirely based on unregistered documents and membership/allotment forms issued by a private welfare association, which lacked legal authority to confer ownership rights. The plaint did not disclose any legally recognized title in favor of the appellant. Consequently, she failed to establish any pre-existing legal character required for a declaratory suit under Section 42 of the Specific Relief Act. The Court further noted that the absence of registered title was not a matter requiring trial but went to the root of maintainability. Even if allegations of fraud or fabrication by the respondents were assumed to be correct, such assertions could not cure the fundamental defect of lack of title. Therefore, the plaint itself disclosed no cause of action and was barred by law. It was also held that both the trial court and the appellate court had correctly exercised jurisdiction under Order VII Rule 11 CPC by examining only the plaint and its annexures without entering into disputed questions of fact. Their findings were concurrent and based on correct application of law. The appellant failed to demonstrate any misreading of evidence, illegality, or substantial question of law that would justify interference in second appeal.

Conclusion: The High Court held that the rejection of the plaint was lawful and that the concurrent findings of the courts below did not suffer from any legal infirmity. Accordingly, the second appeal was dismissed for lack of merit.

18. SINDH HIGH COURT

Naseem Akhtar & Others v. Sadia Naeem & Others IInd Appeal No. 392 of 2025

Present: Mr. Justice Arshad Hussain Khan

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4MzU3Y2Ztcy1kYzgz>
2026 KHI 661

Facts: The dispute arose out of an administration and partition suit concerning the estate of deceased Naeem Nazeer. The trial court passed a preliminary decree under Order XX Rule 13 CPC in respect of certain immovable properties, movable assets, and bank accounts which were admitted and undisputed among the parties. The court also appointed the Nazir to verify documents and conduct an audit. The appellants challenged this decree, contending that the preliminary decree was premature as there were pending collateral proceedings and disputes regarding entitlement of certain heirs, which could affect distribution. The appellate court dismissed the appeal and maintained the preliminary decree. Aggrieved, the appellants filed a second appeal before the High Court.

Issue: The principal question before the Court was whether a preliminary decree in an administration suit can validly be passed in respect of undisputed properties despite pendency of other disputes, and whether any substantial question of law arose under Section 100 CPC to justify interference in second appeal.

Rule: The Court applied the settled principle that in administration suits, a preliminary decree may be passed in respect of admitted and undisputed properties without awaiting adjudication of all contested or ancillary issues. It further reiterated that under Section 100 CPC, interference in second appeal is permissible only where a substantial question of law arises.

Application: The High Court examined the record and found that the properties included at certain serial numbers were admitted and undisputed among the parties. Therefore, the trial court was justified in passing a preliminary decree limited to those properties. The pendency of collateral litigation or disputes regarding other properties did not bar the court from proceeding with administration of undisputed assets. The Court rejected the appellants' argument that the decree was premature, holding that such decrees are intended to facilitate orderly administration of estate and avoid unnecessary delay. However, the Court noted that with respect to certain properties which were subject to separate pending suits, the inclusion of directions for inquiry was not appropriate. Accordingly, while upholding the decree, the Court modified it to exclude those disputed properties from the scope of inquiry and directed that rights regarding those properties would abide by the outcome of

pending proceedings. The Court further observed that no substantial question of law arose from the concurrent findings of the courts below, and therefore, interference under Section 100 CPC was not warranted.

Conclusion: The High Court upheld the preliminary decree in respect of undisputed properties but modified it to exclude properties subject to pending litigation. The second appeal was disposed of accordingly.

19. SINDH HIGH COURT

Muhammad Imran v. Muhammad Azeem & Others
Ind Appeal No. 352 of 2025

Present: Mr. Justice Arshad Hussain Khan

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4MzMzY2Ztcy1kYzgZ>
2026 KHI 658

Facts: The appellant instituted a suit for declaration, specific performance, and permanent injunction in respect of a residential property situated in Korangi, Karachi. The appellant alleged that he had purchased the property from respondents through an agreement to sell dated 10.05.2022 for a consideration of Rs.40,00,000, which was fully paid, and that possession had been delivered to him. It was further alleged that despite receipt of the entire consideration, the respondents failed to transfer the property and retained the original title documents. The respondents denied the execution of any such agreement and asserted that the alleged agreement was forged. They claimed ownership on the basis of a registered sale deed dated 28.06.2021 executed by the appellant's father, who was the original owner. The respondents also filed a separate suit for declaration, possession, and mesne profits, which was consolidated with the appellant's suit. After recording evidence, the trial court dismissed the appellant's suit and decreed the respondents' suit, granting possession and mesne profits. The appellate court upheld these findings. The appellant then filed a second appeal before the High Court.

Issue: The central question before the Court was whether the appellant had successfully proved the execution of the agreement to sell and payment of consideration so as to entitle him to specific performance, and whether any substantial question of law arose to justify interference with concurrent findings under Section 100 CPC.

Rule: The Court reiterated that in second appeal under Section 100 CPC, interference is limited to cases involving a substantial question of law, and concurrent findings of fact cannot be disturbed unless shown to be the result of misreading or non-reading of evidence.

Application: The High Court examined the record and found that the property originally belonged to the appellant's father, who had executed a registered sale deed in favor of the respondents. This registered transaction remained undisputed. In contrast, the appellant failed to prove the alleged agreement to sell dated 10.05.2022. The Court noted that the appellant's evidence was weak and unreliable. Only one marginal witness supported the agreement, whose testimony did not inspire confidence, while another witness failed to appear for cross-examination and was withdrawn. Importantly, a key witness, namely the appellant's father, did not appear to support the appellant's case. The Court also observed that the appellant failed to establish payment of the sale consideration through any credible evidence. On the other hand, the respondents successfully proved their ownership through registered documents, which carried greater evidentiary value. The concurrent findings of the trial court and the appellate court were therefore based on proper appreciation of evidence and did not suffer from any legal infirmity.

Conclusion: The High Court held that the appellant had failed to prove the agreement to sell and payment of consideration, while the respondents had established ownership through a registered sale deed. The concurrent findings of the courts below were upheld, and the second appeal was dismissed.

20. SINDH HIGH COURT

Dr. Bhagwano alias Bhagwandas v. Mumtaz Ali Abbasi
Civil Revision Application No. S-23 of 2026

Present: Mr. Justice Abdul Hamid Bhurgri

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4NDA1Y2Ztcy1kYzgz>
2026 SHC LAR 663

Facts: Mumtaz Ali filed a suit for damages under the Defamation Ordinance 2002 against Dr. Bhagwano alias Bhagwandas before the civil court in Larkana. The plaintiff alleged that on 2 April 2024 the defendant published a defamatory post on his Facebook account containing false allegations and scandalous language along with a picture showing the plaintiff in an injured condition. The post allegedly accused the plaintiff of not allowing the demarcation of a property with the intention to malign his reputation. The defendant filed an application under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the plaint on the ground that the suit was barred by law under sections 5(c) and 6 of the Defamation Ordinance 2002. The trial court dismissed the application. Aggrieved by the order the defendant filed the present civil revision application before the High Court of Sindh Circuit Court Larkana.

Issue: Whether the plaint in the defamation suit filed by Mumtaz Ali against Dr.

Bhagwano alias Bhagwandas is liable to be rejected under Order VII Rule 11 of the Code of Civil Procedure on the ground that the suit is barred by law under sections 5(c) and 6 of the Defamation Ordinance 2002.

Rule: Under Order VII Rule 11 of the Code of Civil Procedure a plaint can be rejected only if it does not disclose any cause of action or is barred by law. While deciding an application under this rule the court must look only at the averments made in the plaint and assume them to be true without considering the defence or written statement. Section 5 of the Defamation Ordinance 2002 provides certain defences to a defendant in defamation proceedings including the defence that the statement is based on truth and was made for public good. Such defences involve mixed questions of law and fact which require evidence for determination. Section 6 of the Ordinance grants absolute privilege only to publications made in legislatures judicial proceedings or under the authority of the government. If the plaint prima facie discloses a cause of action for defamation the suit cannot be rejected summarily at this stage.

Application: The plaintiff's plaint alleged that on 2 April 2024 the defendant published a defamatory post on his Facebook account containing false allegations and scandalous material which lowered the plaintiff's reputation and related to property demarcation. The defendant contended that the suit was barred under sections 5(c) and 6 of the Defamation Ordinance 2002. The High Court found that the defence of truth and public good under section 5(c) cannot be decided without recording evidence. The alleged Facebook post does not fall within the limited scope of absolute privilege under section 6. On a plain reading of the plaint assuming its contents to be correct a clear cause of action for defamation is disclosed. The trial court correctly applied the principles governing Order VII Rule 11 and did not commit any jurisdictional error illegality or material irregularity. The scope of revisional jurisdiction under section 115 of the Code of Civil Procedure is limited and no ground for interference was made out.

Conclusion: The High Court of Sindh Circuit Court Larkana dismissed the civil revision application in limine. The order of the trial court refusing to reject the plaint was upheld. The defamation suit shall proceed to full trial on its merits. All observations made in the judgment are tentative and confined only to the question of rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure.

21. SINDH HIGH COURT

**M/s Philips Morris (Pakistan) Ltd v. Court of the Commissioner Workmen's Compensation & Authority under Payment of Wages Act, Hyderabad & others
C.P No. S-66 of 2025**

Present: Mr. Justice Arbab Ali Hakro

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzA4MTM3Y2Ztcy1kYzgZ>
2026 SHC HYD 616

Facts: The petitioner company challenged an order of the Payment of Wages Authority directing it to deposit a substantial amount in favor of respondent No.2, who claimed employment-related dues. The petitioner denied any employer–employee relationship, asserting that respondent No.2 was engaged through a contractor and that the Authority lacked jurisdiction. The impugned order was passed ex parte without deciding jurisdictional objections, prompting the petition.

Issue: Whether the Payment of Wages Authority had jurisdiction to adjudicate the respondent’s claim and impose liability on the petitioner, particularly in absence of employer–employee relationship and where the claim fell outside the statutory definition of wages.

Rule: Under the Sindh Payment of Wages Act, 2015, the Authority has limited jurisdiction confined to claims relating to deduction, delay, or non-payment of wages and statutory dues. It cannot adjudicate broader employment disputes or discretionary benefits. Jurisdiction must exist both in terms of subject matter and employer–employee relationship.

Analysis: The Court determined that respondent No.2 was an employee of a contractor, not the petitioner, based on documentary evidence of employment contracts. The claim primarily related to a discretionary “closure package” extended to direct employees, which did not fall within the statutory definition of wages. The Authority exceeded its jurisdiction by entertaining such claims and by imposing liability without determining the employer–employee relationship. The Court further noted that even otherwise, the claim was barred by limitation. The proceedings were therefore coram non iudice, and the impugned order was passed without lawful authority.

Conclusion: The Court held that the Authority acted beyond its jurisdiction as the claim was not maintainable under the Payment of Wages Act and no employer–employee relationship existed. The impugned order and execution proceedings were set aside as unlawful.

23. **SELECTED ARTICLE**

TOPIC: BREAKING THE SILENCE; PAKISTAN'S LEGAL BREAKTHROUGH AGAINST TORTURE AND CUSTODIAL DEATHS

AUTHOR: SHAFIQUE AHMED KHARAL (Civil Judge & Judicial Magistrate, Sindh, Pakistan)

LINK: https://sja.gos.pk/assets/articles/2025/Shafiq_Kharal_CJ.pdf
