



HIGH COURT OF SINDH

Case Law Review



Fortnightly Bench Update



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FORTNIGHTLY BENCH UPDATE

(01-09-2026 to 15-09-2026)

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

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1.FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
Muhammad Faraaz Shaikh & another V Javeria Shahani & others
F.C.P.L.A. No.1183 of 2026

Present: Mr. Justice Amin-ud-Din Khan, Chief Justice
Mr. Justice Ali Baqar Najafi
Mr. Justice Rozi Khan Barrech

Source: <https://www.fccp.gov.pk/download/eyJpdjI6Ijd5dWZoM3RkMyt3RFh5REVZOVpRV1E9PSIsInZhbHVlIjojVjBDRURianZpOUmrWWtBOVd5QXdsdz09IiwibWFjIjojMTRkY2MwMGFlZjk5ZDI5MDFjMmJhYzU5OGMzZDVlM2E2ZmM0NDc5OGZlMWU2NzQ3YWRIYmI5MmJmMWU2MzU2MSIsInRhZyI6Ij9>

Facts: The petitioner/father and respondent/mother were married in the USA, where their minor son, Rohaan Faraz Sheikh, was born and habitually resided. A North Carolina Court initially granted joint physical custody of the minor. The mother subsequently removed the child from the USA and brought him to Pakistan without informing the father, and thereafter instituted guardianship proceedings before the Family Court, Karachi. The US Court later passed orders directing return of the child and ultimately granted custody in favor of the father. The Family Court, Karachi, directed that the minor be handed over through the American Consulate for return to the USA. The mother's appeal against that order was withdrawn, thereby giving finality to the order, and the child was returned to the USA. Subsequently, on miscellaneous applications filed by the mother, the Sindh High Court recalled its earlier order and directed restoration of custody of the minor to the mother. The father challenged that order before the Federal Constitutional Court.

Issue: Whether the High Court could reopen and reverse an already finalized and implemented international child-custody arrangement where the minor had been returned to his State of habitual residence pursuant to orders of the Guardian Court and the foreign court, and the mother was already pursuing her remedy before the competent US appellate court?

Rule: Under the Hague Convention on the Civil Aspects of International Child Abduction, 1980, wrongful removal or retention of a child occurs where it violates custody rights existing under the law of the State in which the child was habitually resident immediately before removal. Unless the child falls within a recognized exception, the child should ordinarily be returned to the State of habitual residence. A return proceeding does not finally determine custody rights. Further, under Section 13 CPC, a foreign judgment is conclusive between the parties when rendered by a competent court on merits, consistently with international law and natural justice, and when it is not obtained by fraud or founded upon a breach of Pakistani law.

Application: The Court observed that the Guardian Court's order directing return of the minor to the USA had attained finality after the mother withdrew her appeal and had already been fully implemented. The mother had also submitted herself to the jurisdiction of the US

Court by filing an appeal against its final custody order, which was still pending. These material circumstances were not properly considered by the High Court while recalling its earlier order. The Court further emphasized that in international child-abduction cases, courts should consider the jurisdiction and validity of the foreign judgment, determine whether removal was wrongful, and ordinarily return the child to the State of habitual residence before deciding the substantive merits of custody.

Conclusion: The Federal Constitutional Court converted the petition into an appeal, allowed it, and set aside the impugned order dated 16.03.2026 passed by the Sindh High Court. The Court held that the finalized and implemented return arrangement could not be reopened without considering the jurisdiction of the foreign court, the child's habitual residence, the finality of the Guardian Court's order, and the principles governing international child abduction. The Court also laid down guidelines requiring courts to examine the validity of foreign judgments, determine wrongful removal, ordinarily return the child to the State of habitual residence unless an exception applies, and refrain from deciding final custody rights until the return question under the Hague Convention has first been resolved.

2.FEDERAL CONSTITUTIONAL COURT OF PAKISTAN

Bakhtullah Shah and others & Mrs. Syeda Anjum V Government of Khyber Pakhtunkhwa through Chief Secretary and others
CPLA Nos. 1560 & 1971 of 2025

Present: Mr. Justice Ali Baqar Najafi
Mr. Justice Syed Arshad Hussain Shah

Source: <https://www.fccp.gov.pk/download/eyJpdil6ImdxKys1Umo0VWZEd2lxa1lTcjBVU3c9PSIsInZhbHVlIjoilL2ZKblQvbzdVTEpXMHEwa29veWdRQT09IiwibWFjIjoilNGUxODQyZjZlYmZiMjM0YmYwNTEwNmNiMWNiMTNhNWVhNDIzZTcyMTZiOGJlM2NhODQ1ZGIxM2U0YWYzZGRhNiIsInRhZyI6IiJ9>

Facts: The petitioners, education department officials, were proceeded against departmentally and proposed to be prosecuted by the Anti-Corruption Establishment regarding alleged irregular appointments of Arabic and Theology Teachers on fake or invalid certificates. Earlier litigation had already referred the question of genuineness of the certificates to the Civil Court and restrained adverse action until that issue was determined. Despite this, the competent authority permitted registration of an FIR against the petitioners, which they challenged before the Peshawar High Court.

Issue: Whether criminal and departmental proceedings could continue before the Civil Court determined the genuineness of the disputed educational certificates, when criminal liability substantially depended upon that determination.

Rule: Ordinarily, criminal proceedings are not stayed merely because civil litigation concerning the same subject is pending. However, where criminal liability is dependent upon the result of civil proceedings, or both matters are so closely connected that simultaneous proceedings may cause conflicting findings or grave

injustice, the criminal court should stay its hands until the civil dispute is decided. The High Court may exercise inherent powers under section 561-A Cr.P.C. where continuation of criminal proceedings would prejudice the accused, amount to abuse of process, or defeat the ends of justice.

Application: The genuineness of the certificates was the foundation of any possible criminal or disciplinary liability against the petitioners, and that very question was already pending before the Civil Court pursuant to earlier High Court directions. Therefore, allowing criminal or administrative proceedings to proceed before determination of that essential civil issue could result in inconsistent findings and prejudice to the petitioners.

Conclusion: The Federal Constitutional Court converted the petitions into appeals and disposed of them with the direction that criminal or administrative proceedings against the petitioners could be initiated only after the Civil Court decides the genuineness of the disputed documents, and thereafter strictly in accordance with law.

3.FEDERAL CONSTITUTIONAL COURT OF PAKISTAN

Muhammad Abdul Qadoos & others V Province of Punjab & others
F.C.P.L.A. No.507/2025 and connected C.P.L.As.

Present: Mr. Justice Aamer Farooq
Mr. Justice Syed Arshad Hussain Shah

Source: <https://www.fccp.gov.pk/download/eyJpdil6InBQN0pPWGx6TVkwUitUaElKc3NFWGc9PSIsInZhbHVlIjojQzVoelVSeldSTdQV3ZEakRPSnlwZz09IiwibWFjIjojNTIzYjZhNDU5ODBhMjRkN2U2NTE4ZDI1NzI5NWY1NDNkMWU5M2M0NDVIYTE2NjNjZTYyOGYzNGY3ZTk2OWU4NCIsInRhZyI6IiJ9>

Facts: The petitioners challenged notifications and actions taken by the Punjab authorities under Section 99-A Cr.P.C. and the Press, Newspapers, News Agencies and Books Registration Ordinance, 2002, whereby certain publications/material were banned or forfeited. They claimed that the actions violated their fundamental right to religious freedom under Article 20 of the Constitution. The High Court dismissed their petitions on the grounds of laches and failure to avail the statutory remedies provided under Section 99-B Cr.P.C. and Section 20 of the Ordinance within limitation.

Issue: Whether the petitioners could invoke constitutional jurisdiction under Article 199 to challenge the impugned executive/statutory actions on the ground of violation of fundamental rights despite having failed to avail the available statutory remedies within limitation.

Rule: Where a statute provides an effective remedy, including a forum competent to decide both questions of law and fact, that remedy should ordinarily be availed. A constitutional petition cannot be used to circumvent statutory limitation or revive a time-barred claim. Further, all State action must be traceable to a lawful source. An action performed by an executive functionary pursuant to statutory authority is not

invalid merely because it is carried out by the executive. Fundamental rights, including religious freedom under Article 20, are subject to law, public order and morality.

Application: The petitioners did not challenge the impugned actions through Section 99-B Cr.P.C. or Section 20 of the Ordinance within the prescribed period and instead approached the High Court after considerable delay. The Court held that the constitutional petitions could not be used to bypass limitation. It further found that the impugned actions were traceable to statutory authority under the Cr.P.C. and the Ordinance and were therefore not exercises of unfettered executive discretion. The Court also noted that, because the petitioners had failed to place the relevant banned material properly before the competent statutory forum, the alleged violation of Article 20 could not be substantively established.

Conclusion: The Federal Constitutional Court upheld the High Court's judgment, dismissed the petitions and refused leave to appeal. It held that the petitioners could not bypass the available statutory remedies and limitation periods by subsequently framing the dispute as one involving fundamental rights. The impugned actions were also found to be rooted in statutory authority and, on the available record, no violation of fundamental rights was established.

4.SUPREME COURT OF PAKISTAN

Habib Ullah V The State

Jail Petition No. 41 of 2023

Present: Mr. Justice Muhammad Hashim Khan Kakkar
Mr. Justice Ishtiaq Ibrahim

Source: https://www.supremecourt.gov.pk/downloads_judgements/j.p. 41 2023.pdf

Facts: The petitioner was convicted under section 302(b) PPC for murdering his wife inside their matrimonial home. Their minor daughter stated that the spouses had been quarrelling, she saw her father bring a hammer home, and both parents were last seen together in their bedroom. The next morning, the deceased was found with fatal head injuries while the petitioner had disappeared. Medical evidence was consistent with assault by a heavy blunt object. The petitioner neither reported the incident nor attended the funeral and remained absconding for nearly seven years.

Issue: Whether conviction for a domestic homicide committed inside the matrimonial home could be maintained solely on a complete chain of circumstantial evidence, particularly last-seen evidence, facts within the special knowledge of the husband, and his subsequent conduct.

Rule: Domestic homicide inside the matrimonial home is a “crime of difficult proof” because direct evidence is ordinarily unavailable. Under Articles 122 and 129 QSO, 1984, once the prosecution proves foundational circumstances connecting the accused with the occurrence, the accused must explain facts especially within his knowledge, and an adverse inference may be drawn from conduct such as abscondence or failure

to report the occurrence. Articles 2(4) and 17(2)(b) QSO permit conviction on circumstantial evidence where the totality of circumstances would lead a prudent person to conclude that the accused committed the offence.

Application: The prosecution established a coherent chain: prior domestic quarrels, the petitioner bringing a hammer, the spouses being last seen together, death occurring inside the matrimonial home, medical evidence consistent with the hammer, immediate disappearance of the petitioner, abandonment of his children, and seven years' abscondence. Once these foundational facts were proved, Article 122 QSO required the petitioner to explain how his wife died in circumstances especially within his knowledge. His failure to give a plausible explanation, coupled with his post-occurrence conduct, constituted the decisive additional link completing the chain of guilt.

Conclusion: The Supreme Court upheld the conviction, refused leave to appeal and dismissed the petition, holding that the circumstantial evidence formed an unbroken chain establishing guilt beyond reasonable doubt.

5.SUPREME COURT OF PAKISTAN

Province of Punjab, etc. V Bashir / Rulya

Civil Appeal No.187-L/2009 & C.P.L.A. No.769-L/2016

Present: Mr. Justice Muhammad Ali Mazhar
Ms. Justice Musarrat Hilali
Mr. Justice Irfan Saadat Khan

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.a. 187 1 2009.pdf

Facts: The land was originally allotted to Muhammad Yousaf, who later transferred part of it to the respondent for consideration, and mutation was sanctioned in the purchaser's favor. The Board of Revenue subsequently cancelled the original allotment on the allegation that the land fell within a prohibited area and had been obtained through fraud or misrepresentation. The purchaser challenged the cancellation on the ground that proprietary rights had already vested and that no notice or opportunity of hearing had been afforded before cancellation.

Issue: Whether the Board of Revenue could cancel or resume land after proprietary rights had vested, particularly without notice and an opportunity of hearing to the affected allottee or purchaser.

Rule: Even where the Board of Revenue possesses statutory power to resume land obtained through fraud or misrepresentation, such power must be exercised after giving the affected person a reasonable opportunity of showing cause. Notice and hearing are substantive requirements, reinforced by Article 10A and the principles of natural justice. Vested proprietary rights cannot be disturbed through unilateral administrative action. Further, the Government enjoys no special indulgence in limitation matters and must satisfactorily explain delay like any other litigant.

Application: The entire sale consideration had been paid, possession delivered, and the respondents were recorded as owners in the revenue record. No notice or hearing was afforded before cancellation, nor was tangible material produced to establish fraud or misrepresentation. The Court therefore held that cancellation of vested proprietary rights without compliance with the statutory requirement of show-cause and natural justice was unlawful. As regards the connected petition, the delay of 4402 days was not properly explained, and mere departmental negligence or administrative delay was held insufficient for condonation.

Conclusion: The Supreme Court dismissed the Civil Appeal and upheld the High Court judgment in favor of the purchaser. The connected CPLA was also dismissed as time-barred, reaffirming that vested rights cannot be taken away without notice and hearing, and that Government departments are subject to the same standards of limitation as ordinary litigants.

6.SUPREME COURT OF PAKISTAN

Government of Khyber Pakhtunkhwa through Secretary Population Welfare Department & others V Mst. Bacha Jehan Civil Petition No.50-P of 2022

Present: Mr. Justice Shakeel Ahmad
Mr. Justice Ishtiaq Ibrahim

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p. 50_p 2022.pdf

Facts: The respondent, an employee of the Population Welfare Department, denied having voluntarily tendered her resignation. The Khyber Pakhtunkhwa Service Tribunal held the resignation invalid but, considering that she had completed more than ten years of qualifying service, converted the resignation into retirement and granted her pensionary benefits. The Government challenged the Tribunal's power to grant such relief.

Issue: Whether the Service Tribunal, after declaring an employee's resignation invalid, could convert that resignation into retirement merely because the employee had completed the qualifying period of service for pension.

Rule: Resignation and retirement are legally distinct modes of cessation of service. Where an employee, particularly an illiterate employee, denies having voluntarily resigned, the burden lies upon the department to establish that the resignation was voluntarily executed, understood by the employee, free from coercion, fraud or misrepresentation, and accepted according to law. If the resignation is invalid, the employee is deemed to have continued in service until service is lawfully terminated. Under Section 7 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, the Tribunal may grant relief permitted by law, but cannot create a legal fiction by converting resignation into retirement merely to confer pension. However, where an invalid resignation is set aside and the employee has meanwhile attained superannuation, the employee may be treated as having continued in service until that date and consequential pensionary benefits may follow.

Application: The Tribunal correctly found the respondent's resignation invalid, but erred in converting it into retirement solely because she had completed more than ten years of qualifying service. There was no finding that she had attained the age of superannuation or had otherwise become legally entitled to retire under the applicable service rules. The proper consequence of the invalid resignation was to treat her as continuing in service, rather than artificially converting the resignation into retirement.

Conclusion: The Supreme Court converted the petition into an appeal and partly allowed it. The finding that the respondent's resignation was invalid was maintained, but the Tribunal's direction converting it into retirement and granting pensionary benefits was set aside. The Department was directed to treat the respondent as having continued in service from the date of the purported resignation and to extend all consequential service benefits in accordance with law. The respondent was also left at liberty to seek an appropriate remedy for invalid pension on account of poor health, if available under law.

7.SUPREME COURT OF PAKISTAN

M/s Crescent Spinning Mills Ltd. V Citibank N.A. & others

Civil Petition No.1481-L of 2019

Present: Mr. Justice Muhammad Ali Mazhar
Ms. Justice Musarrat Hilali
Mr. Justice Irfan Saadat Khan

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1481 l 2019.pdf

Facts: Citibank filed a recovery suit against Crescent Spinning Mills under the Banking Tribunals Ordinance, 1984. The suit was decreed, but markup was not granted. During pendency of the proceedings, the 1984 Ordinance was repealed and the Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997 came into force. The Bank later obtained amendment of the decree under section 152 CPC by adding markup under section 15 of the 1997 Act. The Lahore High Court upheld the amendment.

Issue: Whether markup not granted in the original decree could later be added through section 152 CPC by applying the 1997 Act to a suit instituted under the earlier 1984 Ordinance.

Rule: Section 152 CPC is confined to correction of clerical, arithmetical or accidental errors and cannot be used to alter the substance of a judgment or add a new relief. Under section 6 of the General Clauses Act, repeal of a law ordinarily does not disturb accrued substantive rights or pending proceedings unless the new law clearly provides otherwise. Likewise, Order XLI Rule 33 CPC gives wide powers to an appellate court to mould relief, but it cannot create a new case or grant relief having no proper foundation in the pleadings.

Application: The suit had been instituted under the 1984 Ordinance. The subsequent addition of markup was not correction of a clerical mistake but amounted to granting substantive relief which had not formed part of the original decree. Therefore, section 152 CPC could not be used to introduce markup, nor could the later 1997 Act be applied so as to enlarge the Bank's substantive rights in the already instituted proceedings.

Conclusion: The Supreme Court converted the petition into an appeal and allowed it. The Lahore High Court judgment and the Banking Court's order were set aside to the extent that markup had been added through amendment of the decree.

8.SUPREME COURT OF PAKISTAN

Pakistan Bait-ul-Mal through MD, Islamabad V Raj Ram and others

Civil Petition No.5250 of 2023

Present: Mr. Justice Yahya Afridi, CJ
Mr. Justice Naeem Akhtar Afghan
Mr. Justice Miangul Hassan Aurangzeb

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.m.a._1477_2023.pdf

Facts: Two minor Hindu girls lost their father, while their mother had no independent source of income. Their paternal grandfather was also aged, poor and unable to maintain them. The Family Court directed the grandfather to pay maintenance, but the Sindh High Court held that under the applicable Hindu law he had no personal obligation to maintain the minors. The High Court then directed Pakistan Bait-ul-Mal to register the children as beneficiaries and pay each of them Rs.10,000 per month with a 10% annual increase until marriage. Bait-ul-Mal challenged the manner in which this direction was issued.

Issue: Whether a Court can directly order Pakistan Bait-ul-Mal to pay a fixed amount of maintenance for a specified period, or whether the nature and extent of assistance must be determined by Bait-ul-Mal under its own statutory and policy framework.

Rule: Courts may refer deserving persons to Bait-ul-Mal because it is established to provide assistance to needy persons. However, the form, amount and duration of assistance ordinarily have to be determined by Bait-ul-Mal according to its applicable policies, eligibility criteria, assessment process, available funds and financial limits. A Court should therefore refer a deserving case for consideration rather than itself fixing the amount and duration of assistance.

Application: The minors were clearly deserving of assistance because their father had died, their mother had no income, and their grandfather was himself destitute. Bait-ul-Mal also expressed willingness before the Supreme Court to assist them. However, the Court clarified that in future cases Bait-ul-Mal should itself assess the applicant and determine the appropriate form and extent of assistance according to its statutory and policy framework.

Conclusion: The Supreme Court dismissed the petition in relation to the present minors because Bait-ul-Mal had agreed to assist them. However, it clarified that in future cases courts should refer deserving persons to Bait-ul-Mal, while the nature, quantum and duration of assistance must be determined by Bait-ul-Mal itself under the applicable law and policy.

9.HIGH COURT OF SINDH

Mst. Mohsina Saeed Tauni V Habib Bank Limited and others
First Appeal No.56 of 1998, High Court Appeal No.221 of 2004

Present: Mr. Justice Arshad Hussain Khan
Mr. Justice Amjad Ali Sahito

Source: <https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzIyMTM3Y2Ztcy1kYzgZ>
2026 SHC KHI 1673

Facts: Habib Bank obtained an ex-parte banking decree against, among others, the appellant's property. She maintained that she had never authorized the mortgage and that the General Power of Attorney used for the transaction was forged. She had raised the fraud plea even before the banking decree and had already instituted separate civil and criminal proceedings. Later, in Civil Suit No.428 of 1994, the General Power of Attorney was declared forged. Her application to set aside the ex-parte banking decree was nevertheless dismissed mainly on limitation.

Issue: Whether the ex-parte banking decree could be maintained merely on limitation when the appellant had consistently alleged fraud and impersonation and the alleged Power of Attorney had subsequently been declared forged.

Rule: Limitation is important for finality, but it should not be used to protect a transaction founded on fraud or forgery. At the same time, fraud must be proved through evidence and cannot merely be presumed.

Application: The appellant's allegation of fraud was not an afterthought. She had raised it before the decree, initiated civil and criminal proceedings, and the alleged Power of Attorney was later judicially declared forged. These circumstances required the banking liability and security documents to be examined on evidence rather than shutting out the defence solely on limitation.

Conclusion: The High Court allowed First Appeal No.56 of 1998, set aside the ex-parte decree to the extent of the appellant, granted her unconditional leave to defend, and remanded the banking suit for fresh decision within three months. High Court Appeal No.221 of 2004 was disposed of with a direction that earlier findings on disputed documents should not be treated as conclusive against her.

10.SINDH HIGH COURT

Taha Muzzammil V Province of Sindh and others
Constitution Petition No. D-3938 of 2026

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzIyODYxY2Ztcy1kYzgZ>
2026 SHC KHI 1720

Facts: The petitioner, Taha Muzzammil, had been involved in FIR No.241 of 2025 registered under Section 188 PPC at Police Station Ferozabad, Karachi. Subsequently, he was acquitted by the competent criminal Court under Section 249-A Cr.P.C., and the order of acquittal was not challenged and had attained finality. The petitioner intended to travel to the United Arab Emirates for a lawful purpose and, for that purpose, required a Police Character Certificate/Police Clearance Certificate. Although the certificate was issued to him, it continued to contain a reference to the aforesaid FIR. The petitioner contended that, after his final acquittal, continued mention of the FIR in his Police Character Certificate carried an adverse stigma and could prejudice him in matters of visa, immigration, employment, education and foreign travel. He therefore sought a fresh certificate without any reference to the FIR and sought rectification of the relevant police/CRO record. The respondents did not dispute his acquittal or its finality and the learned Additional Advocate General did not oppose issuance of a fresh certificate.

Issue: Whether a Police Character Certificate/Police Clearance Certificate could continue to mention an FIR against a person after the criminal proceedings arising from that FIR had culminated in his acquittal under Section 249-A Cr.P.C where the acquittal had attained finality?
Whether the police could nevertheless retain the historical record of the FIR and its outcome in their internal official record?

Rule: The Court held that mere registration of an FIR constitutes an accusation and cannot be treated as proof of guilt. Where criminal proceedings have ended in an acquittal which has attained finality, the person cannot ordinarily be made to carry the stigma of the previous accusation through a Police Character Certificate. Such certificates are commonly used for employment, education, immigration, visa and foreign travel and therefore have consequences beyond merely reproducing the internal police record. The Court distinguished between preservation of an historical record by the police for lawful official purposes and disclosure of that record through a Police Character Certificate intended for third parties. The police may lawfully preserve their internal record showing the registration of the FIR and its ultimate outcome; however, in the absence of a specific legal requirement to the contrary, a finally acquitted person should not have the previous FIR disclosed in his Police Character Certificate merely because the FIR had once been registered. The Court also observed that even mentioning the FIR with the word “acquitted” may not remove the prejudice or stigma resulting from disclosure. The Court relied upon the Division Bench judgment dated 21.05.2026 in C.P. No. D-421 of 2026, Circuit Court Hyderabad, as well as *Abdul Rehman Faryad v. Government of Punjab* (PLD 2026 Lahore 84) and *Waqas Khan and 2 others v. The State* (PLD 2025 Peshawar 67).

Application: Applying the above principle to the present case, the Court found that it was undisputed that FIR No.241 of 2025 had been registered against the petitioner but that he had subsequently been acquitted by the competent Court under Section 249-A Cr.P.C. It was equally undisputed that the acquittal had not been challenged and had therefore attained finality. Consequently, the accusation contained in the FIR could not lawfully continue to operate as a disability or criminal stigma against the petitioner through his Police Character Certificate. The Court considered that disclosure of the FIR, even if accompanied by a statement that the petitioner had been acquitted, could prejudice him before immigration authorities, employers, educational institutions or other third parties. At the same time, the Court clarified that its decision did not require the police to destroy or obliterate their internal official record. The police remained entitled to maintain the historical record of the FIR and its final outcome in accordance with law. What was impermissible was carrying that historical accusation into the petitioner's Police Character Certificate after his final acquittal.

Conclusion: The High Court of Sindh allowed the Constitution Petition and directed the concerned police authorities to issue a fresh Police Character Certificate/Police Clearance Certificate to the petitioner without mentioning or making any reference whatsoever to FIR No.241 of 2025, subject to verification of his present status in accordance with law. The police were, however, permitted to maintain their internal official record reflecting the FIR and its final outcome. Thus, the judgment establishes that a finally acquitted person is entitled to a clean Police Character/Police Clearance Certificate, while the police may retain the historical criminal record for lawful internal purposes.

11.SINDH HIGH COURT

Abdul Salam V Akbari Bibi

Constitutional Petition No. D-887 of 2025

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzIzMtYxY2Ztcy1kYzgZ>
2026 SHC KHI 1742

Facts: The respondent, Akbari Bibi, claimed ownership of a house measuring 33 square yards situated at Mohalla Ghosia Colony, P.I.B. Colony, Karachi, on the basis of a registered Lease Deed dated 02.08.2000. She had earlier filed Civil Suit No.707 of 2018 against the petitioner, her real brother, seeking recovery of possession of the suit property. The petitioner disputed her ownership and claimed that the property originally belonged to their deceased parents. He also claimed possession over an additional/excessive area of 19 square yards adjoining the suit property. After trial, the Civil Court decreed the suit on 31.08.2022 to the extent of recovery of possession of the 33 square yards. During execution proceedings, the petitioner objected that the decree-holder was attempting to take possession of the additional 19 square yards. The appellate Court remanded the matter with a direction to specify the measurement of the property covered by the decree. Thereafter, the Executing Court, relying upon the Nazir's report and the KMC report, directed reconstruction of the wall separating the

33-square-yard suit property from the additional 19-square-yard area. The petitioner challenged this order through Civil Revision No.180 of 2024, but the revision was dismissed on 31.08.2024. He therefore invoked the constitutional jurisdiction of the High Court of Sindh.

Issue: Whether the Executing Court and the Revisional Court had acted illegally or without jurisdiction in directing reconstruction of the wall between the 33-square-yard suit property and the additional 19-square-yard area allegedly occupied by the petitioner, particularly when such reconstruction would restrict the petitioner's access to the additional land?
Whether the High Court, in constitutional jurisdiction, could interfere with the concurrent findings of the two Courts below?

Rule: The settled rule of law is that an Executing Court is bound to execute the decree in its letter and spirit and cannot go beyond, rescind, or modify the decree. In *Mushtaque Ahmed v. Shahzad Khan* (PLD 2024 SC 960), the Supreme Court held that an Executing Court cannot go beyond the decree and cannot rescind or modify the decree sought to be executed. The decree in the present case was confined to recovery of possession of 33 square yards; therefore, the execution proceedings could not be used either to confer any right upon the petitioner in respect of the additional 19 square yards or to enlarge the scope of the decree. It is also a settled principle that a Court cannot act in aid of an illegal act or facilitate a person in retaining or accessing encroached land. Further, where two Courts below have recorded concurrent findings of fact, the High Court ordinarily does not interfere in constitutional jurisdiction unless such findings are shown to be illegal, perverse, based on extraneous considerations, the result of misappreciation of evidence, or founded upon an incorrect interpretation of law. The High Court relied in this regard upon *Bank Alfalah Limited v. Federation of Pakistan* (2026 CLD 569 [Sindh]).

Application: Applying these principles, the High Court found that the decree in favour of the respondent was expressly limited to the suit property measuring 33 square yards. The Nazir's report dated 02.12.2023 confirmed the measurements and boundaries of the suit property, while the lease documents and layout plan also supported the same dimensions. The KMC report further indicated that a six-feet-wide lane had been encroached upon, thereby supporting the conclusion that the additional 19 square yards claimed by the petitioner did not form part of the respondent's decreed property and that the petitioner had no established title or ownership document in respect of that excessive area. The Court further noted that the wall between the corridor and the open area had existed previously but had been demolished, apparently to create access to the additional 19 square yards. Since the petitioner himself had no objection to satisfaction of the decree concerning the 33 square yards, his real grievance was that reconstruction of the wall would prevent him from accessing the additional land. The High Court held that the Courts could not facilitate such access where the petitioner had failed to establish any lawful title to the additional land. Consequently, directing reconstruction of the wall merely restored the physical position necessary for giving effect to the decree and did not extend the decree beyond its lawful scope. The Revisional Court had therefore correctly found no jurisdictional error or illegality in the Executing Court's order. Moreover, both Courts below had concurrently reached

findings against the petitioner, and no perversity, illegality, misappreciation of evidence, or erroneous interpretation of law was demonstrated that could justify interference under Article 199 of the Constitution.

Conclusion: The High Court concluded that the petitioner had failed to establish any lawful right or title over the additional 19 square yards and that the Executing Court had correctly directed reconstruction of the wall so as to maintain the distinction between the decreed 33-square-yard property and the additional area. The Executing Court had acted within the scope of the decree, while the Revisional Court had rightly affirmed its order. Since the petitioner was challenging concurrent findings of the Courts below and had failed to demonstrate any exceptional ground warranting constitutional interference, the constitutional petition was found to be both not maintainable and devoid of merits. Accordingly, C.P. No. S-887 of 2025 was dismissed.

12.SINDH HIGH COURT

Muhammad Ibrahim v. Federation of Pakistan and others Constitutional Petition No. D-5312 of 2026

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzIzMjIyY2Ztcy1kYzgZ>
2026 SHC KHI 1745

Facts: The petitioner, a Federal Government employee, was allotted Quarter No. G-11/5, Clayton Quarters, Jahangir Road East, Karachi, through an allotment letter dated 01.04.2013 and claimed to have remained in possession since then. His grievance was that certain persons had unauthorizedly occupied or encroached upon an approximately 14-foot backside gallery/portion which, according to him, formed part of the premises allotted to him. He alleged that despite approaching the concerned authorities, no effective action was taken for removal of the alleged encroachment. Earlier, he had filed C.P. No. D-2941 of 2018, which was disposed of with a direction to approach the competent authority/regulatory body. He thereafter initiated proceedings under Sections 3 and 4 of the Illegal Dispossession Act, 2005, but those proceedings were dismissed on 07.03.2026. Consequently, he again invoked the constitutional jurisdiction of the High Court under Article 199 of the Constitution, seeking, inter alia, protection of his possession, demarcation of the allotted premises, removal of the alleged encroachment and demolition of unauthorized construction.

Issue: The principal issue before the Court was whether, in exercise of constitutional jurisdiction under Article 199 of the Constitution, the High Court could determine whether the disputed approximately 14-foot gallery/portion formed part of the premises allotted to the petitioner and, on that basis, direct the removal of the alleged unauthorized occupants and encroachment. A further issue was whether the material placed on record sufficiently established the precise boundaries and extent of the petitioner's allotted premises to justify issuance of a constitutional direction.

Rule: The Court held that where the ownership of the property vests in the Federal Government, protection of such property and removal of unauthorized occupation or encroachment is primarily a matter for the competent Government authorities to examine and deal with in accordance with law. The Court further reiterated that jurisdiction under Article 199 is ordinarily not exercised for determination of disputed questions of fact, demarcation of immovable property, or adjudication of competing claims to possession where such matters require examination of evidence, original official records, site plans or physical verification. An allottee of Government accommodation is entitled only to such right of occupation as is conferred by the terms of the allotment and such allotment, by itself, does not establish a right over every adjoining or disputed portion of Government property.

Application: Applying the above principles, the Court found that the petitioner had failed to place sufficient material establishing that the disputed portion was included within the premises allotted to him. Determination of this question required examination of the original allotment record, site plan and, if necessary, physical demarcation by the competent authority. The Court also noted an important inconsistency in the petitioner's own record. At certain places, he described the alleged encroachment as an approximately 14-foot backside gallery/portion, whereas elsewhere the record stated that two persons, namely Imran Nafees and Faizan Nafees, had occupied his quarter. According to the Court, this inconsistency made the exact nature, location and extent of the alleged encroachment unclear. The earlier order in C.P. No. D-2941 of 2018 did not determine that the disputed portion belonged to the petitioner; it merely permitted him to approach the competent authority. Similarly, dismissal of proceedings under the Illegal Dispossession Act, 2005 did not authorize the High Court to undertake a factual inquiry into the boundaries of the allotted property. Therefore, the petitioner could not obtain a constitutional direction for removal of the alleged occupants without first establishing, through proper verification and demarcation, that the disputed portion actually formed part of his lawful allotment.

Conclusion: The High Court held that the petitioner had failed to establish a case warranting interference under Article 199 of the Constitution. Since the precise boundaries of the allotted quarter and the status of the disputed portion involved disputed questions of fact requiring official record, site-plan examination and possible physical demarcation, the constitutional petition was dismissed in limine, along with all pending applications, if any. However, the Court clarified that the dismissal would not prevent the competent Federal Government authorities from independently examining the allegation of encroachment and, if unauthorized occupation is established after verification and proper demarcation, taking lawful action in accordance with due process. The Court expressly left the question of the precise boundaries of the petitioner's allotment and the rights of any person over the disputed portion open for determination by the competent authority.

13.SINDH HIGH COURT

National Refinery Labor Union V The Registrar of Trade Union and others Constitutional Petition No. D-8724 of 2018

Present: Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffar Raza

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzIxOTI3Y2Ztcy1kYzgZ>
2026 SHC KHI 1654

Facts: The petitioner, National Refinery Labour Union, applied for registration of a trade union under Section 4 of the Sindh Industrial Relations Act, 2013. After certain discrepancies in the registration documents were rectified and objections raised by Respondent No.2 were replied to, the Registrar of Trade Unions rejected the registration application. The petitioner challenged the rejection before Sindh Labour Court No.5 in Appeal No.4/2018. During the pendency of the appeal, Respondent No.2 sought impleadment as a party. The Labour Court allowed the application through order dated 01.10.2018. The petitioner challenged the said order before the Sindh Labour Appellate Tribunal through Revision Application No.KAR-40/2018, but the revision was dismissed on 29.11.2018. The petitioner thereafter invoked constitutional jurisdiction under Article 199 of the Constitution, contending that the employer had no necessary role in the registration of a trade union and relying upon *Essa Cement Industries Workers' Union* (1998 PLC 500). The respondents opposed the petition and maintained that verification of the employment status of the proposed union members was necessary because the petitioner had allegedly failed to satisfy the statutory requirements for registration.

Issues: Whether Respondent No.2, the employer, could lawfully be impleaded as a proper party in the appeal arising from rejection of the petitioner's trade union registration application, particularly where the status of the proposed members as "workmen" was disputed? Whether the Labour Court's order dated 01.10.2018, being a brief or non-speaking interlocutory order, and the observations made by the Appellate Tribunal regarding the eligibility of the petitioner's office-bearers, constituted sufficient grounds for interference under Article 199 of the Constitution?

Rule: The Court applied the statutory requirements governing registration of trade unions under Sections 5 and 6 of the Sindh Industrial Relations Act, 2013. In particular, Section 6(2)(a) requires the requisite members of an applying union to be workmen actually engaged in the concerned establishment. The Registrar is therefore required to examine the eligibility of the applicants and verify whether the statutory conditions for registration have been fulfilled. The Court also considered the principle laid down in *Essa Cement Industries Workers' Union* (1998 PLC 500), namely that an employer does not have a necessary or mandatory right to participate in the registration of a trade union. However, the Court distinguished between a necessary party and a proper party, holding that the absence of a mandatory right of hearing does not necessarily prevent an employer from being associated with proceedings where its records or information are relevant for determining a disputed factual or statutory question. Article 189 of the Constitution makes binding precedents applicable to courts and institutions, but such precedents are to be understood in the context of their facts and the statutory framework involved.

Application: Applying these principles, the Court found that the impleadment of Respondent No.2 could not be regarded as unlawful merely because an employer is not ordinarily a necessary party at the registration stage. In the present case, the eligibility of all five members/office-bearers of the petitioner union was specifically disputed on the ground that they were not “workmen” within the meaning of the applicable labour laws. It was also asserted that two members, Sheikh Muhammad Irfan and Syed Muhammad Khalid, were serving as Sub-Engineers and therefore did not fall within the relevant definition of “workman.” Since the employer possessed employment records necessary for verification of the members’ actual status and duties, its participation had a direct connection with the statutory question pending before the Labour Court. The Court therefore held that Respondent No.2 could properly be joined for the limited purpose of assisting in verification of the relevant facts. The Court further held that the brief nature of the Labour Court’s interlocutory order did not, by itself, establish any jurisdictional defect warranting constitutional interference. At the same time, any prima-facie observations made by the Appellate Tribunal concerning the ultimate eligibility of the petitioner’s office-bearers could not prejudice the final adjudication of Appeal No.4/2018, which had to be decided independently on its merits and in accordance with the statutory requirements.

Conclusion: The High Court concluded that no jurisdictional defect, illegality, or perversity had been established in the orders of the Labour Court and Sindh Labour Appellate Tribunal. Respondent No.2 was rightly treated as a proper party, particularly because its employment record was relevant to determining whether the proposed members fulfilled the statutory requirement of being “workmen” under the Sindh Industrial Relations Act, 2013. The petition was therefore dismissed. However, the Labour Court was directed to decide Appeal No.4/2018 strictly on its own merits and without being influenced by any prima-facie observations made by the revisional forum or the High Court.

14.SINDH HIGH COURT

Umer Sarfaraz V Province of Sindh and others Constitution Petition No. D-1829 of 2025

Present: Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffar Raza

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzIyODI1Y2Ztcy1kYzgZ>
2026 SHC KHI 1716

Facts: The petitioner, Umer Sarfaraz, filed a constitutional petition under Article 199 of the Constitution seeking appointment as Police Constable (BPS-05) in Sindh Police pursuant to the recruitment process for Karachi Range initiated in 2021–2022. The petitioner had successfully passed the physical and written tests, interview and medical examination and was selected for the post of Police Constable (SPD-480), subject to completion of codal formalities. During verification of his character and antecedents, FIR No.1367/2021 under Sections 147, 148, 149, 440 and 337-A(i), PPC, registered at Police Station Preedy, was found against him. The petitioner had already

been acquitted by the competent criminal Court on 01.10.2021 and had furnished the certified copy of the acquittal order to the respondents. Despite his acquittal, the Sindh Police Recruitment Board, in its meeting dated 26.07.2023, recommended withdrawal of his selection and rejection of his appointment, relying upon the sensitive nature of police service, Rule 4.1.18 of the Sindh Police Recruitment Policy, 2022 and the judgment in *AIG Police Karachi v. Muhammad Ismail Lashari*, reported as 2017 PLC (CS) 279. The petitioner therefore challenged the rejection of his candidature before the High Court.

Issues: Whether a candidate who had successfully completed the recruitment process for appointment as Police Constable could be denied appointment merely because an FIR had previously been registered against him, when the criminal case had already culminated in his acquittal before the recruitment process and there was no conviction or other independent adverse material showing his present unsuitability for police service? Whether Rule 4.1.18 of the Sindh Police Recruitment Policy, 2022 could be interpreted as creating a permanent disqualification against a candidate who had been acquitted?

Rule: The Court relied upon Article 189 of the Constitution, under which the law declared by the Supreme Court is binding upon the High Court. The Court considered Rule 4.1.18 of the Sindh Police Recruitment Policy, 2022 and the Supreme Court's order dated 22.10.2024 in Civil Petitions Nos.81-K and 82-K of 2024, wherein the Supreme Court interpreted the same recruitment policy and held that the provision concerning criminal cases could not reasonably be extended to a person who had been acquitted after conclusion of the criminal trial. The Court further relied upon the principle that mere registration of an FIR, which ultimately results in acquittal, does not by itself constitute a statutory disqualification from appointment. At the same time, the Court recognized that police authorities have lawful power and responsibility to verify the character and antecedents of candidates and, in appropriate circumstances, may consider independent and credible material relevant to suitability. The judgment in *DPO Mianwali v. Amir Abdul Majid* (2021 SCMR 420) was considered in this context. However, an acquittal cannot automatically be treated as a continuing stigma or permanent bar to appointment where no independent adverse material establishes present unsuitability.

Application: Applying the above principles, the Court found that the petitioner had never been convicted of the offences alleged in FIR No.1367/2021 and that the criminal proceedings had already ended in his acquittal on 01.10.2021. He had successfully completed the required stages of recruitment, including physical and written tests, interview and medical examination. The record disclosed no subsequent criminal involvement, conviction, adverse departmental record or any other independent material demonstrating that he was presently unsuitable for appointment. The Recruitment Board's decision dated 26.07.2023 appeared to have been based substantially upon the existence of the FIR, the sensitive nature of police service and its interpretation of Rule 4.1.18. The Court held that such an approach could not be sustained after the subsequent authoritative interpretation of the same policy by the Supreme Court. Rule 4.1.18 could not be interpreted in a manner that created a disqualification which was not provided by the statute or policy. The Court

distinguished between a subsisting conviction or credible independent adverse material and a criminal accusation which had finally ended in acquittal. It held that treating the previous FIR as a permanent disqualification would effectively convert an allegation into a perpetual bar to public employment. Nevertheless, the Court clarified that acquittal does not confer an unconditional or automatic vested right to appointment; the petitioner remained subject to all other lawful recruitment requirements, merit, availability of post and codal formalities.

Conclusion: The High Court allowed the constitutional petition and held that the decision/recommendation of the Sindh Police Recruitment Board dated 26.07.2023, insofar as it denied the petitioner appointment solely on account of the criminal case which had already resulted in his acquittal, was not sustainable in law. The respondents were directed to process and issue the petitioner's offer of appointment as Police Constable (SPD-480), subject to verification that he fulfilled all other prescribed recruitment and codal requirements and that there was no independent lawful disqualification or adverse material against him other than the already-acquitted criminal case. The exercise was directed to be completed expeditiously, preferably within 30 days from receipt of the order.

15.SINDH HIGH COURT

Muneer Ahmed V NAB and others

Constitutional Petition No. D-4905 of 2023

Present: Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffar Raza

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzIyODIzY2Ztcy1kYzgZ>
2026 SHC KHI 1715

Facts: The petitioner, Muneer Ahmed, was serving as Steno Typist (BPS-14) in NAB Regional Office Karachi and had earlier been promoted as Assistant Private Secretary (BPS-16) but was subsequently reverted. He was arrested on 15.10.2021 in connection with NAB Reference No.05 of 2022 relating to allegations of receiving illegal gratification and possessing assets beyond known sources of income. During his incarceration, departmental disciplinary proceedings were initiated against him under the NAB Employees Terms & Conditions of Service (TCS), 2002. The petitioner challenged the inquiry on the ground that he was unable to effectively defend himself because of his custody, was denied access to relevant record and legal assistance, and was not provided an effective opportunity to cross-examine witnesses. He also alleged that his statement was obtained under coercion and that the inquiry relied upon discrepancies in the statement of Aijaz Dawich. The Inquiry Committee found the allegations proved and submitted its report on 23.12.2021. Thereafter, a show-cause notice was issued, the petitioner submitted his reply and was afforded a personal hearing on 05.04.2023. The competent authority imposed the major penalty of dismissal from service through orders dated 22.05.2023 and 02.06.2023. His departmental appeal was subsequently dismissed by the Chairman NAB on 11.09.2023. The petitioner invoked Article 199 of the Constitution seeking setting

aside of the impugned orders and reinstatement with back benefits, alleging violation of Article 10-A and principles of natural justice.

Issue: Whether the departmental proceedings and the impugned orders dated 22.05.2023, 02.06.2023 and 11.09.2023 were illegal or suffered from any jurisdictional defect, violation of mandatory procedure, breach of natural justice or denial of the petitioner's constitutional right to fair trial and due process under Article 10-A of the Constitution, so as to justify interference by the High Court in its constitutional jurisdiction under Article 199? Whether the Court could re-appraise the evidence and factual findings recorded by the departmental authorities merely because the petitioner disputed the evidence relied upon against him?

Rule: The Court held that departmental proceedings are independent of criminal proceedings, even where both arise from the same allegations, because they operate in different fields and are governed by different standards of proof. The pendency or outcome of criminal proceedings does not, by itself, invalidate departmental action. Article 10-A guarantees fair trial and due process and applies to disciplinary proceedings to the extent that an employee must be provided a fair and meaningful opportunity to defend himself. However, a procedural objection does not automatically invalidate departmental proceedings unless the employee establishes actual or substantial prejudice or denial of a meaningful right of defence. The Court further held that its jurisdiction under Article 199 is primarily one of judicial review and not an appellate jurisdiction over departmental findings. It may interfere where the proceedings are conducted without lawful authority, mandatory procedure is violated, natural justice is denied, mala fide is established, or findings are perverse, based on no evidence, or suffer from patent illegality. However, the Court ordinarily cannot re-appraise or re-weigh departmental evidence and substitute its own findings for those of the competent disciplinary authority.

Application: Applying these principles, the Court found that the petitioner had failed to establish any substantial procedural violation or denial of his right of defence. The record showed that the disciplinary proceedings were initiated under the NAB TCS, 2002; a charge-sheet and statement of allegations were served upon him; witnesses were examined; and an opportunity to confront and cross-examine them was provided, although the respondents maintained that the petitioner did not put questions to the witnesses. The Court therefore held that the mere assertion that the petitioner could not cross-examine witnesses was insufficient to establish a violation of Article 10-A. Similarly, the allegation that his statement was obtained through coercion was not accepted because the petitioner failed to demonstrate that the statement had been forcibly extracted or that the finding of guilt rested exclusively upon that statement. His objection regarding discrepancies between the statement of Aijaz Dawich and the NAB Reference also essentially required the Court to compare and re-assess evidence, which was beyond the normal scope of constitutional jurisdiction. The Court further observed that although the petitioner had been incarcerated when the proceedings commenced, he subsequently participated in the inquiry, submitted his response, raised objections, appeared at the personal hearing and filed a departmental appeal. He was therefore not shown to have been condemned unheard. The Court also rejected the objection concerning the absence of a separate personal hearing before the

appellate authority because the petitioner failed to show that such hearing was expressly mandatory under Rule 13.02 of the NAB TCS, 2002, or that any material ground raised in the appeal was left unconsidered. The departmental findings were supported by material including the petitioner's statement, witness statements, allegations of receipt of approximately Rs.96.1 million as illegal gratification, accumulation of assets beyond known sources of income and recovery of valuable articles. Whether that material was sufficient to prove misconduct was primarily for the departmental authorities to determine, and no perversity, want of evidence, mala fide or patent illegality was established.

Conclusion: The High Court concluded that the petitioner failed to establish violation of Article 10-A, denial of a meaningful opportunity of defence, breach of the NAB disciplinary procedure, mala fide, want of jurisdiction or perversity in the departmental findings. The Court held that the petition, in substance, sought re-appraisal and re-evaluation of departmental evidence, which could not ordinarily be undertaken in constitutional jurisdiction under Article 199. The Court also distinguished the case from Karim Bux's case, where material procedural deficiencies, including reliance upon un-confronted material, failure to examine a material witness and absence of a reasoned appellate order, had resulted in denial of a meaningful opportunity of defence. In Muneer Ahmed's case, the prescribed procedural safeguards were found to have been substantially provided and no substantial prejudice was demonstrated. Accordingly, Constitutional Petition No. D-4905 of 2023 was dismissed as devoid of merit, the interim relief, if any, was vacated, and there was no order as to costs.

16.SINDH HIGH COURT

Spl. Sales Tax Reference Application No. 67/2019

Sindh Revenue Board, Karachi VS M/s. Fumicon Services (Pvt) Ltd., Karachi

Spl. Sales Tax Reference Application No. 02/2024

Sindh Revenue Board, Khi VS M/s. Pak Arab Engineering (Pvt.) Ltd., Karachi

Spl. Sales Tax Reference Application No. 21/2024

Sindh Revenue Board, Khi VS M/s. Niazi Sons Construction Company, Multan

Spl. Sales Tax Reference Application No. 158/2025

Sindh Revenue Board, Karachi VS M/s. Visa Express Private Limited, Karachi

Present: Mr. Justice Agha Faisal
Mr. Justice Shahnawaz Memon

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzIxNzMzY2Ztcy1kYzgZ>
2026 SHC KHI 1646

Facts: The Sindh Revenue Board imposed penalties upon the respondent taxpayers under Serial Nos. 2 and 3 of the Table to section 43 of the Sindh Sales Tax on Services Act, 2011 for failure to file returns and deposit sales tax within the prescribed time. The

Appellate Tribunal deleted the penalties because the department had failed to prove that the defaults were willful, dishonest, contumacious or attended by mens rea. The Board challenged those orders through references under section 63 of the Act, contending that the frequency and continuation of the defaults established willful conduct.

Issue: Whether a penalty under section 43 of the Sindh Sales Tax on Services Act, 2011 can be imposed merely upon the occurrence of default, or whether the department must prove that the default was willful and attended by mens rea.

Rule: A penal statutory provision is construed strictly, and mens rea is presumed to be an essential ingredient unless expressly or by necessary implication excluded by the legislature. Section 43 creates a punitive liability for “offences and penalties,” whereas section 44 expressly imposes default surcharge “whether wilfully or otherwise.” Therefore, section 44 creates strict compensatory liability, but section 43 requires proof of culpable conduct.

The initial burden rests upon the department to prove that the default was willful, dishonest, contumacious or otherwise attended by mens rea. Only after that burden is discharged does the taxpayer bear the burden of explaining the default. The penalty must also be proportionate to the gravity of the offence and cannot be imposed mechanically merely because the statute permits it. (Paras 18–29 and 35–36)

Application: The Court found that the legislature deliberately included the words “whether wilfully or otherwise” in section 44 but omitted them from section 43. This showed a conscious legislative intention to make default surcharge automatic while retaining mens rea as an ingredient of penalty. Section 43 uses the expressions “offences,” “commits” and “shall be liable to,” provides for prosecution and imprisonment in certain cases, and excuses a first-time miscalculation. These features indicate that liability depends upon blameworthiness and is not strict. The Tribunal, being the final fact-finding forum, had determined that willful default was not proved. In the Fumicon matter, the taxpayer subsequently deposited an amount exceeding the assessed tax and filed all outstanding returns, while explaining that the defaults resulted from health problems and the departure of employees responsible for electronic filing. The assessing officer had imposed penalties approaching sixteen times the principal tax liability without determining the culpability of the taxpayer’s conduct. The High Court held that the number or persistence of defaults may constitute relevant evidence but does not by itself conclusively establish willfulness. Moreover, the Board had not framed any question alleging that the Tribunal’s findings were perverse, based on no evidence, or involved misreading or non-reading of evidence. The Court could therefore not reassess those factual findings in its reference jurisdiction under section 63. (Paras 28 and 31–34)

Conclusion: The High Court answered the reference against the Sindh Revenue Board. A penalty under section 43 cannot be imposed merely because a default occurred. The department must first prove that the default was willful, contumacious, dishonest or otherwise attended by mens rea. Since the Tribunal had found that such culpability was not established, it rightly deleted the penalties. All reference applications were disposed of with no order as to costs.

17.SINDH HIGH COURT
C.P. No. D-2724 of 2026
Sharjeel Quddos V Federation of Pakistan & others

Present: Mr. Justice Adnan Iqbal Chaudhry
Mr. Justice Muhammad Hasan (Akber)

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzIzMTUzY2Ztcy1kYzgZ>
2026 SHC KHI 1741

Facts: The petitioner, an importer of PVC Non-Flexible Decorative/Printed Sheets/Films for wall panels, challenged a letter dated 31.12.2025 issued by the Director Customs Valuation whereby Valuation Ruling No. 1984/2025 was purportedly clarified. The Valuation Ruling expressly dealt with flexible PVC sheets and films falling under PCT headings 3920.4300 and 3920.4990, whereas the petitioner's goods were described as semi-rigid/non-flexible PVC strips under HS Code 3920.4910. Nevertheless, the Customs authorities applied the said Valuation Ruling to the petitioner's goods solely on the basis of the impugned clarification letter and assessed the goods accordingly under section 80 of the Customs Act, 1969. The petitioner contended that the letter unlawfully expanded the scope of the Valuation Ruling and relied upon the earlier judgment in Imperial Panel Industries (Pvt.) Ltd. v. Federation of Pakistan, where an identical clarification had been set aside.

Issue: Whether the Director Customs Valuation could, through a clarification letter, extend the scope of Valuation Ruling No. 1984/2025 to goods not covered by it, and whether the constitutional petition was maintainable despite the availability of statutory remedies under the Customs Act, 1969.

Rule: Under section 25A of the Customs Act, 1969, the Director Valuation is empowered to determine the customs value of goods through a valuation ruling and may revise an earlier ruling only by exercising the statutory power in the manner provided by law. He cannot add to, delete from, or expand an existing valuation ruling through a mere clarification letter. The power of review of a valuation ruling separately vests in the Director General Valuation under section 25D. Further, the existence of an alternate statutory remedy does not bar constitutional jurisdiction where the impugned action is without jurisdiction, in excess of jurisdiction, or suffers from an illegality apparent on the face of the record. The Court referred to Gatron Industries Ltd. v. Government of Pakistan, 1999 SCMR 1072, Nagina Silk Mills v. Income Tax Officer, PLD 1963 SC 322, and Trade Link Corporation v. Federation of Pakistan, 2016 PTD 1096.

Application: The Court found that Valuation Ruling No. 1984/2025 expressly applied to flexible PVC sheets and films, whereas the petitioner's goods were classified by the department itself as semi-rigid and non-flexible. The goods were therefore not covered by the language of the Valuation Ruling. The impugned letter attempted to treat PVC sheets capable of bending without breaking as "flexible" for valuation purposes regardless of their plasticizer content. The Court held that this was not a mere clarification but an attempt to read a new category of goods into the existing Valuation Ruling. The department's argument that the present letter was valid because it had

been issued by the Director Valuation, unlike the earlier letter in Imperial Panel Industries which had been issued by the Deputy Director, was rejected. The Court held that even the Director Valuation could not enlarge an existing valuation ruling through a letter and was required to follow the procedure prescribed under section 25A. Since the assessment dated 30.04.2026 was based entirely upon the unlawful clarification letter, it was ex facie illegal. Consequently, the constitutional petition was maintainable despite the availability of an alternate statutory remedy.

Conclusion: The High Court allowed the petition, declared the clarification letter dated 31.12.2025 to be of no legal effect, and set aside the assessment dated 30.04.2026. The Customs authorities were directed to reassess the petitioner's goods under section 80 of the Customs Act, 1969 without being influenced by the impugned letter. The ratio decidendi is that the scope of a valuation ruling issued under section 25A cannot be enlarged or modified through a clarificatory letter, and any change must be made through the statutory procedure prescribed by law. The Court's observation that the petitioner's contention regarding the required percentage of plasticizer could be raised before the appropriate forum was obiter dicta.

18.HIGH COURT OF SINDH

Criminal Bail Application No.2016 of 2026
Muhammad Sharif S/o Azizullah Khaskheli V The State

Criminal Bail Application No.2593 of 2026
Dost Muhammad S/o Pinjial V The State

Present: Mr. Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzIyMjU1Y2Ztcy1kYzgZ>
2026 SHC KHI 1680

Facts: The applicants sought post-arrest bail in FIR No.512 of 2025, Police Station Orangi Town, Karachi, registered under Section 365-B PPC, Section 3(i) of the Prevention of Trafficking in Persons Act, 2018 read with Sections 3/4 of the Sindh Child Marriage Act, 2013. The complainant alleged that his daughter Shabiran, stated to be about 15/16 years of age, went missing and suspected Ayaz Ali Lashari of abducting her for marriage, zina or other motives. Muhammad Sharif was not nominated in the FIR and was later implicated without attribution of a specific overt act, while Dost Muhammad was alleged to have acted as Nikah Khuwan. During the proceedings, Shabiran had executed an affidavit and also made a statement in Constitutional Petition No.2239 of 2025 that she had married Sardar Khan of her own free will and had not been abducted. The prosecution principally relied on call detail record (CDR) material and disputed the defence version regarding her age.

Issue: Whether the material available against the applicants disclosed reasonable grounds for believing that they had participated in the alleged abduction and related offences, or whether their cases fell within further inquiry under Section 497(2), Cr.P.C. so as to justify post-arrest bail.

- Rule:** At the bail stage the Court is required to make only a tentative assessment and cannot undertake a deeper appreciation of evidence. Where the material does not furnish reasonable grounds connecting an accused with the offence and the circumstances require further examination at trial, Section 497(2), Cr.P.C. is attracted. Mere telephonic contact shown through CDR, without material explaining the nature, purpose and direct nexus of the communication with the offence, is not conclusive proof of participation. The individual role of each accused must be assessed separately, and a disputed question of age or evidentiary worth of competing documents cannot ordinarily be finally determined at the bail stage.
- Application:** The Court attached significance to the alleged abductee's affidavit and statement that she had contracted marriage voluntarily and had not been abducted, which made the foundational allegation of abduction doubtful at the tentative stage. No independent evidence showed Muhammad Sharif's presence at the place of occurrence, no specific overt act of abduction, enticement, confinement or facilitation was attributed to him, and the prosecution's reliance on CDR required deeper evidentiary examination at trial. The parties also produced conflicting material regarding Shabiran's age, making that question incapable of conclusive determination in bail proceedings. As to Dost Muhammad, the challan confined his role to recitation of the Nikah, while no oral or documentary material showed prior knowledge, common intention or participation in abduction or confinement. These circumstances, taken cumulatively, brought both cases within the scope of further inquiry.
- Conclusion:** The Court allowed both bail applications and admitted Muhammad Sharif and Dost Muhammad to post-arrest bail on surety of Rs.50,000/- each with P.R. bonds in the like amount. The ratio decidendi was that, on a tentative assessment, the prosecution material did not provide reasonable grounds directly connecting the applicants with the alleged abduction: the alleged abductee asserted voluntary marriage, no specific overt act or independent evidence connected Muhammad Sharif with the occurrence, the CDR by itself was inconclusive, the age question was disputed, and Dost Muhammad's role was confined to recitation of Nikah without material showing prior knowledge or common intention. The Court's observations that rejection of bail of a co-accused does not by itself govern another accused's case, and that continued detention after completion of investigation would serve no useful purpose, were supportive observations; the direct basis of the order remained further inquiry under Section 497(2), Cr.P.C.
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19.SINDH HIGH COURT

Criminal Bail Application No.3367 of 2025

Muhammad Hussain S/o Shakeel Ahmed V The State

- Present:** Mr. Justice Jan Ali Junejo
- Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIyMDA3Y2Ztcy1kYzgZ>
2026 SHC KHI 1662
- Facts:** The applicant sought post-arrest bail in Crime No.242 of 2025, Police Station Maripur, Karachi, registered under Sections 302, 397 and 34 PPC. The prosecution alleged that two unknown persons robbed and fatally shot Jameel Hussain, owner of DD Exchange, near his residence while he was carrying approximately Rs.17,00,000.

The assailants abandoned a motorcycle bearing a police monogram and escaped. The applicant, who worked as a security guard at the exchange, was not nominated in the FIR. The prosecution later alleged that, because of his employment, he knew the deceased's movements and the availability of cash and that his mobile phone/CDR showed contact with co-accused Adil. The defence emphasized that no specific role, firearm injury, recovery or material showing the applicant's presence at the scene had been attributed to him.

Issue: Whether the prosecution material, particularly the applicant's employment at the money exchange and alleged telephonic contact with a co-accused, constituted reasonable grounds for believing that he participated in the murder and robbery, or whether the case called for further inquiry under Section 497(2), Cr.P.C.

Rule: In deciding bail, the Court makes only a tentative assessment and does not conduct the deeper appreciation of evidence reserved for trial. Mere telephonic contact between accused persons, without independent material establishing the nature, purpose and direct connection of the communication with the offence, cannot by itself be treated as conclusive evidence of participation. Likewise, employment at a place connected with the victim and possible knowledge of the victim's movements or cash may create a circumstance for trial, but without independent corroboration it is insufficient to establish involvement. Where the available material does not furnish reasonable grounds and requires proof at trial, the case falls within Section 497(2), Cr.P.C.

Application: The Court noted that the applicant was not nominated in the FIR, which attributed the occurrence to two unknown assailants, and that no firearm or other incriminating article had been recovered from him. There was no material showing his physical presence at the place of occurrence. The prosecution mainly relied on his employment as security guard and alleged CDR contact with co-accused Adil, but no forensic or independent corroborative material was produced to show that the communication concerned planning or commission of the offence. The alleged identification of the fleeing assailants also did not directly connect the applicant. His employment and possible knowledge of the deceased carrying cash were therefore treated as circumstances requiring examination at trial rather than sufficient grounds for continued detention.

Conclusion: The Court allowed the bail application and admitted Muhammad Hussain to post-arrest bail on solvent surety of Rs.2,00,000/- with a P.R. bond in the like amount. The ratio decidendi was that the prosecution had not produced independent corroborative material directly connecting the applicant with the murder and robbery: he was not nominated in the FIR, was not shown to be present at the scene, no incriminating recovery was made from him, and the alleged CDR contact and his employment at the exchange required proof and appreciation at trial. Those circumstances therefore constituted further inquiry within Section 497(2), Cr.P.C. The Court's observation that employment might have given the applicant knowledge of the deceased's movements was only an evidentiary circumstance for trial and not a finding of participation; all observations in the bail order were expressly tentative.

20.SINDH HIGH COURT, MIRPURKHAS

C.P. No. D-73 of 2026

Shahzado Saleem V Federation of Pakistan & Others

- Present:** Mr. Justice Amjad Ali Bohio and Mr. Justice Riazat Ali Sahar
- Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIxNzU5Y2Ztcy1kYzgz>
2026 SHC MPK 1647
- Facts:** The petitioner's mobile number, which was linked to his Facebook and other digital services, remained inactive beyond the prescribed 180-day period. Zong consequently disconnected and re-allotted it to another biometrically verified subscriber. The petitioner sought restoration of the number and challenged the recycling policy as violating his rights to life, security and privacy under Articles 9 and 14 of the Constitution.
- Issue:** Whether a former subscriber retains an enforceable right over a dormant mobile number after its lawful re-allotment, and whether the 180-day recycling policy violates Articles 9 and 14 of the Constitution.
- Rule:** A former subscriber acquires no perpetual proprietary right in a mobile number after expiry of the contractual period of inactivity. Constitutional jurisdiction cannot ordinarily be used to reconsider contractual and technical matters assigned to a statutory regulator. However, contractual terms cannot exclude remedies granted by statute or the Constitution, and PTA has a continuing statutory duty to protect consumers.
- Application:** The number remained unused for more than 180 days and was re-issued under the applicable terms after biometric verification. No evidence established that Zong disclosed the petitioner's passwords, messages, banking information or other confidential data. Therefore, re-allotment itself did not constitute an unlawful intrusion into privacy. Nevertheless, recycled numbers may create foreseeable identity-theft and account-security risks requiring regulatory examination.
- Conclusion:** The Court refused restoration of the number and declined to declare the 180-day recycling policy unconstitutional. It directed PTA to examine existing safeguards, including advance notice, consumer warnings, quarantine periods and complaint procedures, and to issue a reasoned decision within 90 days. A subscriber has no continuing proprietary or contractual right over a dormant mobile number after its lawful recycling, and re-allotment without proof of disclosure or unlawful access to personal data does not, by itself, violate Articles 9 or 14.
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21.SINDH HIGH COURT, MIRPURKHAS

Civil Revision No. S-41 of 2026

Nathoo Mal V PARCO Gunvor Limited & another

Present: Mr. Justice Muhammad Humayon Khan

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzIxNjA5Y2Ztcy1kYzgZ>
2026 SHC MPK 1639

Facts: Nathoo Mal leased land to PARCO Gunvor Limited for ten years. Clause 4(e) contemplated further ten-year renewals “on the terms and conditions mutually agreed upon between the parties.” After expiry, PARCO remained in possession and claimed that acceptance of rent amounted to automatic renewal. The trial court rejected its plaint under Order VII Rule 11 CPC, but the appellate court restored the suit.

Issue: Whether Clause 4(e) automatically renewed the lease at the tenant’s option and whether the plaint could be rejected under Order VII Rule 11 CPC by interpreting the admitted lease agreement.

Rule: Construction of an admitted written agreement is a question of law and may be undertaken under Order VII Rule 11 CPC. A renewal clause requiring future terms to be mutually agreed is merely an “agreement to agree” and does not create an enforceable or automatic renewal. Such a clause also constitutes an “agreement to the contrary” under section 116 of the Transfer of Property Act, 1882, excluding tenancy by holding over.

Application: Clause 4(e) required a fresh agreement upon mutually settled terms and execution of a written registered lease. No mutual terms or fresh lease were concluded. Mere acceptance of rent could not create renewal or tenancy by holding over. The suit was founded entirely upon a legally unsustainable claim of automatic renewal, while no specific relief against dispossession without due process had been claimed.

Conclusion: The High Court allowed the revision, set aside the appellate judgment and restored rejection of the plaint under Order VII Rule 11 CPC. The suit was barred by sections 42 and 56(f), read with section 21(c), of the Specific Relief Act, 1877. A lease-renewal clause requiring terms and conditions to be mutually agreed does not confer a unilateral right of renewal. It is an unenforceable agreement to negotiate and prevents implied renewal by holding over under section 116 of the Transfer of Property Act. The Court observed that PARCO remained a statutory tenant or tenant at sufferance under section 2(j) of the Sindh Rented Premises Ordinance, 1979, and could not be dispossessed without due process, although no such relief had been specifically claimed.

22.SINDH HIGH COURT, SUKKUR
Naseeb Ali @ Naseeb Soomro V The State
Criminal Bail Application No.455/2026

Present: Mr. Justice Suresh Kumar

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzIxODMxY2Ztcy1kYzgZ>
2026 SHC SUK 1688

Facts: The prosecution case was that on 06.04.2026, the applicant Naseeb Ali, along with co-

accused, allegedly facilitated the principal accused Ashiq Ali in attempting to commit sodomy with the complainant's son, Amanat Ali, at abandoned shops near Dehar Wah. It was further alleged that the incident was being recorded on video for blackmailing the victim. The victim subsequently implicated the applicant in his statement under section 164 Cr.P.C. and alleged that the applicant and other co-accused had previously committed a similar act.

Issue: Whether the applicant, being about 17 years of age, was entitled to post-arrest bail merely on the ground of juvenility despite being charged with attempted sodomy and being specifically implicated by the victim.

Rule: The Court held that juvenility by itself does not create an absolute right to bail where the juvenile is accused of a heinous offence punishable with imprisonment for life or otherwise falling within the prohibitory clause of section 497 Cr.P.C. However, under section 6(5) of the Juvenile Justice Ordinance, as referred to in the judgment, a juvenile may file fresh bail application after remaining in custody for six months if the trial has not concluded.

Application: The FIR alleged that the applicant, along with other co-accused, facilitated the principal accused in attempting to commit sodomy with the complainant's son and that a video of the occurrence was being recorded for blackmail. More importantly, the victim in his statement under section 164 Cr.P.C. specifically implicated the applicant and also alleged his involvement in an earlier similar occurrence. The Court therefore found sufficient prima facie material connecting the applicant with the offence. Since the applicant had been in custody from 09.04.2026 and had not yet completed six months, he could not claim bail as a statutory right at that stage.

Conclusion: The High Court dismissed the bail application, holding that the applicant's status as a juvenile did not by itself entitle him to bail in view of the nature of the offence and the prima facie material against him. However, he was given liberty to file a fresh bail application if the trial was not concluded within six months of his arrest.

23.SINDH HIGH COURT, SUKKUR
Shakeel Ahmed Phanwar V The State
Cr. Bail App. No.209/2026

Present: Mr. Justice Muhammad Faisal Kamal Alam
Mrs. Justice Tasneem Sultana

Source: <https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzIyMjkzY2Ztcy1kYzg&citation=2026+SHC+SUK+1683>
2026 SHC SUK 1683

Facts: The applicant was apprehended while allegedly driving a Vigo vehicle bearing registration No. KP-8077, from which police recovered two sacks containing about 40 kilograms of Bhang/Hemp, along with twenty-four sacks of Safeena Gutka. He was the sole occupant of the vehicle. Samples of the recovered substance were sent for chemical examination, and the Chemical Examiner reported that both samples

contained Bhang/Hemp. The applicant thereafter sought post-arrest bail, contending that the recovered material did not fall within the statutory definition of cannabis under the Sindh Control of Narcotic Substances Act, 2024.

- Issue:** Whether the alleged recovery of 40 kilograms of Bhang/Hemp fell within the definition of cannabis under section 2(d) of the Sindh Control of Narcotic Substances Act, 2024, and whether the case therefore called for further inquiry under section 497(2) Cr.P.C.
- Rule:** Section 2(d) of the Sindh Control of Narcotic Substances Act, 2024 defines cannabis (hemp) in different forms, including flowering or fruiting tops and forms known as bhang, siddhi or ganja. The definition has to be read as a whole. For bail, further inquiry arises where reasonable doubt exists regarding the accused's involvement or applicability of the offence.
- Application:** The applicant was allegedly apprehended while driving a Vigo vehicle as its sole occupant, from which 40 kilograms of Bhang/Hemp were recovered. The Chemical Examiner gave a positive resin test and concluded that the samples contained Bhang/Hemp. The Court held that the report did not support the applicant's contention that the recovered substance fell outside the statutory definition. The applicant also failed to show any previous enmity or mala fide on the part of the police.
- Conclusion:** The Court held that the case did not fall within further inquiry under section 497(2) Cr.P.C. and dismissed the bail application. The ratio decidendi is that where the Chemical Examiner's report supports that the recovered substance is Bhang/Hemp falling within section 2(d), mere reliance on the physical description of leaves, seeds or stalks is insufficient to bring the case within further inquiry.
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24.SINDH HIGH COURT, SUKKUR
Karimullah Khaskheli V P.O Sindh & Others
Const. P. D-1594/2025

- Present:** Mr. Justice Arbab Ali Hakro
Mr. Justice Muhammad Osman Ali Hadi
- Source:** <https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzIyNTI3Y2Ztcy1kYzgz&citation=2026+SHC+SUK+1696>
2026 SHC SUK 1696
- Facts:** The petitioner joined the Police Department as a Constable in 1983 and retired as a Sub-Inspector on 14.05.2024 after more than four decades of service. Before retirement, he had been posted as Incharge Kot (Arms and Ammunition Store) at Police Headquarters, Khairpur. Despite retirement, his pension, G.P. Fund, commutation and leave encashment were not released. The department stated that his clearance certificate had not been furnished and that an FIR under section 409 PPC had later been registered regarding missing arms and ammunition. However, no departmental proceedings or order withholding his pension existed at the time of his retirement, and the criminal case was registered more than a year afterwards.

- Issue:** Whether the pension, G.P. Fund, commutation and leave encashment of a retired police officer could lawfully be withheld merely because a clearance certificate had not been issued and an FIR was registered against him after retirement.
- Rule:** Under Rule 1.8 of the West Pakistan Civil Services Pension Rules, 1963, pension may be withheld where the pensioner is convicted of a serious crime or is found guilty of grave misconduct after due process. Recovery from pension on account of loss to Government requires a finding in judicial or departmental proceedings, and departmental proceedings cannot be instituted after one year from the date of retirement. Pension and provident fund are vested rights and cannot be withheld indefinitely without lawful authority.
- Application:** The petitioner retired on 14.05.2024 with no departmental proceedings, charge-sheet, show-cause notice or withholding order pending against him. The FIR regarding missing arms was lodged more than a year later and remained under investigation. The Court held that an FIR is merely an accusation and cannot be treated as a conviction or finding of misconduct. It further held that absence of a clearance certificate was only a departmental formality and could not defeat the petitioner's accrued pensionary rights.
- Conclusion:** The petition was allowed and withholding of the petitioner's pension, G.P. Fund, commutation, leave encashment and admitted pay was declared without lawful authority. The respondents were directed to process and release the dues with arrears. The ratio decidendi is that pensionary benefits cannot be withheld merely on the basis of a pending FIR or absence of a clearance certificate where no conviction, finding of grave misconduct, or timely departmental proceedings exist.
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25.SINDH HIGH COURT, LARKANA
Hifazat Ali Jatoi V Govt of Sindh & Others
Const. P. D-397/2026

- Present:** Mr. Justice Riazat Ali Sahar
Mr. Justice Ali Haider 'Ada'
- Source:** <https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzIyMTk1Y2Ztcy1kYzg&citation=2026+SHC+LAR+1677>
2026 SHC LAR 1677
- Facts:** The petitioner was initially appointed as Junior Clerk in 1992, promoted as Senior Clerk in 2017 and later as Assistant (BPS-16) in 2022. He challenged the seniority list dated 31.12.2025 on the ground that officials junior to him had been promoted to the post of Superintendent while his departmental appeal against the seniority position was still pending before the Secretary, School Education and Literacy Department.
- Issue:** Whether the petitioner could invoke constitutional jurisdiction under Article 199 to challenge the seniority list and promotion of his juniors while his departmental appeal was still pending.

- Rule:** Under section 4 of the Sindh Service Tribunals Act, 1973, where a departmental appeal, review or representation remains undecided for 90 days, the aggrieved civil servant may approach the Service Tribunal directly. Constitutional jurisdiction is ordinarily not invoked where an adequate and efficacious alternate statutory remedy is available.
- Application:** The petitioner had challenged the seniority list dated 31.12.2025 on the ground that his juniors had been promoted to the post of Superintendent while his departmental appeal remained pending. The Court observed that once 90 days had elapsed without decision on the departmental appeal, the petitioner was entitled to approach the Service Tribunal instead of invoking Article 199.
- Conclusion:** The petition was dismissed as not maintainable because an adequate alternate remedy before the Service Tribunal was available. The ratio decidendi is that a civil servant cannot ordinarily bypass the statutory remedy before the Service Tribunal by directly invoking constitutional jurisdiction where the law provides an effective remedy after expiry of 90 days from filing the departmental appeal.
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26.SINDH HIGH COURT

Naqeeb Ullah v. Collector of Customs (Enforcement), Karachi & others Special Customs Reference Application No.230 of 2026

- Present:** Mr. Justice Mohammad Abdur Rahman
Mr. Justice Dr. Shah Nawaz Memon
- Source:** <https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzIzMjQ0Y2Ztcy1kYzgZ>
2026 SHC KHI 1747
- Facts:** Customs intercepted a container carrying 20,700 kg of Iranian-origin glassware. The Goods Declaration produced by the driver had already been used for an earlier consignment. The goods were confiscated, and penalties were imposed. Before the Customs Appellate Tribunal, the applicant relied upon another Goods Declaration dated 17.01.2024, but the Tribunal declined to accept it because it had not been produced at the time of seizure or before the adjudicating authority and its particulars, including quantity and vehicle, did not correspond with the seized consignment.
- Issue:** Whether the High Court, in reference jurisdiction under section 196 of the Customs Act, 1969, could re-appraise the Tribunal's factual findings regarding the second Goods Declaration, and whether alleged non-compliance with sections 26 and 171 rendered the confiscation proceedings unlawful.
- Rule:** After the Finance Act, 2024, section 196 permits determination of questions of law as well as mixed questions of law and fact. However, the High Court cannot act as a second fact-finding forum. The Customs Appellate Tribunal remains the final forum on facts unless its findings are based on no evidence, are perverse, or suffer from misreading or non-reading of material evidence. Section 187 places the burden upon the claimant to prove lawful importation through valid documents. Section 26 is an information-gathering provision and is not a condition precedent to seizure, while

section 171 requires intimation of the grounds of seizure to the person from whose possession the goods are seized.

Application: The Tribunal had actually considered the second Goods Declaration and rejected it for specific factual reasons. Therefore, the applicant was essentially asking the High Court to reassess evidence and reach a different factual conclusion, which was beyond the scope of section 196. No perversity, misreading or non-reading was shown. The applicant had also received a show-cause notice, filed a reply, produced documents and participated in the proceedings, so no prejudice was established from the alleged procedural defects.

Conclusion: The High Court held that no question of law or mixed question of law and fact arose requiring interference. The Tribunal's factual findings were maintained, the objections under sections 26 and 171 were rejected, and the Special Customs Reference Application was dismissed in limine.

27.SINDH HIGH COURT

Dr. Masuma Hasan v. Public At Large Miscellaneous Appeal No.3 of 2026

Present: Mr. Justice Sana Akram Minhas

Source: <https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzIzMjU0Y2Ztcy1kYzgZ>
2026 SHC KHI 1748

Facts: The appellant sought Letters of Administration regarding Bungalow No.93-C, Block 6, PECHS, Karachi, allegedly forming part of the estate of her deceased husband, Fatehyab Ali Khan. The Additional District Judge dismissed the application because the property still formally stood in the name of Wajihuddin. Earlier, however, a Division Bench in Dr. Masuma Hasan v. Imtiaz Ali Khan (PLD 2025 Sindh 96) had held that a stranger's independent claim of ownership could not be adjudicated in administration proceedings and had also examined the deceased's substantial connection with the property, including mortgage, redemption payments, execution proceedings and custody of original title documents.

Issue: Whether the application for Letters of Administration could be dismissed merely because the property formally stood in another person's name, and whether the High Court under section 299 of the Succession Act could itself direct inclusion of the property in the deceased's estate for administration purposes without finally deciding title.

Rule: In administration proceedings, formal registration of property in another person's name is not necessarily conclusive where the record shows a substantial and documented connection between the deceased and the property. An independent dispute regarding title, beneficial ownership or benami claim must be decided separately by the competent forum. Under section 299 of the Succession Act, 1925, the High Court exercises appellate powers under the CPC and may finally determine the matter where the relevant material is already available and no further factual

inquiry is required.

Application: The deceased had made payments towards redemption of the property, had participated in relevant execution proceedings, and the original title documents were subsequently released to one of his sons. These circumstances could not be ignored merely because the property remained formally recorded in Wajihuddin's name. The Additional District Judge therefore erred in treating the formal title entry as decisive and dismissing the administration application on that basis alone.

Conclusion: The High Court allowed the appeal, set aside the order dated 10.01.2026 and restored the succession application. The property was directed to be included in the estate of Fatehyab Ali Khan for the limited purpose of administration and issuance of Letters of Administration. The Court clarified that such inclusion would not amount to a final decision regarding title, beneficial ownership or any benami claim, which could still be determined separately by the competent forum.
