



HIGH COURT OF SINDH

Case Law Review



Fortnightly Bench Update



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FORTNIGHTLY BENCH UPDATE

(16-09-2025 to 30-09-2025)

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

NOTABLE JUDGMENTS

Sr. No.	Court	Subject	Area of Law	Page
1	Supreme Court of Pakistan	The real issue, as framed by the Court, was whether the presidential notification transferring judges from provincial high courts to the Islamabad High Court was constitutionally valid, considering the requirements of Article 200 regarding judicial transfers, and whether it violated the principles established under Article 175A, which governs judicial appointments. Specifically, the Court examined whether these transfers were permanent or temporary, if they bypassed the Judicial Commission of Pakistan, and whether the consultation and consent procedures were properly followed, all while safeguarding judicial independence and seniority.	Constitutional Law	8
2	Sindh High Court	The key legal issue before the appellate court was whether the appellant should be allowed to adduce additional documentary evidence at such a belated stage, and more specifically, what qualifies as “good cause” under Rule 2 of Order XIII of the Code of Civil Procedure, 1908, to justify the late production of documents.	Civil Law	9
3		Whether the petitioner, engaged through a third-party contractor but continuously working for NBP in its core operations since 2016, is entitled to consideration for regularization of service under Article 199 of the Constitution in light of constitutional rights and Supreme Court precedents?	Service Law	11
4		Whether the appointment of Prof. Dr. Khalid Mahmood Iraqi as Vice Chancellor of Karachi University is illegal and liable to be set aside under a writ of quo warranto on the grounds of ineligibility for not meeting the publication requirement as per the original advertisement?	Constitutional Law	12
5		Whether the High Court can assume jurisdiction under Article 199 of the Constitution to entertain a service-related grievance brought by a member of the Armed Forces, in light of the constitutional bar under Article 199(3), particularly when allegations of mala fide and lack of free consent are raised?	Service Law	14
6		Whether Respondent No.2’s refusal to forward the petitioners’ service files to the SPSC for regularization—despite a prior binding court order—was illegal, unconstitutional, and in contempt of court. Whether the petitioners, being contract employees in BPS-17, could be considered for regularization through the SPSC under the applicable legal and constitutional framework?	Service Law	15

7	Sindh High Court	The issue before the Court was whether the Petitioners could retain the allotted official flats despite cancellation notices, when the accommodation was required for other eligible officials and when alternative remedies were available under the Accommodation Allocation Rules, 2002.	Service Law	17
8		The central issue before the Court was whether Respondent No.4, who did not possess the prescribed academic qualification, could legally continue to hold the charge of Administrator of NICVD for nearly two years under the guise of a stopgap arrangement.	Service Law	18
9		Whether the Petitioner, having retired in April 2012 and her case for upgradation having been rejected by the Board of Governors in April 2015, was entitled to post-retirement upgradation on hardship basis, and whether suppression of material facts disentitled her from relief under Article 199 of the Constitution.	Service Law	20
10		Whether the appeal should be decided in light of the settlement between the parties and on what conditions the appellant could retain possession until the agreed date for vacating the premises.	Rent Law	21
11		Whether the defamation suit filed by the appellants was within limitation under the Defamation Ordinance, 2002, or whether the plaint was rightly rejected as time-barred?	Civil Law	22
12		Whether the prosecution successfully established the guilt of the appellant Zahid Sharif for the offence of extortion under Sections 384, 385, and 386 of the Pakistan Penal Code, and whether the appellant's conviction should be maintained.	Criminal Law	24
13		The legal issues before the Court were whether the petitioner school, despite being a non-profit institution, qualifies as a “commercial establishment” under STESOA, and whether the librarian qualifies as a “worker” entitled to protections under STESOA and SIRO. The Court examined the statutory definitions, noting that Section 2(1)(n) of STESOA broadly defines commercial establishments and expressly includes schools without any distinction between profit and non-profit entities. Additionally, the definitions of “worker” under Section 21(1)(n) of STESOA and Section 2(xxx)(iv) of SIRO cover any person performing skilled, clerical, or technical work, excluding only those in managerial or administrative positions.	Labour Law	26
14		Whether the trial court acted lawfully in approving the Investigating Officer’s report that disposed of FIR No.44/2023 under B-Class, even though the case was against unknown persons and had earlier been disposed of under A-Class as true but untraced.	Criminal Law	27

15	Sindh High Court	Whether FBR's letter (03.07.2025) declaring sutures as "medical devices" was ultra vires and without jurisdiction. Whether sutures imported under GD dated 01.08.2025 qualify as disposables under PCT 9938 (and hence exempt). Alternatively, whether sutures are entitled to a reduced 1% sales tax under Entry No. 81, being "registered as drugs under the Drugs Act, 1976."	Taxation Law	28
16		Whether the petitions are barred by previous judgments in: <i>Collector of Customs, Lahore v. Wasim Radio Traders</i> (2023 SCMR 176) <i>Shamim Ahmed v. Federation of Pakistan</i> (2024 PTD 736). Whether provisional release of goods can be allowed under Section 81, where Valuation Rulings exist but are not challenged. Whether the petitioners' goods are covered under the Valuation Rulings issued by Customs.	Revenue Law/Customs Act	30
17		Whether AGIPL, as the new occupier of the factory, is liable for the payment of the compensation due to the 20 workers under the direction issued in 2011. Additionally, the case concerns the failure of the Authority and the Assistant Commissioner to enforce the direction and recover the compensation amount as arrears of land revenue, which the petitioners argue is unlawful inaction?	Labour Law	31
18		The central issue in this case was whether the trial court's acquittal of the accused (Khurram Qureshi, Kamran Qureshi, Munna Qureshi, and Furqan Qureshi) under Sections 447 and 448 of the Pakistan Penal Code (PPC) should be overturned by the High Court. Specifically, the appeal raised the question of whether the trial court's decision to acquit was correct and whether the High Court should intervene in the acquittal.	Criminal Law	33
19		The principal issue before the High Court of Sindh at Karachi was whether the applicant, Ali Shah, accused under Section 489-F of the Pakistan Penal Code for issuing four dishonored cheques amounting to Rs. 31,50,000 in a vehicle purchase transaction, was entitled to the concession of pre-arrest bail under Section 498 Cr.P.C. The Court was required to determine whether the dispute had a criminal nature involving dishonesty or whether it was essentially a civil matter arising from a business transaction, and whether the long delay in lodging the FIR and lack of supporting evidence warranted further inquiry.	Criminal Law	34
20		The primary issue before the High Court of Sindh at Karachi was whether the applicant, Azmat Hussain Siddiqui, accused under Section 489-F PPC for issuing a dishonored cheque amounting to Rs. 65,00,000 in the context of a financial transaction with the complainant, was entitled to the concession of pre-arrest bail. The Court was to determine whether the dispute was genuinely criminal in nature involving dishonesty and fraudulent intent, or whether it was essentially a civil and business dispute arising out of a partnership or investment arrangement, thus calling for further inquiry under Section 497(2) Cr.P.C.	Criminal law	36

21	Sindh High Court	Whether the applicant is entitled to pre-arrest bail in a matter involving the dishonor of cheques under Section 489-F of the Pakistan Penal Code (PPC), where the complainant alleges that the applicant issued dishonored cheques but the applicant denies the existence of any prior financial obligation or payment.	Criminal Law	38
22		The primary issue before the High Court of Sindh, Karachi, was whether the applicant, accused of abduction and gang rape under Sections 376, 342, and 34 of the Pakistan Penal Code, should be granted post-arrest bail. The applicant contended that he had been falsely implicated due to a disapproved friendship with the victim, that there was delay in lodging the FIR, and that he was a juvenile entitled to leniency. The prosecution, on the other hand, opposed the bail citing the gravity of the offence and supporting evidence including the victim's statement and medical report.	Criminal Law	40
23		The central issue before the High Court of Sindh, Karachi, was whether the applicant, Khalid Islam, allegedly involved in money laundering under Sections 3 and 4 of the Anti-Money Laundering Act, 2010 (as amended 2020), in connection with Crime No. 07/2022 registered by the FIA Commercial Crimes Circle, Karachi, was entitled to the concession of post-arrest bail. The question was whether sufficient incriminating material existed to connect the applicant with the proceeds of crime, and whether his continued detention was justified when he was neither named in the FIR nor in the charge sheet, and the investigation had been completed.	Criminal Law	42
24		Whether the Judicial Magistrate-XI, Karachi East, correctly refused to take cognizance and disposed of FIR No. 431/2023 under "C" class—regarding alleged electricity theft under Section 462-J PPC—on the ground that, for offences in Chapter XVII-B PPC, cognizance cannot be taken on a police FIR and is barred absent a written complaint by a duly authorized Grade-17 (or above) officer of the Government or the distribution company, as required by Section 462-O PPC.	Criminal Law	44
25		The principal issue before the High Court of Sindh at Karachi was whether the order dated 09.05.2025—passed by the executing court on the decree holder's application for <i>blocking the CNICs</i> of Judgment Debtors Nos. 3 and 4—was legally sustainable. The applicant (Judgment Debtor No. 4, Malik Ali Zain) sought recall of the order under Sections 141 and 151 CPC, arguing that the order was obtained without proper notice, based on an incorrect address, and through reliance on provisions not applicable in Sindh. The Court was required to determine whether blocking a CNIC was permissible under the Civil Procedure Code (CPC) or the Financial Institutions (Recovery of Finances) Ordinance, 2001, and whether due process had been followed before issuing such an order.	Civil Law	46

26		Whether the issue before the Court was whether the civil revision filed by the legal heirs of Shoukat Ali against the order admitting the Province of Sindh's Section 12(2) CPC application was maintainable.	Civil Law	48
27		The key legal issue in this case was whether the lower courts erred in dismissing the Applicants' appeal, particularly concerning the limitation period for filing the inheritance claim and the validity of the revenue mutations. On the factual side, the dispute centered around whether the mutations from 1941 and 1971 were fraudulent and whether the Plaintiffs had sufficiently disproven the alleged gift deeds. Additionally, the case involved whether the Plaintiffs' partial possession of the land through private arbitration (faisla) prevented further claims and whether the Appellate Court's decision not to remand the case after allowing an application under Order I Rule 10 of the CPC to join a new respondent was legally sound.	Civil Law	49
28	Islamabad High Court	Whether the Federal Insurance Ombudsman had jurisdiction to adjudicate complaints against the repudiation of health insurance claims on the basis of pre-existing conditions, and whether such repudiation by the insurer amounted to maladministration under section 127 of the Insurance Ordinance, 2000.	Insurance Law	51

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29	1. Illegal Migration: A Quest for Survival, Not a Crime S B L R 2025 Article 37 By Amir Latif Bhatti Assistant Sessions Judge, Karachi-South judge.aamir@gmail.com			53
30	2. Impacts of Parental Alienation on Minor and Non-Custodial Father; Promoting Equitable Shared Parenting in Pakistan By Javed Hussain Bhayo Lecturer Shah, Abdul Latif University, Khairpur Waseem Abbas Shaikh Civil Judge & Judicial Magistrate at High Court of Sindh Barrister Rafique Ahmed Shaikh High Court of Sindh Seetal Das Inspector Home Department, Government of Sindh https://doi.org/10.5281/zenodo.17099707			53

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1. SUPREME COURT OF PAKISTAN

Constitution Petitions No. 22, 20, 25 to 28 & 30 of 2025

Justice Mohsin Akhtar Kayani, & others (In CP 22/25)

Raja Muqsit Nawaz Khan (In CP 20/25)

Imran Khan Niazi(In CP 25/25)

Lahore High Court Bar Association, (In CP 26/25)

Lahore Lahore Bar Association Lahore and another(In CP 27/25)

Karachi Bar Association, Karachi (In CP 28/25)

Riasat Ali Azad and others (In CP 30/25)

Versus

The President of Pakistan, Pak Secretariat, Islamabad and others (In CPs 22, 26 to 28 & 30/25)

Federation of Pakistan through, Secretary Ministry of Law, Justice & Parliamentary Affairs, Islamabad and others(In CPs 20 & 25/25)

Present: Hon'ble Mr.Justice Muhammad Ali Mazhar, Mr. Justice Naeem Akhter Afghan, Mr. Justice Shahid Bilal Hassan, Mr. Justice Salahuddin Panhwar & Mr. Justice Shakeel Ahmad

Source:

https://www.supremecourt.gov.pk/downloads_judgements/const.p. 22 2025 25 092025.pdf

Brief Facts: The Supreme Court of Pakistan, in this case, addressed the constitutional validity of a presidential notification dated February 1, 2025, transferring three judges from provincial high courts to the Islamabad High Court (IHC). Petitioners, including five IHC judges, argued that the transfers violated their seniority and undermined judicial independence, citing the Constitution's provisions on judicial appointments under Article 175A, and the transfer mechanism under Article 200. The petitioners contended that such transfers, viewed as permanent and bypassing the Judicial Commission of Pakistan (JCP), could potentially influence the court's leadership and composition. Additionally, concerns were raised about insufficient consultation and transparency in the process.

Issue: The real issue, as framed by the Court, was whether the presidential notification transferring judges from provincial high courts to the Islamabad High Court was constitutionally valid, considering the requirements of Article 200 regarding judicial transfers, and whether it violated the principles established under Article 175A, which governs judicial appointments. Specifically, the Court examined whether these transfers were permanent or temporary, if they bypassed the Judicial

Commission of Pakistan, and whether the consultation and consent procedures were properly followed, all while safeguarding judicial independence and seniority

- Rule:** The case involved Article 200 of the Constitution, which allows the President to transfer High Court judges with consent and consultation. Article 175A governs judicial appointments through the Judicial Commission of Pakistan (JCP), which the petitioners argued was bypassed. The Islamabad High Court Act, 2010, and the principle of judicial independence under Articles 2A and 175 were also central to the legal considerations.
- Application:** The Court upheld the constitutionality of the transfers under Article 200, affirming the President's authority to transfer judges with their consent and after necessary consultation. The Court rejected the petitioners' argument that the transfers violated Article 175A, asserting that these transfers were separate from the JCP's appointment process. It also addressed the concern over judicial independence, finding that the safeguards under Article 200, including meaningful consultation, were met. However, the Court sent the matter back to the President to reconsider the issue of seniority and the terms of the transfer, ensuring full compliance with constitutional protections
- Conclusion:** In conclusion, the Court upheld the validity of the judicial transfers under Article 200. It rejected the claim that the transfers violated Article 175A, clarifying that the Judicial Commission of Pakistan was not required. While affirming that judicial independence safeguards were met, the Court sent the matter back to the President to reconsider the issue of seniority and the terms of the transfers.
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2. SINDH HIGH COURT

M Muhammad Usman Farooqui vs. Abdul Hafeez
High Court Appeal No. 189 of 2019

Present: *Mr. Justice Muhammad Iqbal Kalhoro*
Mr. Justice Mohammad Abdur Rahman

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc5NjY3Y2Ztcy1kYzgZ>
Sindh High Court Citation 2025 SHC KHI 2182

Facts: The facts of the case are that the dispute arose from a civil suit (Suit No. 178 of 2006) filed by the respondent seeking specific performance of an agreement to sell a plot in Karachi. The issues in the suit were framed on 4 April 2006, and both parties were directed to file their respective lists of documents and witnesses within four

weeks. The appellant complied by filing his list on 4 May 2006. However, a decade later, in 2016, the appellant filed CMA No. 14880 of 2016, seeking to introduce four additional documents that were not part of the original record. These included an inquiry report, a notice from the Karachi Building Control Authority, a letter from an advocate, and a letter from the Superintendent of Central Prison. The learned Single Judge dismissed this application on 21 March 2019, citing excessive delay and failure to show “good cause” for not producing the documents earlier. The appellant challenged this dismissal through a High Court Appeal.

- Issues:** The key legal issue before the appellate court was whether the appellant should be allowed to adduce additional documentary evidence at such a belated stage, and more specifically, what qualifies as “good cause” under Rule 2 of Order XIII of the Code of Civil Procedure, 1908, to justify the late production of documents.
- Rules:** The relevant legal rule is found in Order XIII Rules 1 and 2 of the CPC. Rule 1 requires all documentary evidence in a party's possession or power to be submitted at the first hearing of the suit (when issues are framed). However, Rule 2 provides a limited exception: a party may be permitted to produce documents at a later stage if “good cause” is shown to the satisfaction of the court. The courts are also required to record reasons when allowing or rejecting such documents. Judicial precedent, including various rulings by the Supreme Court of Pakistan and High Courts, supports a liberal interpretation of “good cause,” especially where the documents are authentic, necessary for deciding the case on merits, and do not unfairly prejudice the opposing party.
- Application:** In applying these rules to the present case, the appellate court examined the nature of the documents sought to be introduced. Two of the documents the KBCA notice and the inquiry report were official records from public authorities. The court found no prejudice would result from their late introduction and considered their inclusion justified. The other two documents a letter from an advocate and a response from the prison superintendent were more contentious, as they pertained to the appellant's alleged detention during the time the agreement was said to have been executed. The court noted that although these documents could potentially have been obtained earlier, the respondent's own affidavit-in-evidence introduced the claim that the agreement was made while the appellant was in jail. This new factual assertion had not been pleaded in the original plaint. Since evidence had not yet been recorded, the court found that allowing the appellant to rebut this assertion with documentary evidence even belatedly would not amount to unfair prejudice and would, in fact, promote a decision on the merits. Additionally, both parties would have an opportunity to file fresh evidence and cross-examine witnesses accordingly.

Conclusion: Consequently, the court concluded that the learned Single Judge had adopted an unduly narrow interpretation of “good cause,” which hindered a fair adjudication of the real issues in the suit. The appellate court set aside the order dated 21 March 2019 and allowed CMA No. 14880 of 2016. Both parties were granted permission to submit fresh lists of documents and witnesses and to file new affidavits-in-evidence. The case was remanded to the IIInd Senior Civil Judge, Karachi South, for a fresh trial. No order as to costs was made.

3. SINDH HIGH COURT

Mrs. Naheed versus National Bank of Pakistan & another
Constitutional Petition No.D-817 of 2023

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgyMTI5Y2Ztcy1kYzgZ>
2025 SHC KHI 2436

Brief Facts: Mrs. Naheed, the petitioner, was engaged as a Liability Sales Officer (LSO) by the National Bank of Pakistan (NBP) in 2016 through a third-party contractor. She has continuously performed her duties for nearly eight years without any complaints. Despite her long service and having qualified through an NBP-conducted test and interview, she was not regularized in her position. She claims that many of her colleagues performing similar duties across various provinces have been regularized pursuant to directives from the High Courts and Supreme Court. The petitioner alleges that the refusal to regularize her is discriminatory, violative of Article 25 (equality before the law), and indicative of malafide intent on the part of the bank. NBP contended that she was not their direct employee, that its service rules are non-statutory, and that the petition is not maintainable under Article 199 of the Constitution due to lack of a legal right. They further argued the doctrine of *res judicata* applies as a prior petition had been dismissed for non-prosecution.

Issue: Whether the petitioner, engaged through a third-party contractor but continuously working for NBP in its core operations since 2016, is entitled to consideration for regularization of service under Article 199 of the Constitution in light of constitutional rights and Supreme Court precedents?

Rule: As per established Supreme Court jurisprudence, including *Abdul Ghafoor v. NBP* (2018 SCMR 157), *Pir Imran Sajid v. TIP* (2015 SCMR 1257), and *IFFCO Pakistan v. Ghulam Murtaza* (2024 SCMR 1548), the practice of using third-party contracts as

a façade to avoid regularization of employees performing permanent functions is deemed a “sham” and violates the constitutional right to livelihood (Article 9) and equality (Article 25). The Supreme Court has ruled that employees performing core functions under the control and supervision of the principal employer, even if formally hired through contractors, may be entitled to regularization if they satisfy the "control and integration" tests.

Application: The court noted that although the NBP's 2021 service rules are non-statutory, the petitioner's employment originated under the repealed statutory NBP Staff Rules of 1973. It found that the petitioner was engaged in the bank's core business under its direct control, qualifying her under the integration and control tests established in *IFFCO* and similar cases. The court rejected the bank's argument on maintainability, citing *Muhammad Naeem v. Federation (2023 SCMR 301)*, which affirmed the High Court's writ jurisdiction over NBP employment matters. The court also dismissed the *res judicata* objection, holding that dismissal for non-prosecution does not bar a fresh petition on merits. It emphasized that denying regularization while others similarly placed have been regularized is discriminatory. Citing relevant precedents, the court stressed that policy considerations cannot justify unfair or unequal treatment, particularly when core constitutional rights are at stake.

Conclusion: The High Court held that although regularization is a policy matter, the petitioner's long-standing service in the bank's core functions, coupled with Supreme Court precedents, justifies reconsideration of her case. The bank's conduct amounts to arbitrary and discriminatory denial of the right to livelihood. Accordingly, the petition was disposed of with directions to the NBP to reconsider the petitioner's case for regularization without discrimination, subject to their regularization policy, in line with Supreme Court jurisprudence.

4. SINDH HIGH COURT

Prof. Dr. Moonis Ahmar versus Province of Sindh & others
Constitutional Petition No.D-287 of 2023

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgyMTMxY2Ztcy1kYzgZ>
2025 SHC KHI 2437

- Facts:** Prof. Dr. Moonis Ahmar, a retired BPS-22 professor, filed a constitutional petition under Article 199(1)(b)(ii) of the Constitution of Pakistan, 1973, challenging the appointment of Prof. Dr. Khalid Mahmood Iraqi (Respondent No.6) as the Vice Chancellor of Karachi University (Respondent No.4). The petitioner contended that the original advertisement for the Vice Chancellor's post required 25 HEC-recognized research publications by July 15, 2019. This requirement was later relaxed to 15 publications, allegedly to benefit Respondent No.6, who, according to the petitioner, did not possess the required number of publications as of the original deadline. He further alleged bias, conflict of interest within the Search Committee, and argued that Dr. Iraqi's promotion to BPS-21 was itself questionable, rendering him ineligible. The petitioner, who ranked second in the selection list, sought the removal of Dr. Iraqi and his own appointment to uphold meritocracy. The appointment of Dr. Iraqi was made through a process conducted under the newly enacted Search Committee Act, 2022, after HEC verified candidates' credentials, including publications, and ranked Dr. Iraqi highest based on a scoring system.
- Issue:** Whether the appointment of Prof. Dr. Khalid Mahmood Iraqi as Vice Chancellor of Karachi University is illegal and liable to be set aside under a writ of *quo warranto* on the grounds of ineligibility for not meeting the publication requirement as per the original advertisement?
- Rule:** Under Article 199(1)(b)(ii) of the Constitution, a High Court may issue a writ of *quo warranto* requiring a person to show under what legal authority they hold a public office. However, this writ can only be issued if there is a clear statutory disqualification for holding the office. The court must be satisfied that the appointment violates a statutory provision and is not based on mere procedural or technical irregularities. The appointment of Vice Chancellors is governed by Section 13(1) of the University of Karachi Act, 1972 (as amended), which requires that the candidate be an eminent academic qualified to be a full professor, with specific experience and publications as outlined in the advertisement. Additionally, the Supreme Court has held in *Dr. Iqrar Ahmed Khan v. Dr. Muhammad Ashraf* (2021 SCMR 1509) that merit-based selection is essential, and the most meritorious candidate should ordinarily be appointed.
- Application:** The Court observed that while the petitioner challenged the relaxation of the publication requirement and accused Respondent No.6 of ineligibility, the entire appointment process was lawfully conducted under the new statutory framework—the Search Committee Act, 2022—which superseded prior procedures. The new Search Committee, after HEC's verification, shortlisted and interviewed eligible candidates. Dr. Iraqi received the highest score (64.2), followed by Dr. Ahmar (49), and was appointed by the Chief Minister, who holds the lawful authority to make

the final selection. HEC confirmed that 35 of Dr. Iraqi's publications were recognized, even though 7 were published after the cutoff. Importantly, the court found no statutory disqualification in Dr. Iraqi's case that would justify a writ of quo warranto. The Chief Minister acted within his authority, and the petitioner's claims did not establish malafide intent or violation of any binding statutory rule. The Court emphasized that relief in writ jurisdiction, especially quo warranto, is discretionary and should not be granted merely on technicalities or suspicion. The court also noted the Supreme Court's guidance that such writs require a clear legal disqualification, which was absent in this case.

Conclusion: The Court concluded that Prof. Dr. Khalid Mahmood Iraqi did not suffer from any statutory disqualification and was lawfully appointed as Vice Chancellor by the competent authority. Therefore, the writ of quo warranto could not be issued. The constitutional petition, along with all pending applications, was dismissed.

5. SINDH HIGH COURT

Muhammad Wajid versus Federation of Pakistan and 04 others Constitutional
Petition No.D-2259 of 2023

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgzMTQxY2Ztcy1kYzgz>
2025 SHC KHI 2541

Facts: The petitioner, Muhammad Wajid, served as a sailor in the Pakistan Navy for 13 years. He alleged that since January 2022, he had been subjected to harassment by his superiors and was wrongfully accused of "immoral activities" without any evidence or inquiry. Subsequently, on April 25, 2022, his Commanding Officer compelled him to sign a discharge application on "compassionate grounds." This led to his eventual discharge through a letter dated April 20, 2023. The petitioner challenged this discharge before the High Court under Article 199 of the Constitution, seeking reinstatement with all back pay and benefits, arguing that the discharge was forced, arbitrary, and done with malice, depriving him and his dependents of vital entitlements, including medical benefits for his mother.

Issue: Whether the High Court can assume jurisdiction under Article 199 of the Constitution to entertain a service-related grievance brought by a member of the Armed Forces, in light of the constitutional bar under Article 199(3), particularly when allegations of mala fide and lack of free consent are raised?

Rule: Under Article 199(3) of the Constitution of Pakistan, the High Court is barred from exercising jurisdiction over matters concerning the terms and conditions of service of members of the Armed Forces or any action taken in relation to such persons. Article 8(3) further excludes laws related to the Armed Forces from the scope of fundamental rights to ensure discipline and proper discharge of duties. However, judicial precedent (e.g., *Anwar Aziz v. Federation of Pakistan*, PLD 2001 SC 549) allows the High Court to interfere in exceptional cases where the impugned action is either mala fide, without jurisdiction, or coram non iudice.

Application: The Court considered the petitioner's arguments regarding forced resignation and malice behind the discharge but found no substantive evidence of mala fide intent or jurisdictional defect in the Navy's actions. The petitioner had already availed remedies under the military legal framework, and the discharge proceedings did not appear to be beyond the legal competence of the military authorities. The Court emphasized that the bar under Article 199(3) applied in this case, as the dispute pertained squarely to service matters of a person subject to military law. Relying on binding Supreme Court precedents, including *Fayaz Khan v. Government of Pakistan* (2020 SCMR 432) and *Brig. (Rtd.) F.B. Ali v. The State* (PLD 1975 SC 506), the Court reiterated that unless mala fide or jurisdictional overreach is clearly demonstrated, the constitutional bar would apply strictly.

Conclusion: The High Court held that the petitioner's claim did not fall into any of the exceptions to Article 199(3). Since there was no conclusive evidence of mala fide, nor was the discharge order issued without jurisdiction, the Court found the petition to be non-maintainable. Consequently, the Constitutional Petition was dismissed, along with all pending miscellaneous applications, with no order as to costs.

6. SINDH HIGH COURT

Ghulam Nabi and 12 others versus the Province of Sindh and another Constitutional Petition No.D-871 of 2023

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgxNzc5Y2Ztcy1kYzg>
2025 SHC KHI 2403

Brief Facts: The petitioners, Ghulam Nabi and 12 others, were appointed as Head Masters/Head Mistresses (BPS-17) in Sindh on a contractual basis after qualifying a competitive recruitment process conducted by the Institute of Business Administration (IBA).

They were led to believe that their services would eventually be regularized. However, despite a prior order of the High Court dated 28.05.2021—directing the Education Department (Respondent No.2) to forward their documents to the Sindh Public Service Commission (SPSC) for assessment—their files were not sent, without any lawful justification. Some of the petitioners were also repatriated to previous posts or accepted other teaching positions. Alleging discrimination and non-compliance with the court’s order, they filed this constitutional petition seeking a declaration that the respondents’ actions were illegal and contemptuous, and requested that their documents be accepted by the SPSC for regularization.

- Issues:**
- (i) Whether Respondent No.2’s refusal to forward the petitioners’ service files to the SPSC for regularization—despite a prior binding court order—was illegal, unconstitutional, and in contempt of court.
 - (ii) Whether the petitioners, being contract employees in BPS-17, could be considered for regularization through the SPSC under the applicable legal and constitutional framework?

Rule: Under Articles 240 and 242 of the Constitution of Pakistan, appointments to civil posts in BPS-16 and above must be made through a competitive process conducted by the Public Service Commission. The Sindh Civil Servants Act, 1973 and the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 also require appointments to be merit-based and made through a formal process. Contractual and ad hoc employees do not enjoy the same rights as regular civil servants and cannot claim permanent status unless they qualify through regular recruitment mechanisms. The Supreme Court in *Ali Azhar Khan Baloch v. Province of Sindh* (2015 SCMR 456) and *Shahzad Shahmir v. Government of Sindh* (2021 SCMR 824) held that BPS-17 appointments must be made through the SPSC and cannot be regularized without going through the mandated competitive process. However, in *Dr. Naveeda Tufail v. Government of Punjab* (2003 SCMR 291), the Court acknowledged the principle of legitimate expectation in cases where employees had served continuously and were later regularized through the relevant Public Service Commission.

Application: Applying these rules, the Court observed that while contractual appointees like the petitioners have no inherent right to regularization, the previous court order directing the respondents to forward their documents to the SPSC for assessment had not been complied with. The respondents’ refusal to process the petitioners’ files—on grounds such as their repatriation or transition to other posts—was held to be unjustified and in defiance of the court’s earlier order. The Court clarified that the SPSC is the competent body to assess the suitability of candidates for BPS-17

posts and that the government cannot bypass this constitutional requirement by appointing or regularizing candidates on a contractual basis. While the petitioners were not declared successful by the SPSC, they were entitled to be considered through a lawful process. Drawing upon Dr. Naveeda Tufail, the Court found that even if the petitioners were contractual employees, they could not be arbitrarily excluded from the opportunity to be assessed for regularization. However, since Shahzad Shahmir reaffirmed that only the SPSC can make such appointments, any regularization must follow that route.

Conclusion: The Court disposed of the petition by directing the competent authority in the Education Department to forward the service files of the interested petitioners to the SPSC within three months for fresh interviews or suitability assessments, strictly in accordance with the recruitment rules and constitutional provisions. The petitioners were allowed to retain their current positions unless they had already vacated them. While the Court did not find sufficient grounds to initiate contempt proceedings, it upheld the enforceability of its previous order and reaffirmed that appointments to BPS-17 must be made exclusively through the SPSC. Thus, the petition was disposed of with directions ensuring compliance with constitutional mandates and judicial precedents.

7. SINDH HIGH COURT

C. P. No. D – 4074 of 2025

Syed Junaid Ahmed Hashmi and 2 others v. Government of Sindh and 4 others

Present: Mr. Justice Muhammad Faisal Kamal Alam and Mr. Justice Jawad Akbar Sarwana

Link: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgyNjAxY2Ztcy1kYzgZ>
2025 SHC KHI 2464

Facts: The Petitioners, Syed Junaid Ahmed Hashmi, Syed Shujaat Hussain, and Muhammad Aslam, were allotted official accommodations in the Deputy Commissioner Central Housing Complex through allotment letters dated 18.08.2007, 23.01.2014, and 26.05.1997 respectively. They reside in Flats Nos. 3, 2, and 2/7. The Petitioners approached the Court challenging cancellation notices issued by the official Respondents, who sought possession of the premises for the staff of the Deputy Commissioner Central and other Revenue officials. Petitioners contended that they are serving government officers posted at Karachi and relied upon the terms of reference relating to allotment of official accommodation, arguing that Petitioner No. 3 being part of the Revenue hierarchy was entitled to retain his flat. Reliance was also placed on the judgment reported as *2019 P L C (C.S.) 594*.

The Respondents, through the Assistant Advocate General Sindh, opposed the Petition, submitting that several employees of the Office of Deputy Commissioner Central Karachi and Board of Revenue were without official accommodation. It was argued that the Accommodation Allocation Rules, 2002, governed the matter, and that Petitioners had already been receiving house rent allowance. Reliance was placed on *2023 P L C (C.S.) 367*.

- Issue:** The issue before the Court was whether the Petitioners could retain the allotted official flats despite cancellation notices, when the accommodation was required for other eligible officials and when alternative remedies were available under the Accommodation Allocation Rules, 2002.
- Rule:** Under service and housing allocation jurisprudence, official accommodation is governed by statutory rules such as the Accommodation Allocation Rules, 2002, which regulate entitlement and retention. Equitable relief under constitutional jurisdiction is not available when an alternate statutory remedy exists, and government servants receiving house rent allowance cannot simultaneously claim continued occupation of official residences.
- Application:** The Court observed that the Petitioners' stance was unconvincing as they could pursue departmental remedies under the applicable Rules. The Court further noted that the Petitioners had been drawing house rent allowance, which negated their claim to simultaneous retention of official accommodation. The case law relied upon by the Petitioners was distinguished, whereas the judgment cited by the Respondents supported the official stance. Considering the competing need of Deputy Commissioner and Revenue staff without accommodation, the Court held that the Petitioners had no right to retain the subject premises.
- Conclusion:** The Petition was disposed of with the observation that Petitioners may avail their departmental remedies. However, they were granted four weeks to vacate the premises and hand over possession to the concerned department, failing which coercive measures could be taken. No order as to costs was made.

8. SINDH HIGH COURT
 Constitutional Petition No. D-1781 of 2025
 Afzal Hussain Baloch vs. Province of Sindh & Others

Present: Mr. Justice Muhammad Faisal Kamal Alam and Mr. Justice Jawad Akbar Sarwana
Link: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgyNjAzY2Ztcy1kYzgZ>

2025 SHC KHI 2465

Facts: The petitioner challenged the posting/appointment of Syed Mustafa Hasan (Respondent No.4) as Administrator of the National Institute of Cardiovascular Diseases (NICVD) vide Office Order dated 04.11.2023, on the ground that he lacked the mandatory qualification of an MBA required under the NICVD Employees [Service] Regulations, 2016–2017. The petitioner argued that nearly two years had passed and Respondent No.4 continued to hold the post illegally despite not meeting the eligibility criteria. Reliance was placed on *1997 SCMR 1730 (Pakistan Railways v. Zafarullah)*.

Respondents' Contention: The respondents contended that Respondent No.4 had not been formally appointed but was merely holding charge as a stopgap arrangement. They admitted that he only held a Bachelor of Arts in Third Division and was serving as a Senior Officer (BS-18) in NICVD. They further argued that due to the Sindh Government's inaction regarding the service regulations, regular appointments could not be made, and the matter had been discussed in the Governing Body Meeting of 28.03.2025

Issue: The central issue before the Court was whether Respondent No.4, who did not possess the prescribed academic qualification, could legally continue to hold the charge of Administrator of NICVD for nearly two years under the guise of a stopgap arrangement.

Rule: Under the NICVD Employees [Service] Regulations, 2016–2017, the qualification of an MBA is mandatory for the post of Administrator. The principle laid down in *1997 SCMR 1730* was also relevant, establishing that appointments made contrary to prescribed rules and qualifications are not sustainable in law.

Application: The Court found that Respondent No.4 was not qualified to hold the post of Administrator, as he lacked the required academic qualifications. Even accepting the respondents' argument that he was only holding charge temporarily, the Court noted that a period of one year, ten months, and twenty days was more than sufficient for the official respondents to select and appoint a duly qualified person. The Court was not persuaded by the justification offered by the respondents, particularly in view of the evidence showing that NICVD continued to recruit for other positions, thus undermining the claim of administrative impediment.

Conclusion: The Court allowed the petition to the extent of prayer clause 'A'. It directed that within four weeks from the date of the order, an eligible person should be appointed or authorized to hold the charge of Administrator at NICVD, failing which adverse consequences would follow for both NICVD's administration and the relevant

Government officials. The petition was dismissed as not pressed concerning the other prayer clauses ‘B’ to ‘F’. Pending applications, if any, were disposed of, with no order as to costs.

9. SINDH HIGH COURT

Constitutional Petition No. D-7723 of 2015

Firdous Neelofar Ghallo v. The Incharge / Governor & Others

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

Link: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgyNzQzY2Ztcy1kYzgZ>
2025 SHC KHI 2505

Facts: The Petitioner, Firdous Neelofar Ghallo, retired on 8.4.2012 as an Associate Professor (BPS-20) from the Area Study Centre, Far East and South East Asia, University of Sindh, Jamshoro (“ASC”). On 10.12.2015, she instituted this Petition seeking her upgradation on hardship basis along with consequential back benefits. Her Counsel argued that despite fulfilling the Chancellor’s (Governor of Sindh) policy guidelines issued through a letter dated 19.7.2010, and the subsequent recommendations and approvals of the Anomaly Committee, the Syndicate of the University of Sindh, and the Board of Governors of ASC, the Respondents failed to forward her case for upgradation, which was arbitrary, illegal, and unconstitutional.

In reply, the University of Sindh (Respondents No.2 & 3) contended that the Petition was barred by laches as it was filed more than three years after her retirement. They argued that in the 29th meeting held on 13.4.2015, the Board of Governors of the ASC rejected the hardship cases of three retired faculty members, including the Petitioner, on the ground that no precedent existed for upgradation after retirement. The Respondents also maintained that ASC employees are governed under the Area Study Centres Act, 1975, and all decisions rest with its Board of Governors, whose decision in this matter is final.

Issue: The central issue for determination was whether the Petitioner, having retired in April 2012 and her case for upgradation having been rejected by the Board of Governors in April 2015, was entitled to post-retirement upgradation on hardship basis, and whether suppression of material facts disentitled her from relief under Article 199 of the Constitution.

Rule: Under Article 199 of the Constitution of Pakistan, 1973, the High Court exercises writ jurisdiction only in cases where violation of law, arbitrariness, or mala fide

actions are established. Further, equitable relief under writ jurisdiction requires full disclosure and bona fides on the part of the petitioner. Suppression of material facts disentitles a litigant from discretionary relief.

Application: The Court noted that the Petitioner’s case for upgradation was rejected on 13.4.2015 by the Board of Governors, much prior to the institution of the Petition. This fact was suppressed in the pleadings, which constituted concealment of a material matter and undermined the bona fides of the Petition. Even when the Respondents disclosed the rejection in their Para-wise Comments in November 2021, the Petitioner did not amend her Petition to challenge that decision, thereby signifying acquiescence. Additionally, the Petitioner has continuously drawn her pension since retirement, as confirmed by documentary evidence, and no precedent exists for post-retirement upgradation on hardship basis. In light of these circumstances, the Petition suffered from laches, suppression of facts, and lack of merit.

Conclusion: The Court held that no case was made out for exercise of writ jurisdiction under Article 199 of the Constitution. Accordingly, the Petition was dismissed along with all pending applications.

10. SINDH HIGH COURT

Wajid Hussain Faruqui v. Muhammad Ali Ansari
First Rent Appeal (FRA) No. 22 of 2025

Present: Hon’ble Mr. Justice Arshad Hussain Khan

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgxNTQ5Y2Ztcy1kYzgZ>
2025 SHC KHI 2391

Facts: The appellant, Wajid Hussain Faruqui, filed a First Rent Appeal (FRA No. 22 of 2025) before the High Court of Sindh, Karachi, challenging the order dated 15 April 2025 passed by the Rent Controller, Clifton Cantonment, in Rent Case No. 08 of 2022. By that order, the Rent Controller had allowed the respondents’ ejectment application and directed the appellant to vacate the rented premises within thirty days. During proceedings in the High Court, counsel for the appellant stated that his client was ready to vacate the premises but requested reasonable time for doing so. Counsel for the respondents raised no objection, and both parties submitted a joint statement setting out mutually agreed terms regarding the vacating of the premises.

Issue: The issue before the Court was whether the appeal should be decided in light of the settlement between the parties and on what conditions the appellant could retain

possession until the agreed date for vacating the premises.

Rule: Under the tenancy laws and appellate jurisdiction of the High Court, parties may resolve rent disputes through consent orders, provided the terms are lawful, clear, and binding. Courts may appoint Nazir or commissioner to ensure compliance, and once parties record a settlement, the court disposes of the appeal accordingly.

Application: The Court examined the joint statement filed by the parties. In it, the appellant agreed to vacate House No. 110, 29th Street, Khayaban-e-Rahat, DHA Phase VI, Karachi, on or before 31 December 2025, with no possibility of extension. He undertook to pay all utility bills up to that date, return the premises in its original condition subject to normal wear and tear, and hand over peaceful possession with keys to the Nazir on 31 December 2025. The parties agreed that if the appellant failed to comply, the Nazir would break open the locks and take possession on 1 January 2026, and the appellant would waive all objections and rights against such action. The Nazir was also empowered to oversee utility payments, collect rent, and conduct an inspection of the property along with the parties before 31 December 2025. Subject to clearance of dues and condition of the property, the appellant would receive his security deposit back. The Court, therefore, accepted the settlement, appointed the Nazir as commissioner to oversee compliance, and fixed his fee at Rs. 100,000, payable by the respondent.

Conclusion: The High Court disposed of the appeal in terms of the joint statement filed by the parties. The appellant was permitted to remain in the premises until 31 December 2025, subject to strict compliance with the agreed conditions. The Nazir was appointed to ensure implementation, and all pending applications were also disposed of.

11. SINDH HIGH COURT

Independent Newspapers Corporation (Pvt.) Limited & others v. Learned Additional District Judge-VI, Karachi (South)

Misc. Appeal No. 01 of 2023, High Court of Sindh, Karachi

Present: Hon'ble Mr. Justice Arshad Hussain Khan

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgxNDIxY2Ztcy1kYzgZ>
2025 SHC KHI 2386

Facts: The appellants filed a miscellaneous appeal under Section 15 of the Defamation Ordinance, 2002, challenging the order dated 24 November 2022 of the VI

Additional District and Sessions Judge, Karachi (South), in Defamation Suit No. 64 of 2021. In that order, the trial court had rejected the plaint under Order VII Rule 11, CPC, on the ground that the suit was barred by limitation. The appellants argued that they became aware of the defamatory broadcasts of respondent No. 2 only on 13 November 2020, when they issued a legal notice, and thus the limitation period should be reckoned from that date. They also contended that the cause of action was continuing, since the defamatory material remained available on the respondent's website.

The respondents countered that the plaint itself recorded the last date of defamatory broadcasts as 23 September 2020, and since the suit was filed on 7 May 2021, it was clearly beyond the six-month limitation period. They argued that the "date of knowledge" plea was an afterthought, not pleaded in the plaint, and limitation law protects vested rights from stale claims.

Issue: Whether the defamation suit filed by the appellants was within limitation under the Defamation Ordinance, 2002, or whether the plaint was rightly rejected as time-barred?

Rule: The rule on limitation in defamation actions varies depending on whether courts adopt the MPR or the SPR. The Multiple Publication Rule, historically rooted in *Duke of Brunswick v. Harmer* (1849), holds that each individual publication gives rise to a fresh cause of action. Applied in the online context, as in *Godfrey v. Demon Internet Ltd.* (2001), each transmission of defamatory material to a user is treated as a new actionable wrong. This rule prioritizes the protection of the injured party's reputation, recognizing that each access to defamatory content constitutes a fresh injury. However, it also exposes publishers to perpetual liability, as defamatory material may remain accessible indefinitely.

By contrast, the Single Publication Rule, originating in the United States and later codified in the Uniform Single Publication Act 1952, maintains that only one cause of action arises from a defamatory publication, regardless of how many times it is accessed thereafter. Courts such as in *Firth v. State of New York* (2002) and legislative reforms like the UK's Defamation Act 2013, Section 8, have embraced this approach, recognizing that limitation must run from the date of the first publication. The SPR reflects a public policy choice: limitation statutes are not mere technicalities but substantive legal principles designed to prevent stale claims, secure finality, and avoid indefinite harassment of defendants. It also harmonizes with the broader objectives of defamation law in the digital era, ensuring a balance between protecting individual reputation and safeguarding the press from endless exposure to liability.

In Pakistan, Sections 8 and 12 of the Defamation Ordinance, 2002, provide a detailed statutory scheme: a legal notice must be issued within two months of knowledge of the defamatory publication, a cooling-off period of fourteen days must elapse, and a suit must be filed within six months of publication or knowledge. The Sindh High Court, in the present case, interpreted these provisions in light of international jurisprudence and concluded that adopting the Single Publication Rule is more consistent with the legislative intent of limitation laws. This interpretation aligns Pakistani jurisprudence with global trends and clarifies that the limitation period cannot be indefinitely extended merely because content remains online.

Application: The Court held that the appellants themselves pleaded in para 18 of the plaint that the defamatory broadcasts occurred between 16 and 23 September 2020. The plaint did not state any specific later date of knowledge. The issuance of the legal notice on 13 November 2020 could not reset the limitation period, as limitation runs from accrual of the cause of action, not from issuance of notice. The Court also rejected the argument of “continuing wrong,” holding that under modern jurisprudence—including the Single Publication Rule adopted in the UK, US, and India—the limitation runs from the date of first publication, not from continued online availability. Accepting the appellants’ contention would indefinitely expose publishers to liability, contrary to public policy and the legislative intent of the Defamation Ordinance. Since the plaint was filed on 7 May 2021, well beyond six months from the last broadcast on 23 September 2020, it was barred by limitation. The trial court rightly rejected the plaint under Order VII Rule 11(d), CPC.

Conclusion: The High Court found no illegality in the trial court’s order. It held that the plaint was clearly barred by limitation, and limitation could not be extended on equitable or sympathetic grounds. Accordingly, the appeal was dismissed, and the trial court’s rejection of the suit was upheld.

12. SINDH HIGH COURT
 ZAHID SHARIF @ TANKI S/O MUHAMMAD SHARIF (Appellant) VS THE
 STATE (Respondent)
 Sp. Cr. AT Appeal No.24 of 2025, Sp. Cr. AT Appeal No.25 of 2025

Present: *Mr. Justice Omer Sial*
Mr. Justice Syed Fiaz Ul Hassan Shah

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgzMTgzY2Ztcy1kYzgz>
 Sindh High Court Citation 2025 SHC KHI 2554

- Facts:** The complainant, Muhammad Aalam Khan, alleged that on 27 March 2022, accused Muhammad Hassan Pathan forcibly snatched his gold ring at gunpoint. On 30 March 2022, the complainant claimed he received a threatening phone call from Muhammad Hassan demanding Rs. 1,000,000 as extortion. Later that day, Muhammad Hassan, Zahid Sharif (the appellant), and others entered the complainant's estate agency and demanded the extortion money at gunpoint. The complainant handed over Rs. 100,000 in cash under threat. The police investigated, recording statements and collecting evidence, including call records. A charge sheet was filed against the accused persons. The appellant was convicted by the trial court and appealed.
- Issues:** Whether the prosecution successfully established the guilt of the appellant Zahid Sharif for the offence of extortion under Sections 384, 385, and 386 of the Pakistan Penal Code, and whether the appellant's conviction should be maintained.
- Rules:** For a conviction under extortion laws, the prosecution must prove that the accused unlawfully put the complainant in fear and demanded or received property (money). Mere presence with a weapon, without active participation in extortion demands or receipt of ransom, does not fulfill the requirements. Furthermore, contradictions in prosecution evidence, delays in FIR registration, and investigative lapses can undermine the prosecution's case, entitling the accused to benefit of doubt.
- Application:** The court analyzed the complainant's testimony and found that while Zahid Sharif was present with a weapon, the actual extortion demand and receipt of money were attributed only to Muhammad Hassan Pathan. Witness testimony contradicted the complainant's version regarding the timing and nature of the incident, especially with regard to the complainant's absence during the alleged forcible entry. There was an unexplained delay in FIR registration, raising doubts about the prosecution's narrative. The appellant produced evidence of ongoing civil and property disputes with the complainant, suggesting potential misuse of criminal proceedings to settle civil matters. The investigation was found flawed and incomplete, failing to explore the nature of disputes and the status of the disputed land. Given these discrepancies and procedural lapses, the prosecution failed to prove the appellant's guilt beyond reasonable doubt.
- Conclusion:** The High Court allowed the appeals, set aside the conviction, and acquitted Zahid Sharif. The judgment also directed an inquiry into the systemic misuse of FIRs related to land disputes and the investigation's inadequacies, with a compliance report due within 60 days.
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13. SINDH HIGH COURT

Bai Virbaiji Soparivala Parsi High School & Others (Petitioner) VS Ms. Faiza Sajid & Others (Respondent)
 Const. P. 4920/2022 (D.B.) Sindh High Court, Karachi

Present: *Mr. Justice Omer Sial*

Mr. Justice Syed Fiaz Ul Hassan Shah

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgzMTA5Y2Ztcy1kYzgZ>
 Sindh High Court Citation 2025 SHC KHI 2531

Facts: The facts of the case are that the petitioner, Bai Virbaiji Soparivala Parsi High School, a non-profit educational institution registered under the Societies Registration Act, 1860, terminated the services of Respondent No.1, a librarian, without issuing a written dismissal order or paying lawful dues. The librarian claimed that she was a “worker” under the Sindh Terms of Employment (Standing Orders) Act, 2015 (STESOA), as well as under the Sindh Industrial Relations Ordinance, 2002 (SIRO), and sought reinstatement or compensation. While the Trial Court ruled in favor of the petitioner, holding that the school was a non-commercial trust, the Labor Appellate Tribunal reversed this decision and allowed the librarian’s claim.

Issues: The legal issues before the Court were whether the petitioner school, despite being a non-profit institution, qualifies as a “commercial establishment” under STESOA, and whether the librarian qualifies as a “worker” entitled to protections under STESOA and SIRO. The Court examined the statutory definitions, noting that Section 2(1)(n) of STESOA broadly defines commercial establishments and expressly includes schools without any distinction between profit and non-profit entities. Additionally, the definitions of “worker” under Section 21(1)(n) of STESOA and Section 2(xxx)(iv) of SIRO cover any person performing skilled, clerical, or technical work, excluding only those in managerial or administrative positions.

Rules: The relevant legal rule is found in Section 2(1)(n) of STESOA defines “commercial establishments” broadly, expressly including schools without distinction between profit or non-profit status. Section 21(1)(n) STESOA and Section 2(xxx)(iv) of SIRO define a “worker” as any person performing clerical or technical work, excluding only managerial staff.

Application: Applying these provisions, the Court held that the petitioner school falls within the definition of a commercial establishment for the purposes of STESOA, regardless of its non-profit status. The librarian’s duties, which involved clerical and technical

tasks rather than managerial functions, qualified her as a worker entitled to labor protections, including reinstatement or compensation. The Court rejected the petitioner's argument that its non-profit nature excluded it from the scope of STESOA and found no error in the Appellate Tribunal's judgment.

Conclusion: Consequently, the constitutional petition was dismissed, with the Court upholding the Appellate Tribunal's decision that the petitioner school is a commercial establishment under STESOA and that the librarian is a "worker" entitled to the protections of labor law.

14. **SINDH HIGH COURT**

Pahlwan Naseerani v/s SHO PS Chak and others
Criminal Misc. Application No. D- 03 of 2024

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgyMjg3Y2Ztcy1kYzgZ>
Sindh High Court Citation (2025 SHC LAR 2449)

Facts: The applicant, Pahlwan, lodged FIR No.44/2023 at Police Station Chak under various provisions of the PPC and Anti-Terrorism Act, alleging that five unknown armed men demanded extortion money and issued threats of dire consequences. The incident occurred on 08.06.2023 and was reported on 10.06.2023. During investigation, statements of witnesses were recorded and a JIT was formed, which ultimately disposed of the matter under A-Class (true but untraced). Subsequently, on fresh investigation by a DSP, the case was disposed of under B-Class on the ground of non-appearance of the complainant party, which was later approved by the trial court. Feeling aggrieved, the complainant challenged this order before the High Court.

Issue: Whether the trial court acted lawfully in approving the Investigating Officer's report that disposed of FIR No.44/2023 under B-Class, even though the case was against unknown persons and had earlier been disposed of under A-Class as true but untraced.

Rule: Under the law and the Police Rules, 1934, criminal cases are classified into three categories. A-Class applies where the case is found to be true but the culprits remain untraced despite efforts. B-Class is reserved for cases that are found to be false, frivolous, or maliciously lodged, and may entail action against the complainant under section 182 PPC. C-Class applies where a case is neither true nor false but

cannot be substantiated due to insufficient evidence or where the matter appears to be non-cognizable or civil in nature. Such classifications are not binding on the court, which is duty-bound to scrutinize them carefully before approval.

Application: In the present case, the FIR was registered against unknown persons, and a JIT had already disposed of the matter under A-Class, treating it as true but untraced. The subsequent Investigating Officer, however, disposed of it under B-Class merely on the ground that the complainant party did not appear, even though their statements were already recorded during the initial investigation. No genuine efforts were made to trace the culprits or to follow the proper procedure. Since B-Class is strictly meant for false or frivolous cases, the Investigating Officer acted beyond the scope of law, and the trial court compounded the error by mechanically approving the report without proper judicial scrutiny.

Conclusion: The High Court set aside the trial court's order, restored the case to A-Class, and directed the Investigating Officer to make sincere efforts to trace the culprits in accordance with law, with the complainant ensuring cooperation during the investigation.

15. SINDH HIGH COURT

Const. Petition No. D-4353 of 2025

M/s. Hoora Pharma (Pvt) Ltd versus 1–3: *Pakistan* through Ministry of Finance, Secretary Revenue, and Chairman Federal Board of Revenue (FBR), 4–6: *The Collector of Customs (SAPT)* and others

Present: Mr. Justice Adnan Iqbal Chaudhry, Mr. Justice Muhammad Jaffer Raza

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgyMDAzY2Ztcy1kYzgZ>
2025 SHC KHI 2418

Facts; The petitioner, *M/s. Hoora Pharma (Pvt.) Ltd.*, imported sutures (threads with needles used for stitching wounds) and classified them under PCT 9938 — a category for disposables not manufactured locally, which carried 0% customs duty and exemption from sales tax. In December 2024, the Directorate of Intelligence & Investigation (Customs) challenged this classification, asserting sutures belonged under PCT 3006.1090, not exempt from sales tax. They alleged invoice tampering to claim tax exemption. The petitioner denied this, claiming competitors hacked its Customs ID. The Collector of Customs (Airport) initially supported the petitioner, affirming sutures are single-use and disposable. The FBR, however, referred the issue to DRAP (Drug Regulatory Authority of Pakistan), which labeled sutures as a

medical device, not “disposable.” Acting on DRAP’s opinion, the FBR recommended action against the petitioner. Later consignments were held, but released after court intervention upon securing bank guarantees. When a new consignment (dated 01.08.2025) was imported, the petitioner classified it under PCT 3006.1090, claiming a 1% sales tax rate under Entry No. 81 of the Eighth Schedule, which applies to “substances registered as drugs under the Drugs Act, 1976.” Customs rejected this claim via order dated 27.08.2025, holding that DRAP classified sutures as medical devices, not drugs.

- Issues:** Whether FBR’s letter (03.07.2025) declaring sutures as “medical devices” was ultra vires and without jurisdiction. Whether sutures imported under GD dated 01.08.2025 qualify as disposables under PCT 9938 (and hence exempt). Alternatively, whether sutures are entitled to a reduced 1% sales tax under Entry No. 81, being “registered as drugs under the Drugs Act, 1976.”
- Rule:** Section 3(g)(ii), Drugs Act, 1976 — defines “drug,” including certain medical devices like sutures. Entry No. 81, Table-1, Eighth Schedule, Sales Tax Act, 1990 — grants a 1% sales tax rate to substances registered as drugs under the Drugs Act. Medical Devices Rules, 2017 (under DRAP Act, 2012) — introduced a separate regulatory regime for medical devices. SRO 824(I)/2018 — removed sutures from the “drug” category. SRO 526(I)/2021 — added sutures under the “medical devices” regime. *Popular International (Pvt.) Ltd. v. Pakistan (2024 PTD 1121)* — held sutures registered as drugs under the Drugs Act entitled to reduced tax.
- Application:** Customs duty for both PCT 9938 (disposables) and PCT 3006.1090 (medical devices) was 0%, so the dispute mainly involved sales tax classification. The petitioner’s current consignment was self-classified under PCT 3006.1090, so claiming PCT 9938 benefits was inconsistent. Under Entry No. 81, only goods registered as drugs under the Drugs Act qualify for the 1% rate. The petitioner’s DRAP certificate showed registration under the Medical Devices Rules, 2017, not as a drug under the Drugs Act. In *Popular International*, sutures were actually registered as a drug, hence qualified — but here, they were not. The petitioner never challenged DRAP’s classification nor sought registration under the Drugs Act. The Court reaffirmed the principle that tax exemptions are strictly construed in favor of the State.
- Conclusion:** FBR’s letter (03.07.2025) had no operative effect on the current consignment. The Customs assessment order (27.08.2025) denying 1% sales tax was valid and not contrary to *Popular International*. Petition dismissed — no constitutional interference warranted. Constitutional Petition (C.P. No. D-4353/2025) was dismissed. Sutures classified as medical devices under Medical Devices Rules, 2017

do not qualify for reduced tax benefits applicable to registered drugs.

16. SINDH HIGH COURT

Const. Petition No. D – 4243 of 2025

Const. Petition No. D – 4244 of 2025

M/s. ASA International v. Federation of Pakistan & others)

M/s. Munir Brothers v. Federation of Pakistan & others)

Present: Mr. Justice Adnan Iqbal Chaudhry, Mr. Justice Muhammad Jaffer Raza.

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgxOTM5Y2Ztcy1kYzgZ>
2025 KHI 2410

Facts: The Petitioners imported goods that were assessed under Valuation Rulings issued by the Customs Department under Section 25A of the Customs Act, 1969. They challenged the assessment orders dated 30.07.2025 and 01.08.2025 before the Collector of Customs (Appeals) under Section 193 of the Customs Act, 1969. The Respondents (Customs authorities) relied on Valuation Rulings, arguing that since such rulings existed, no provisional determination under Section 81 could be allowed. They were not challenging the Valuation Rulings themselves. No review or appeal was pending under Section 25D or Section 194-A (Appellate Tribunal). The goods in question were not covered under the Valuation Rulings because the PCT codes applicable to their imports remained unchanged. Hence, they sought release of consignments upon securing disputed tax amounts.

Issues: Whether the petitions are barred by previous judgments in: *Collector of Customs, Lahore v. Wasim Radio Traders* (2023 SCMR 176) *Shamim Ahmed v. Federation of Pakistan* (2024 PTD 736). Whether provisional release of goods can be allowed under Section 81, where Valuation Rulings exist but are not challenged. Whether the petitioners' goods are covered under the Valuation Rulings issued by Customs.

Rule: Section 25D, Customs Act, 1969: Provides for review of valuation rulings. Section 193, Customs Act, 1969: Right of appeal to the Collector (Appeals). Section 194A, Customs Act, 1969: Right of appeal to the Appellate Tribunal. Section 81, Customs Act, 1969: Governs provisional release of goods, with a third proviso inserted by Finance Act 2022, barring provisional release where a Valuation Ruling (VR/PVR) exists.

Application: The Petitioners were not aggrieved by the Valuation Rulings themselves; they only disputed their applicability to their goods. No review under Section 25D or appeal

under Section 194A was pending. The PCT code (Pakistan Customs Tariff classification) for the goods remained unchanged, suggesting that the Valuation Rulings cited by Customs did not apply to the Petitioners' goods. In light of this, the Court found the facts distinguishable from *Wasim Radio Traders* and *Shamim Ahmed*, where active review or appeals against Valuation Rulings were involved. Therefore, the bar under the third proviso to Section 81 (prohibiting provisional valuation when VR exists) did not apply in this case.

Conclusion: The Petitioners' cases were not hit by the earlier judgments (*Wasim Radio* and *Shamim Ahmed*). Since no review or appeal was pending, and the goods were not covered by Valuation Rulings, the provisional release of consignments could be allowed. Petitioners to deposit undisputed duties and taxes with the Collectorate. Disputed amounts to be secured before the Nazir of the Court via bank guarantees or pay orders. Nazir to issue certificates upon securing amounts and invest pay orders in profit-bearing instruments. Upon production of the Nazir's certificates, Customs to release the consignments forthwith. The fate of secured amounts will depend on the final outcome of appeals pending before the Collector (Appeals).

17. SINDH HIGH COURT

Haider Zaman and others vs. Province of Sindh and others
C. P. No. S-2326 of 2017

Present: Mr. Justice Jawad Akbar Sarwana

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgxODA5Y2Ztcy1kYzgZ>
Sindh High Court Citation (2025 SHC KHI 2406)

Facts: The 20 petitioners, who are former workers of M/s. Muhammad Farooq Textile Mills Limited (MFTML), filed a writ petition in the High Court of Sindh under Article 199 of the Constitution. They are aggrieved by the non-compliance of the direction dated 05.03.2011 issued by the Commissioner for Workmen Compensation under the Payment of Wages Act, 1936, which directed MFTML to pay compensation to the workers. The petitioners claim that despite the direction, no action has been taken by the Assistant Commissioner to recover the compensation amount from the current employer, M/s. Artistic Garments Industries (Pvt.) Ltd. (AGIPL), who became the occupier of the factory where the petitioners previously worked. AGIPL, having acquired the factory through a legal settlement, is now responsible for the payment of the compensation due to the petitioners. The petitioners' counsel argues that AGIPL, as the new occupier, is liable for the compensation amounts as arrears of land revenue, which should be recovered from

them. They also contend that the delay in the recovery of the arrears is due to the failure of the Authority and the Assistant Commissioner to act in accordance with the provisions of the Payment of Wages Act, 1936. AGIPL, on the other hand, disputes this liability, asserting that the factory's assets were transferred to them through a legal settlement, and the petitioners' claims should be addressed through the winding-up proceedings of MFTML, which are ongoing.

Issue: Whether AGIPL, as the new occupier of the factory, is liable for the payment of the compensation due to the 20 workers under the direction issued in 2011. Additionally, the case concerns the failure of the Authority and the Assistant Commissioner to enforce the direction and recover the compensation amount as arrears of land revenue, which the petitioners argue is unlawful inaction?

Rule: The applicable law is the Payment of Wages Act, 1936, particularly Section 15, which provides the framework for recovery of wages owed to workers through the machinery of the Assistant Commissioner. Additionally, the Factories Act, 1934 and its provisions regarding the role of the "occupier" of a factory are relevant in determining AGIPL's responsibility for the compensation. Under Section 15 of the Payment of Wages Act, once a direction is issued for the payment of wages, the Assistant Commissioner is authorized to recover the dues as arrears of land revenue. Furthermore, Section 5 of the same Act empowers the Authority to issue directions for compensation.

Application: The court applied the provisions of the Payment of Wages Act, 1936, and the responsibilities of the Authority and the Assistant Commissioner under this law. The petitioners' counsel argued that AGIPL, as the new occupier, must pay the outstanding compensation as determined in the 2011 direction, while AGIPL contended that the liability rests with the winding-up proceedings against MFTML and not with them. The Assistant Commissioner failed to take further action after issuing notices to MFTML, leading to the petitioners' grievance about the delay in enforcing the recovery. The court examined the facts surrounding AGIPL's acquisition of the factory, the failure to implement the 2011 direction, and the lack of a clear explanation from the Authority and Assistant Commissioner regarding the non-enforcement of the order.

Conclusion: The court found that the Authority's failure to execute its directions under Section 15(5)(b) of the Payment of Wages Act, 1936, was "without lawful authority" and "of no legal effect." The court directed the Authority and the Assistant Commissioner to complete the process of recovery and issue a further direction within 45 days, providing reasons for the delay and outlining the next steps for enforcement. The petitioners' writ was allowed, and the Authority was ordered to take action to bring

closure to the matter. The court further clarified that after the further direction is issued, the petitioners or any aggrieved party would have the right to challenge it through the appropriate legal channels.

18. SINDH HIGH COURT

Criminal Acquittal Appeal No.651 of 2022

Muhammad Faheemuddin Vs Kamran Qureshi & Ors

Present: Mr. Justice Muhammad Hasan (Akber)

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgzNTU5Y2Ztcy1kYzgZ>
2025 SHC KHI 2583

Facts: The case revolves around Muhammad Faheemuddin, the complainant, who purchased Plot No.LS-169, measuring 40 square yards, in Sector 11/E, New Karachi, from Abdul Hameed and had it transferred to his name by the Karachi Development Authority (KDA). The complainant alleged that the accused—Khurram Qureshi, Kamran Qureshi, Munna Qureshi, and Furqan Qureshi—illegally occupied the property and began construction on it, leading to the filing of FIR No.239/2021 under Sections 447 and 448 of the Pakistan Penal Code (PPC). Despite the passage of considerable time, the prosecution only produced the complainant as a witness, and no other supporting evidence was presented. The accused filed applications for premature acquittal under Section 249-A of the Criminal Procedure Code, which the trial court accepted, citing the lack of sufficient evidence and inconsistencies in the complainant's allegations. The trial court also noted the pendency of a civil suit concerning the same property and concluded that the matter should be addressed in the civil court. Based on these factors, the accused were acquitted, leading to the appeal by the complainant against the acquittal.

Issue: The central issue in this case was whether the trial court's acquittal of the accused (Khurram Qureshi, Kamran Qureshi, Munna Qureshi, and Furqan Qureshi) under Sections 447 and 448 of the Pakistan Penal Code (PPC) should be overturned by the High Court. Specifically, the appeal raised the question of whether the trial court's decision to acquit was correct and whether the High Court should intervene in the acquittal.

Rule: The rule of law applicable in this case is that in an appeal against acquittal, the appellate court can only interfere with the trial court's decision if the acquittal is found to be perverse, arbitrary, or based on a serious misreading or non-reading of the evidence. It is established that once an accused is acquitted, the presumption of

innocence becomes even stronger, and the burden of proof rests heavily on the prosecution to prove the guilt beyond a reasonable doubt. Moreover, in acquittal appeals, the standard for intervention is much narrower than in conviction appeals. Interference can only occur if the trial court's decision is grossly erroneous or speculative, resulting in a miscarriage of justice.

Application: In this case, the trial court acquitted the accused based on several key factors. Firstly, the prosecution failed to present any witnesses other than the complainant, even after a significant amount of time had passed since the filing of the case. Secondly, there was inconsistency in the allegations made by the complainant. Despite claiming that Kamran Qureshi was involved in the unlawful occupation of the property, the complainant did not include him as an accused in the complaint under the Illegal Dispossession Act, and later, the complainant conceded that he had no accusations against Kamran Qureshi. This raised doubts about the reliability of the complainant's testimony. Additionally, the exhibits presented did not show any involvement of the accused, and their names were added to the case only later without clear evidence of their participation in the offense. Furthermore, there was an ongoing civil suit related to the same property, which the trial court deemed to be the proper forum for resolving any issues regarding ownership. The trial court concluded that the prosecution had failed to prove the guilt of the accused beyond a reasonable doubt. The High Court reviewed the trial court's reasoning and found that the acquittal was based on solid grounds. The trial court had carefully examined the available evidence and had made its decision after considering the larger context of the case, including the pending civil suit.

Conclusion: The High Court concluded that the appeal filed by Muhammad Faheemuddin lacked merit and dismissed it. The acquittal by the trial court was affirmed, as it was based on sound reasoning and was not perverse or legally flawed. The High Court emphasized that in acquittal appeals, the scope for interference is limited, and the prosecution had not demonstrated any serious legal or factual errors in the trial court's decision. As a result, the acquittal was upheld, and the appeal was dismissed.

19. SINDH HIGH COURT
Criminal Bail Application No. 624 of 2025
Ali Shah S/o Ashraf Masih VS The State

Present: Mr. Justice Muhammad Hasan (Akber)

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgzNTYxY2Ztcy1kYzgz>
2025 SHC KHI 2584

- Facts:** The facts of the case are that the complainant, who runs a business under the name *Mughal Motors*, sold a Toyota Corolla XLI to the applicant, Ali Shah, on 08.03.2018 for Rs. 31,50,000. In consideration of the payment, the applicant issued four cheques totaling the said amount. When the complainant presented these cheques for encashment, all were dishonored by the bank. Despite repeated demands, the applicant failed to make payment. Consequently, the complainant lodged an FIR under Section 489-F PPC at Police Station Gulshan-e-Iqbal, Karachi. The FIR, however, was registered after an unexplained delay of more than three years. The applicant denied the allegations, asserting that the case was based on malafide intention and that the dispute was purely civil in nature arising out of a business transaction. He contended that the complainant had produced no written agreement, sale documents, or evidence to support the alleged transaction and that the FIR was an attempt to harass him. The prosecution, on the other hand, maintained that the applicant had issued dishonored cheques and that the act constituted a criminal offence under Section 489-F PPC. Upon review, the Court observed that the delay in lodging the FIR, absence of supporting documents, and the business nature of the transaction gave the case a civil complexion and warranted further inquiry.
- Issue:** The principal issue before the High Court of Sindh at Karachi was whether the applicant, Ali Shah, accused under Section 489-F of the Pakistan Penal Code for issuing four dishonored cheques amounting to Rs. 31,50,000 in a vehicle purchase transaction, was entitled to the concession of pre-arrest bail under Section 498 Cr.P.C. The Court was required to determine whether the dispute had a criminal nature involving dishonesty or whether it was essentially a civil matter arising from a business transaction, and whether the long delay in lodging the FIR and lack of supporting evidence warranted further inquiry.
- Rule:** Under Section 497 Cr.P.C., bail is a rule and refusal is an exception, particularly in offences that do not fall within the prohibitory clause. For an offence under Section 489-F PPC, it must be shown that a cheque was issued dishonestly towards repayment of a loan or fulfillment of an obligation. The Court relied on precedents from the Supreme Court, including *Ali Anwar Paracha v. The State* (2024 SCMR 1596), which held that bail in non-prohibitory offences should generally be granted; *Zafar Nawaz v. The State* (2023 SCMR 1977), which reiterated that the mere pendency of other cases does not preclude bail; *Muhammad Anwar v. The State* (2024), which found that cheques given as security do not attract Section 489-F; and *Abdul Saboor v. The State* (2022 SCMR 592) and *Noman Khaliq v. The State* (2023 SCMR 2122), which emphasized that Section 489-F should not be misused for recovery of civil dues, as civil remedies exist under Order XXXVII of the CPC.

Application: The Court noted that the FIR was registered more than three years after the alleged incident without any reasonable explanation for the delay, casting serious doubt on the credibility of the prosecution's version. The complainant had not produced any sale agreement, vehicle transfer documents, or other written proof to substantiate the alleged transaction beyond the FIR's narration. The absence of such documentation and the business nature of the dealings gave the case a clear civil character rather than a criminal one. The Court further observed that the applicant was not a habitual offender, had no previous criminal record, and appeared to be facing unnecessary harassment through police raids. Given that the offence did not fall within the prohibitory clause and the prosecution case suffered from significant delay and lack of documentary support, the Court found that the matter required further inquiry under Section 497(2) Cr.P.C. Applying the settled principle that bail is a rule and jail an exception, the Court held that the applicant had made out a case for confirmation of pre-arrest bail.

Conclusion: The Court concluded that the prosecution failed to establish a prima facie case of criminal liability as the FIR was delayed by over three years and the transaction appeared to be of a civil nature. Since the offence was not covered by the prohibitory clause and the record showed sufficient grounds for further inquiry, the Court allowed the bail application. The interim pre-arrest bail earlier granted to the applicant on 10.03.2025 was confirmed on the same terms and conditions through the short order dated 10.09.2025. The Court clarified that all observations were tentative and would not prejudice the trial.

20.

SINDH HIGH COURT

Criminal Bail Application No. 1197 of 2025

Azmat Hussain Siddiqui S/O Sharafat Hussain Siddiq Vs The State

Present: Mr. Justice Muhammad Hasan (Akber).

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgzNTYzY2Ztcy1kYzgz>
2025 SHC KHI 2585

Facts: The facts of the case are that the complainant, owner of Trans Fast Logistic Company, alleged that the applicant, Azmat Hussain Siddiqui, owner of Ioconic Group, obtained a loan of Rs. 6 crore on 23.10.2023 with a promise to pay profit but failed to do so, and instead issued a cheque for Rs. 65,00,000, which was dishonored upon presentation on 16.02.2024, leading to the registration of an FIR under Section 489-F PPC at Police Station Ferozabad, Karachi. The applicant denied the allegations, asserting that he is a reputable businessman and that the cheque was

obtained from him fraudulently in the course of a business partnership rather than as repayment of a loan. He produced an Investment and Partnership Deed dated 20.10.2023 to show that the transaction was commercial in nature and argued that the complainant, acting individually and without a Board Resolution from his company, was not authorized to lodge the FIR. The applicant also pointed out that a Sale Deed dated 22.04.2024 executed between the complainant and his wife, and the pendency of a civil suit over the same cheques, demonstrated that the matter was civil rather than criminal. The prosecution opposed bail, citing the seriousness of the dishonored cheque, but the Court noted the lack of documentary proof of payment, the civil nature of the dispute, and the ongoing civil proceedings, concluding that the case required further inquiry.

Issue: The primary issue before the High Court of Sindh at Karachi was whether the applicant, Azmat Hussain Siddiqui, accused under Section 489-F PPC for issuing a dishonored cheque amounting to Rs. 65,00,000 in the context of a financial transaction with the complainant, was entitled to the concession of pre-arrest bail. The Court was to determine whether the dispute was genuinely criminal in nature involving dishonesty and fraudulent intent, or whether it was essentially a civil and business dispute arising out of a partnership or investment arrangement, thus calling for further inquiry under Section 497(2) Cr.P.C.

Rule: Under Section 497 Cr.P.C., bail is a rule and jail an exception, especially in offences that do not fall within the prohibitory clause. To constitute an offence under Section 489-F PPC, the foundational elements are: (i) issuance of a cheque, (ii) issuance with dishonest intent, and (iii) issuance towards repayment of a loan or fulfillment of an obligation. The Court referred to several precedents from the Supreme Court, including *Mian Allah Ditta v. The State* (2013 SCMR 51), which held that not every dishonored cheque constitutes a criminal offence absent clear evidence of obligation and dishonesty; *Ali Anwar Paracha v. The State* (2024 SCMR 1596), emphasizing the necessity of proving dishonest intent; *Abdul Rashid v. The State* (2023 SCMR 1948) and *Khizer Hayat v. The State* (2021 MLD 1597), which recognized that cheques issued as surety or in business contexts warrant further inquiry; and *Noman Khaliq v. The State* (2023 SCMR 2122), reaffirming that Section 489-F PPC should not be used for civil recovery and that such disputes should be addressed under civil remedies like Order XXXVII CPC.

Application: The Court observed that the complainant, owner of Trans Fast Logistic Company, alleged that the applicant borrowed Rs. 6 crore and issued a cheque of Rs. 65 lakh, which was dishonored. However, the applicant produced an *Investment and Partnership Deed dated 20.10.2023*, showing that the transaction arose from a business partnership rather than a personal loan. The complainant, acting

individually rather than through his company, had not produced any *Board Resolution* authorizing him to lodge the FIR on behalf of the company, raising doubts about his authority. The Court further noted that a *Sale Deed dated 22.04.2024* between the complainant and the applicant's wife suggested that some adjustments or settlements may have taken place. Moreover, a *Civil Suit* concerning the same cheques was pending before a competent civil court, confirming that the matter was primarily civil in nature. Given these circumstances — absence of proof of payment, lack of board authorization, existence of an investment deed, and pendency of civil litigation — the Court held that the case warranted *further inquiry* as to whether the cheque was issued dishonestly or as part of a business arrangement. Since the maximum punishment under Section 489-F PPC is three years, the offence does not fall within the prohibitory clause of Section 497 Cr.P.C., making the applicant eligible for bail.

Conclusion: The Court concluded that the prosecution failed to establish the element of dishonest intent or any direct evidence of a criminal obligation. The presence of an investment agreement, sale deed, and pending civil suit indicated that the dispute was of a business and civil nature rather than a criminal one. Consequently, the Court found reasonable grounds for *further inquiry* under Section 497(2) Cr.P.C. and held that the applicant was entitled to the concession of pre-arrest bail. The *interim pre-arrest bail* earlier granted on 12.05.2025 was *confirmed* on the same terms and conditions through a short order dated 09.09.2025. The Court clarified that its observations were *tentative* and would not prejudice the trial.

21. SINDH HIGH COURT
Criminal Bail Application No. 1464 of 2025
Sumair gagai s/o Salim gagai vs The State

Present: Mr. Justice Muhammad Hasan (Akber)

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgzNTY1Y2Ztcy1kYzgZ>
2025 SHC KHI 2586

Facts: The complainant, who operates a car showroom business, advanced a loan of Rs.30 million to his old friend Muhammad Sameer Gagai for his cloth business, with initial profit payments made on a partnership basis. However, the accused later stopped making payments, and upon the complainant's demand for repayment, the accused issued three dishonored cheques totaling Rs.4.5 million from his brother's account, followed by four additional dishonored cheques amounting to Rs.10

million from a different bank. Despite repeated efforts to contact the accused, he failed to return the money and continued to avoid the complainant, issuing bogus cheques in what appeared to be a fraudulent manner. The complainant subsequently lodged an FIR for the dishonor of these cheques, leading to the applicant's arrest application.

Issue: Whether the applicant is entitled to pre-arrest bail in a matter involving the dishonor of cheques under Section 489-F of the Pakistan Penal Code (PPC), where the complainant alleges that the applicant issued dishonored cheques but the applicant denies the existence of any prior financial obligation or payment.

Rule: Section 489-F of the Pakistan Penal Code (PPC) defines the offence of dishonor of a cheque issued for the discharge of a debt or liability, with dishonest intent to defraud. Section 497(2) of the Code of Criminal Procedure (Cr.P.C.) allows the granting of bail when the offence does not fall under the prohibitory clause of Section 497(1), or if there is doubt about the veracity of the prosecution's case or the involvement of the applicant. The principle from the Supreme Court case 'Ali Anwar Paracha v. The State' (2024 SCMR 1596) emphasizes that bail is a rule, and refusal is an exception, especially for offences not falling under the prohibitory clause of Section 497 Cr.P.C. Further principles from the Supreme Court suggest that bail can be granted unless exceptional circumstances, such as the risk of absconding or repeating the offence, exist.

Application: The applicant argues that there was no financial transaction or agreement between him and the complainant, and that the cheques issued were not backed by any payment. The applicant claims that the FIR was filed after an unexplained delay of nearly 11 months, which he believes reflects mala fide intent. Additionally, the applicant asserts that there is insufficient evidence to prove the existence of a debt or obligation, and that the FIR was filed to harass him. Therefore, the applicant argues that he is entitled to bail as a matter of right. On the other hand, the prosecution and the complainant argue that the applicant took Rs.30 million from the complainant under the guise of a business investment and issued multiple dishonored cheques in repayment. They assert that this clearly demonstrates dishonest intent from the start. The complainant explained the delay in filing the FIR by claiming that the applicant continuously assured him of repayment, so the delay should not be a reason to deny bail. The prosecution further argues that pre-arrest bail should not be granted to someone who allegedly committed a serious financial fraud and cheated the complainant out of a large sum of money. The court reviewed the primary argument of the applicant, which is that no actual financial transaction occurred between the complainant and the applicant and that the cheques issued were not tied to any obligation. The court also noted that the complainant failed to present evidence of an

actual payment made to the applicant, which is a crucial element for the offence under Section 489-F PPC. Additionally, the applicant denied the signatures on the cheques, which would need to be investigated further during the trial. The court observed that the FIR was lodged after an unusually long delay of over a year, without any satisfactory explanation. This delay casts doubt on the credibility of the prosecution's story. Given these factors, the court concluded that further inquiry was necessary to determine the veracity of the transaction and the actual liability of the applicant. Furthermore, the court acknowledged that the offence did not fall under the prohibitory clause of Section 497(1) Cr.P.C., and the applicant was not a habitual offender. The police had conducted raids at his residence and were attempting to arrest him, which the court viewed as undue harassment. Based on these factors, the court determined that the applicant had made a case for the confirmation of pre-arrest bail.

Conclusion: The court concluded that, based on a tentative assessment and in line with the principles established in previous Supreme Court cases, the applicant is entitled to pre-arrest bail. The application for bail was, therefore, allowed, and the interim bail granted earlier was confirmed on the same terms. The observations made by the court were tentative in nature and were not intended to prejudice the outcome of the trial.

22. SINDH HIGH COURT
Criminal Bail Application No. 1479 of 2025
Muhammad Faizan S/O Siraj Muhammad Vs The State

Present: Mr. Justice Muhammad Hasan (Akber)

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgzNTY3Y2Ztcy1kYzgZ>
2025 SHC KHI 2587

Facts: The facts of the case are that the complainant's daughter, Anaya, aged about 17 to 18 years, was allegedly abducted at gunpoint near Laila Town, Malir City, by her school fellow Faizan (the applicant) along with three unknown accomplices. It was reported that the accused persons administered some intoxicant to her, rendering her unconscious, and subjected her to gang rape at an unknown location. Later, she was dropped back at her home around 9:00 PM in a Yango car. The complainant lodged an FIR under Sections 376, 342, and 34 of the Pakistan Penal Code at Police Station Malir City. During investigation, the victim in her judicial statement under Section 164 Cr.P.C., and the medical report confirmed signs of sexual assault. The statement

of a guest house chowkidar also supported the prosecution's version that the victim had been taken there. Faizan was arrested on 19.04.2025 and applied for post-arrest bail, asserting false implication due to a disapproved friendship, delay in FIR registration, and his juvenile status. The prosecution opposed the bail, maintaining that the offence was heinous, the evidence corroborative, and that the delay was justified by the circumstances. The court, finding reasonable grounds for believing the applicant's involvement and considering the serious nature of the crime, dismissed the bail application.

Issue: The primary issue before the High Court of Sindh, Karachi, was whether the applicant, accused of abduction and gang rape under Sections 376, 342, and 34 of the Pakistan Penal Code, should be granted post-arrest bail. The applicant contended that he had been falsely implicated due to a disapproved friendship with the victim, that there was delay in lodging the FIR, and that he was a juvenile entitled to leniency. The prosecution, on the other hand, opposed the bail citing the gravity of the offence and supporting evidence including the victim's statement and medical report.

Rule: Under Section 497 of the Code of Criminal Procedure, bail cannot be granted when reasonable grounds exist to believe that the accused has committed a non-bailable offence falling within the prohibitory clause. In cases of sexual assault and other heinous offences, the courts are required to apply strict scrutiny. Bail may only be granted when there is apparent doubt or inconsistency in the prosecution's case. The Court relied on precedents such as *Aslam Ablo v. The State* (2020 YLRN 154), *Mansoor alias Gudo v. The State* (2014 MLD 377), *Ali Hasan v. The State* (2013 YLR 937), *Azhar Mahmood alias Moodi v. The State* (2014 P.Cr.L.J. 1635), and *Irshad Ali v. The State* (2011 MLD 2861), which reaffirm that bail in rape cases should not be granted where there is prima facie evidence and corroboration through victim testimony or medical findings.

Application: The Court examined the applicant's contentions and found that the delay of thirty-four hours in filing the FIR was not unreasonable in light of the trauma suffered by the young victim and her family's initial efforts to ensure her medical care and safety. The victim's statement under Section 164 Cr.P.C., recorded before a magistrate, carried substantial evidentiary weight and corroborated the FIR. The medical evidence prima facie supported the allegation of sexual assault. The Court observed that the applicant's claim of false implication lacked supporting material and appeared to be an afterthought. Regarding the applicant's plea of juvenility, the Court held that the Juvenile Justice System Act does not guarantee bail in every circumstance. The heinous and non-compoundable nature of the offence outweighed any leniency arising from the applicant's age. The record showed that the applicant

was directly nominated by the victim both in the FIR and her judicial statement, and there was corroboration from the chowkidar's statement indicating that the victim had been taken to a guest house. The Court further noted that deeper appreciation of evidence is discouraged at the bail stage. Since the material on record established reasonable grounds for believing that the applicant was involved in the offence, and given the likelihood of influencing witnesses, the Court found no justification for bail.

Conclusion: The Court concluded that the allegations were grave, the evidence on record prima facie connected the applicant with the crime, and the offence fell within the prohibitory clause of Section 497 Cr.P.C. As such, no case for further inquiry was made out. Without commenting on the merits, the Court dismissed the post-arrest bail application, holding that the seriousness of the crime, supported by the victim's consistent statement and medical evidence, outweighed all technical or sympathetic grounds raised by the defence.

23. **SINDH HIGH COURT**

Criminal Bail Application No. 1547 of 2025

Pir Bux S/O Mushtaq Ali Vs The State

Present: Mr. Justice Muhammad Hasan (Akber)

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgzNTY5Y2Ztcy1kYzgZ>
2025 SHC KHI 2588

Facts: The facts of the case are that FIR No. 289/2021 was registered at Police Station Malir Cantt, Karachi, against Imran Khan and Rizwan Riaz for offences under Sections 420, 406, and 34 PPC on allegations of defrauding the public through M/s Royal Securities (Pvt.) Ltd. under the pretext of stock investments. Upon investigation, the case was referred to the FIA to probe money laundering aspects, leading to the registration of FIR No. 07/2022 under Sections 3 and 4 of the Anti-Money Laundering Act, 2010. The inquiry revealed that funds collected from the public were allegedly misappropriated and layered through multiple accounts for personal use and property purchases. However, the applicant, Khalid Islam, was neither named in the FIR nor mentioned in the charge sheet, and no evidence or ownership documents linked him to the proceeds of crime or the company. The alleged property (Hall No. 6) was only reflected in his tax return as goodwill, not as criminal proceeds, and a prosecution witness also did not assign him any specific role. The offences related to 2016–2020, yet the applicant was arrested after an unexplained delay of nearly three years, without any prior notice under the AMLA.

The applicant contended that he was falsely implicated, the investigation had concluded, and no incriminating evidence existed against him, while the Court found no material showing his involvement in laundering or possessing crime proceeds, holding that the case called for further inquiry.

Issue: The central issue before the High Court of Sindh, Karachi, was whether the applicant, Khalid Islam, allegedly involved in money laundering under Sections 3 and 4 of the Anti-Money Laundering Act, 2010 (as amended 2020), in connection with Crime No. 07/2022 registered by the FIA Commercial Crimes Circle, Karachi, was entitled to the concession of post-arrest bail. The question was whether sufficient incriminating material existed to connect the applicant with the proceeds of crime, and whether his continued detention was justified when he was neither named in the FIR nor in the charge sheet, and the investigation had been completed.

Rule: Under Section 497 Cr.P.C., bail is a rule and jail an exception, especially where the offence does not fall under the prohibitory clause. For the applicability of Section 4 of the AMLA, 2010, it must be shown that the accused is connected with *proceeds of crime* and that the property or assets in question are derived from criminal activity. Mere suspicion or association with others accused in the case is insufficient. The Court relied on precedents such as *Salman Mushtaq v. The State (2024 SCMR 14)*, which held that in non-prohibitory offences, bail should ordinarily be granted; *2023 YLR 166*, stating that Section 4 AMLA requires proof that property represents crime proceeds; and *Hasan Ali Raja v. The State (2020 P.Cr.L.J. 931)*, which observed that mere abscondence cannot outweigh merits if further inquiry exists. The Court also referred to *Brig. (R) Qaiser Shahzad v. The State (2025 MLD 122)*, which held that once investigation is complete, apprehension of tampering or influence over witnesses is minimal.

Application: The Court noted that FIR No. 07/2022 was registered on 21.02.2022 for money laundering based on a reference from an earlier fraud case (FIR No. 289/2021). However, the applicant's name did not appear in either the FIR or the interim charge sheet submitted on 09.03.2022. Examination of the record revealed that the applicant was neither a director nor shareholder of M/s Royal Securities (Pvt.) Ltd., the company alleged to have defrauded investors. The Court further observed that no property or asset stood in the applicant's name, and that the prosecution's claim regarding ownership of halls was unsupported by any documentary evidence. The alleged Hall No. 6 was merely reflected in the applicant's tax return under "goodwill," which, in itself, did not prove it represented proceeds of crime. The statement of a prosecution witness (PW-17) mentioned another person, M. Azfar Jaffery, in connection with the alleged Rs. 29 crore transaction, without attributing any role to the applicant. Additionally, the Court noted a significant and unexplained

delay — almost three years — between the charge sheet (March 2022) and the applicant’s arrest (May 2025). During that period, no notice under Sections 18 or 19 of the AMLA was served upon him. Since the investigation was complete, charge framed, and trial underway, the Court found that further custody of the applicant served no purpose. The lack of direct evidence linking the applicant to any proceeds of crime made the case one of *further inquiry* under Section 497(2) Cr.P.C. Moreover, as the maximum punishment under Section 4 AMLA is ten years, the offence did not fall within the prohibitory clause, making bail the rule. The Court also rejected the prosecution’s apprehension of tampering with evidence, noting that the investigation had concluded and witnesses were yet to be examined in trial.

Conclusion: The Court concluded that the applicant was not named in the FIR or charge sheet, that there was no material connecting him to the proceeds of crime, and that his arrest after an unexplained delay of nearly three years was unjustified. Given the completion of investigation, framing of charge, non-applicability of the prohibitory clause, and absence of incriminating evidence, the case fell under *further inquiry*. Consequently, the Court allowed the post-arrest bail application, admitting the applicant to bail on furnishing solvent surety of Rs. 100,000 with a bail bond of like amount to the satisfaction of the trial court. The applicant was directed to cooperate with the trial and avoid unnecessary adjournments, with the warning that any misuse of the concession would invite legal action. The Court clarified that the observations were tentative and would not prejudice the trial court’s independent assessment.

24. SINDH HIGH COURT

Criminal Miscellaneous Application No.97 of 2024

Syed Usman Habib Vs The State & Ors

Present: Mr. Justice Muhammad Hasan (Akber)

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgzNTcxY2Ztcy1kYzgZ>
2025 SHC KHI 2589

Facts: The facts of the case are that on 16.09.2023, Syed Usman Habib, Inspection Manager of K-Electric, Shah Faisal Colony, Karachi, verbally lodged an FIR No. 431/2023 at Police Station Shah Faisal Colony, alleging that during an inspection on 15.09.2023, his subordinate, a Meter Inspection Officer, discovered that electricity meters at House No. C-1-26/283, Old Iqbalabad, Drig Road, which had been disconnected for non-payment, were being illegally used through “kundas” for power theft, constituting an offence under Section 462-J PPC. After investigation,

the police submitted a final report under Section 173 Cr.P.C., but the learned Judicial Magistrate-XI, Karachi East, refused to take cognizance, holding that under Section 462-O(2) PPC, courts can only take cognizance upon a *written complaint* filed by a duly authorized officer (not below Grade-17) of the Government or distribution company, and that a verbal FIR is not permissible for offences under Chapter XVII-B PPC. The Magistrate, therefore, classified the case as “C” class, treating the FIR as filed under a misstatement of law. Aggrieved, the applicant, representing K-Electric, challenged the order before the High Court under Section 561-A Cr.P.C., arguing that the Magistrate had erred in refusing cognizance and that the FIR was properly lodged to prosecute electricity theft.

Issue: Whether the Judicial Magistrate-XI, Karachi East, correctly refused to take cognizance and disposed of FIR No. 431/2023 under “C” class—regarding alleged electricity theft under Section 462-J PPC—on the ground that, for offences in Chapter XVII-B PPC, cognizance cannot be taken on a police FIR and is barred absent a written complaint by a duly authorized Grade-17 (or above) officer of the Government or the distribution company, as required by Section 462-O PPC.

Rule: Chapter XVII-B PPC (Electricity offences) is a special regime. Section 462-O(2) PPC, with a non-obstante clause, mandates that courts “shall not take cognizance” of any offence under this Chapter “except on a complaint” in writing, with reasons and full particulars, made by a duly authorized officer (Grade-17+) of the Government or the distribution company. Section 462-P PPC gives the Chapter overriding effect over the Cr.P.C. or any other law. “Court” is defined by Section 462-G(a) PPC as the designated Electricity Utilities Court (Court of Session). Consistent precedent holds that FIRs under Section 154 Cr.P.C. are not the proper mode for initiating Chapter XVII-B prosecutions: *PESCO v. State* (2020 PCr.LJ 249, PHC), *Muhammad Ibrahim v. State* (2021 PCr.LJ 412, BHC), and the Division Bench judgment *K-Electric (Pvt.) Ltd. v. State* (PLD 2019 Sindh 209), which treats Chapter XVII-B as a special law overriding inconsistent procedures. The canon *expressio unius est exclusio alterius* further supports that where the statute prescribes one mode (written complaint), others (FIR) are excluded.

Application: The FIR was verbally lodged by a K-Electric inspection manager without a written complaint meeting Section 462-O(2)’s requirements and without showing due authorization from a Grade-17+ officer. Given the Chapter’s explicit ouster of Cr.P.C. procedures and the binding special-law pathway for cognizance, the Magistrate correctly found cognizance “expressly barred” and treated the FIR as registered under a misapprehension of law, disposing it under “C” class. The applicant’s reliance on general Cr.P.C. provisions and bail-stage cases was distinguishable; those decisions did not grapple with the controlling Chapter XVII-B

framework or its overriding clauses, unlike the cited authorities that do. Accordingly, no jurisdictional or legal error in the Magistrate's order was demonstrated.

Conclusion: Because Chapter XVII-B PPC requires a written complaint by a duly authorized Grade-17+ officer and bars cognizance on a police FIR, the Magistrate rightly refused cognizance and disposed of the FIR under "C" class. Finding no illegality or infirmity, the High Court dismissed the Criminal Miscellaneous Application under Section 561-A Cr.P.C., leaving the applicant to pursue remedies strictly in accordance with the special procedure (i.e., by proper written complaint before the Electricity Utilities Court).

25. **SINDH HIGH COURT**

Execution No.25 of 2012

Askari Bank Ltd. VS A.H. International (Pvt) Ltd. & OTHERS

Present: Mr. Justice Muhammad Hasan (Akber)

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgzNTczY2Ztcy1kYzgZ>
2025 SHC KHI 2590

Facts: The facts of the case are that Askari Bank Limited, as the decree holder, had obtained a consent decree in 2009 based on a settlement agreement involving payment of Rs. 426,171,375 through acquisition of four properties (Schedule I) and an additional Rs. 120 million secured against four other properties (Schedule II). While part of the decree had been satisfied through property acquisition and recoveries in other proceedings, the decree holder filed an execution application to recover the remaining balance. During execution, the Court, on 09.05.2025, allowed the decree holder's request to block the CNICs of Judgment Debtors Nos. 3 and 4, including Malik Ali Zain (JD No. 4), due to non-service of notice. However, JD No. 4 later moved applications seeking recall of that order, contending that he was never properly served because the decree holder had provided an incorrect address ("03" instead of "83" Khayaban-e-Behria), and that CNIC blocking is not permitted under the Civil Procedure Code (CPC) or any law applicable in Sindh. The decree holder defended the order by citing provisions from the CPC as amended in Khyber Pakhtunkhwa and Section 51 CPC, arguing that such measures were justified. The Court examined the record, confirmed the address discrepancy, noted that CNIC blocking had no legal basis under Sindh's CPC or the Financial Institutions (Recovery of Finances) Ordinance, 2001, and found that the decree holder had not

submitted exact details of the remaining decretal amount.

- Issue:** The principal issue before the High Court of Sindh at Karachi was whether the order dated 09.05.2025—passed by the executing court on the decree holder’s application for *blocking the CNICs* of Judgment Debtors Nos. 3 and 4—was legally sustainable. The applicant (Judgment Debtor No. 4, Malik Ali Zain) sought recall of the order under Sections 141 and 151 CPC, arguing that the order was obtained without proper notice, based on an incorrect address, and through reliance on provisions not applicable in Sindh. The Court was required to determine whether blocking a CNIC was permissible under the Civil Procedure Code (CPC) or the Financial Institutions (Recovery of Finances) Ordinance, 2001, and whether due process had been followed before issuing such an order.
- Rule:** Under the CPC as applicable in Sindh and the Financial Institutions (Recovery of Finances) Ordinance, 2001, no provision authorizes the *blocking of a CNIC* as a means of executing a decree. The Court cited the Supreme Court’s unreported order in *Agha Abid Majeed v. Idrees Ahmad (C.P. No. 3744/2023, decided 19.09.2024)*, which held that neither Section 18 of the NADRA Ordinance, 2000, nor the CPC applicable in Sindh permits CNIC blocking. Similarly, in *Hafiz Hamdullah Saboor v. Government of Pakistan (PLD 2021 Islamabad 305)*, the Islamabad High Court recognized that suspension of a CNIC severely affects fundamental rights, including the right to life and livelihood under Article 9 of the Constitution. The Court also noted that the principle “*Nullus commodum capere potest de injuria sua propria*” (no one may benefit from their own wrong) applies when a decree holder provides an incorrect address, preventing valid service. Furthermore, even under Section 51 CPC, dealing with arrest and detention of a judgment debtor, strict preconditions must be met before coercive measures are taken, as established in *Zafar Hasan Khan v. Habib Bank Limited (2024 CLC 1068)*, *Abdul Basit Zahid v. Modaraba Al-Tijarah (2002 CLD 46)*, and *Precision Engineering Ltd. v. Grays Leasing Ltd. (PLD 2000 Lahore 290)*.
- Application:** The Court examined the record and found that the decree holder, Askari Bank Limited, had obtained an order to block the CNICs of Judgment Debtors Nos. 3 and 4 based on unserved notices. The reason for non-service was traced to an incorrect address provided by the decree holder: while the decree recorded Judgment Debtor No. 4’s address as “83, Khayaban-e-Behria,” the execution application and publication used “03, Khayaban-e-Behria.” This discrepancy prevented valid notice and deprived the judgment debtor of an opportunity to be heard. The Court held that this procedural lapse invalidated the earlier order, as a party cannot take advantage of its own mistake. Regarding the legality of blocking a CNIC, the decree holder relied on Order XXI Rule 77 of the CPC as amended in Khyber Pakhtunkhwa,

which allows CNIC blocking; however, the Court observed that CPC is a provincial subject after the 18th Constitutional Amendment and no such amendment exists in Sindh. Therefore, reliance on a KPK provision was legally untenable. Moreover, the Court emphasized that neither the CPC applicable in Sindh nor the Financial Institutions Ordinance, 2001, provides any mechanism for CNIC suspension. The Court also noted that the decree holder had yet to submit accurate calculations showing the remaining decretal amount after partial satisfaction of Rs.120 million, rendering enforcement premature. The Court reiterated that CNIC blocking has severe constitutional implications, potentially depriving individuals of employment, banking access, and other fundamental rights, and must be avoided unless specifically authorized by law.

Conclusion: The Court concluded that the order dated 09.05.2025 was obtained without proper service, based on an incorrect address, and without any legal authority permitting CNIC blocking under the laws applicable in Sindh. Since no provision in the CPC or Financial Institutions Ordinance, 2001, empowers the executing court to block a CNIC, and proper legal assistance was not provided earlier, the impugned order was recalled. The Court directed the National Database and Registration Authority (NADRA) to immediately *unblock* the CNICs of Judgment Debtors Nos. 3 and 4. The decree holder was instructed to correct the address of Judgment Debtor No. 4 and file a detailed statement reflecting the outstanding decretal amount before proceeding further. The Court clarified that the recall order was based on procedural irregularities and lack of legal basis and that NADRA must comply immediately with the unblocking directive.

26. SINDH HIGH COURT

Shoukat Ali (expired) through his legal heirs v/s. Province of Sindh and Others
Civil Revision No. S-104 of 2023

Present: *Mr Justice Khalid Hussain Shahani*

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgxNjAzY2Ztcy1kYzgZ>
Sindh High Court Citation (2025 SHC SUK 2396)

Facts: The dispute originated from a civil suit filed in 2009 by Shoukat Ali, claiming ownership of 1330 square feet of land at Ghotki and challenging its inclusion in the record of Municipal Committee Ghotki through an order of 1998 and a subsequent city survey entry. During proceedings, a compromise was reached between the plaintiff and Municipal Committee, and the suit was decreed in 2015. This decree survived review, revision, and a constitutional petition, attaining finality. In 2022,

however, the Province of Sindh filed an application under Section 12(2) CPC alleging fraud and lack of authority in the compromise, which was admitted to regular hearing by the trial court. The legal heirs of Shoukat Ali challenged that order through the present civil revision.

- Issue:** Whether the issue before the Court was whether the civil revision filed by the legal heirs of Shoukat Ali against the order admitting the Province of Sindh's Section 12(2) CPC application was maintainable.
- Rule:** The rule is that under Section 115 CPC, a revision lies only against orders that finally determine the rights of the parties or dispose of the proceedings. Interlocutory orders, such as those merely framing issues or admitting applications to hearing, are generally not revisable. Further, the doctrine of merger provides that once a decree is affirmed by a superior court, it merges into that decree, limiting further challenges at a subordinate forum. Principles of locus standi, limitation, res judicata, and abuse of process also guide the court's approach.
- Application:** The application of this rule showed that the impugned order dated 27.02.2023 was interlocutory in nature, as it only framed issues for trial under Section 12(2) CPC without deciding the parties' substantive rights. The Court also observed that the compromise decree of 2015 had already attained finality through dismissal of review, revision, and constitutional petition, raising questions of merger and res judicata. In this regard, reliance was placed on the principle laid down in *Sahabzadi Maharunisa v. Mst. Ghulam Sughran* (PLD 2016 SC 358), wherein the Supreme Court clarified that once a decree is affirmed by a superior forum, the decree of the lower court merges into that of the higher forum, and only the superior court's decree subsists for purposes of further challenge under Section 12(2) CPC. Serious objections regarding the locus standi of the Province, delay in filing, duplicative applications, and the distinction between fraud and procedural irregularities were noted, but the Court held that these matters should first be determined by the trial court as preliminary issues.
- Conclusion:** The conclusion was that the civil revision was not maintainable and was dismissed, with no order as to costs, while directing the trial court to carefully consider jurisdiction, limitation, locus standi, merger, and possible abuse of process before proceeding with the Section 12(2) application.

27.

SINDH HIGH COURT

Civil Revision Application No. S-224 of 2014

Asghar Shah through his legal heirs Vs Muhammad Hanif

- Present:** Hon'ble Mr. Justice Jan Ali Junejo
- Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MjgyNTkzY2Ztcy1kYzgz>
SHC Citation: 2025 SHC HYD 2462
- Facts:** The dispute over agricultural land, originally owned by Allah Dino Shah (who died in 1941), centered on inheritance claims by the Plaintiffs, descendants of his daughters Mst. Phapoo and Mst. Khatoon. They accused Defendant No. 7, Asghar Shah, of fraudulently altering revenue records and securing the land through false gift deeds. After attempts at resolution through revenue authorities and private arbitration, the Plaintiffs filed a civil suit in 2010. The Trial Court ruled in their favor, and the Appellate Court upheld the decision in 2014. The Applicants then filed a Civil Revision Application, challenging the concurrent judgments.
- Issue:** The key legal issue in this case was whether the lower courts erred in dismissing the Applicants' appeal, particularly concerning the limitation period for filing the inheritance claim and the validity of the revenue mutations. On the factual side, the dispute centered around whether the mutations from 1941 and 1971 were fraudulent and whether the Plaintiffs had sufficiently disproven the alleged gift deeds. Additionally, the case involved whether the Plaintiffs' partial possession of the land through private arbitration (faisla) prevented further claims and whether the Appellate Court's decision not to remand the case after allowing an application under Order I Rule 10 of the CPC to join a new respondent was legally sound.
- Rule:** The case was governed by Section 115 of the Code of Civil Procedure (CPC), 1908, allowing the High Court to review lower court decisions for jurisdictional errors or irregularities. Mohammadan Law applies to inheritance claims, which are considered a continuing cause of action, not subject to the standard limitation period. Qanoon-e-Shahadat, 1984 (Article 92) presumes the genuineness of official mutation records, though the party asserting the validity of underlying transactions, such as gifts, must provide proof.
- Application:** The case hinged on the Plaintiffs' right to inherit, supported by an admission from Defendant No. 7 (Asghar Shah) confirming his father had two daughters, Mst. Phapoo and Mst. Khatoon. Under Mohammadan Law, inheritance is a continuing cause of action, unaffected by limitation. The mutation entries were challenged as fraudulent, and Defendant No. 7 failed to prove the legitimacy of the alleged gift deeds. The lower courts correctly upheld the Plaintiffs' inheritance rights, and the Appellate Court's decision to dismiss the appeal was justified. The revision application lacked merit, as the lower courts' findings were based on solid evidence and legal principles.

Conclusion: The High Court dismissed Civil Revision Application No. S-224 of 2014 affirming the lower courts' judgments. The Plaintiffs' inheritance claim was upheld based on Defendant No. 7's admission and the fraudulent nature of the mutation entries. The Applicants' revision was rejected as the lower courts' decisions were legally sound and well-supported by evidence.

28. ISLAMABAD HIGH COURT

United Insurance Company of Pakistan Ltd v/s President of Pakistan and others
Writ Petition Nos.294 of 2024, 2015 of 2023, and 605 of 2024

Present: *Mr Justice Inaam Ameen Minhas*

Source: https://mis.ihc.gov.pk/frmRdJgmnt?cseNo=Writ%20Petition-294-2024%20%7C%20Citation%20Awaited&cseTle=United%20Insurance%20Company%20of%20Pakistan%20VS%20President%20Of%20Pakistan&jgs=Honourable%20Mr.%20Justice%20Inaam%20Ameen%20Minhas&jgmnt=/attachments/judgements/173282/1/173282_638943230708669404.pdf

Facts: The petitioners, an insurance company, had issued health insurance policies to the respondents, who later filed claims for medical expenses. The insurance company repudiated these claims on the ground that the respondents were suffering from “pre-existing conditions” not disclosed at the time of obtaining the policies. Aggrieved, the respondents approached the Federal Insurance Ombudsman, who found the repudiation to be arbitrary, vague, and amounting to maladministration, and directed reimbursement of the claims. The insurer’s appeals before the President of Pakistan were dismissed, leading to the filing of these writ petitions before the Islamabad High Court.

Issue: Whether the Federal Insurance Ombudsman had jurisdiction to adjudicate complaints against the repudiation of health insurance claims on the basis of pre-existing conditions, and whether such repudiation by the insurer amounted to maladministration under section 127 of the Insurance Ordinance, 2000.

Rule: Insurance contracts are contracts of utmost good faith, requiring both parties to deal honestly and fairly. Exclusion clauses must be clear, precise, and prominently disclosed, and any ambiguity is construed contra proferentem in favor of the insured. Arbitrary and unreasonable denial of claims constitutes maladministration within the meaning of the law.

Application: The Court observed that the insurer repudiated claims by invoking vague and

undefined notions of “pre-existing conditions” that were neither explained nor disclosed to the policyholders at the time of entering into the contracts. The insurer failed to seek relevant medical disclosures during the proposal stage, but later relied on the alleged non-disclosure to deny liability. The Court held that latent or undiagnosed conditions cannot be retrospectively treated as pre-existing, as doing so would render the insurance cover meaningless. Such conduct, based on fine print and inconsistent policy terms, was found to be arbitrary, dishonest, and unfair. The Court emphasized that concealment or misuse of exclusion clauses amounts to maladministration. It also relied on the principle of utmost good faith established in *Carter v. Boehm* (1766) and reaffirmed in PLD 2020 SC 324 (Jubilee Insurance case) to hold the insurer accountable.

Conclusion: The Court concluded that the Federal Insurance Ombudsman rightly exercised jurisdiction in entertaining the complaints, and the repudiation of claims amounted to maladministration. The orders of the Ombudsman and the President of Pakistan directing reimbursement of medical expenses were upheld, and the writ petitions filed by the insurer were dismissed.

SELECTED ARTICLES

1. Illegal Migration: A Quest for Survival, Not a Crime

S B L R 2025 Article 37

By Amir Latif Bhatti

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The article discusses the phenomenon of illegal migration, arguing that it should not be viewed merely as a crime but as a desperate survival strategy driven by poverty, unemployment, inequality, political instability, and lack of opportunities in developing countries. It highlights that thousands of migrants risk their lives every year, often falling victim to human traffickers, dangerous sea journeys, and harsh border controls, with many losing their lives in the process.

The author emphasizes that migration is rooted in systemic socio-economic issues rather than individual criminal intent. It is portrayed as a humanitarian crisis where people are compelled to leave their homelands in search of safety, dignity, and better futures. The article critiques states' tendency to criminalize migrants instead of addressing the root causes such as poor governance, corruption, and lack of equitable development.

Bhatti calls for international cooperation, policy reforms, and humane treatment of migrants. He suggests that governments must focus on creating job opportunities, reducing inequality, ensuring political stability, and curbing human trafficking networks. The article concludes that migration should be understood in the context of human survival and dignity, requiring a compassionate and development-oriented response rather than criminal prosecution.

SELECTED ARTICLES

2. Impacts of Parental Alienation on Minor and Non-Custodial Father; Promoting Equitable Shared Parenting in Pakistan

By Javed Hussain Bhayo

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<https://doi.org/10.5281/zenodo.17099707>

The article titled *“Impacts of Parental Alienation on Minor and Non-Custodial Father; Promoting Equitable Shared Parenting in Pakistan”* examines child custody laws in Pakistan, particularly the challenges faced by minors and non-custodial fathers. It highlights that custody disputes often reduce fathers to the role of mere “visitors,” which negatively affects children’s emotional, social, and psychological development. Drawing on Pakistani case law, Sharia principles, and international practices, the authors argue that the “welfare of the minor” should not be narrowly interpreted but should include emotional well-being, balanced parental involvement, and protection from parental alienation.

The paper stresses that cultural and judicial biases favor mothers in custody cases, leading to marginalization of fathers and long-term harm to children. It advocates for reforms in Pakistan’s family laws to include provisions for shared parenting, where both parents actively participate in a child’s upbringing. The study also emphasizes the need for structured parenting plans, judicial sensitivity to children’s voices, use of psychological assessments, and minimizing reliance on police interventions under Section 100 Cr.P.C.

Ultimately, the authors call for legislative and judicial recognition of fathers as equal caregivers, ensuring gender equality in custody matters. They propose that shared parenting be incorporated into Pakistan’s Guardians and Wards Act to protect children’s welfare, strengthen parent-child bonds, and prevent the alienation of non-custodial fathers.

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