



# HIGH COURT OF SINDH

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## Case Law Review



## Fortnightly Bench Update



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## FORTNIGHTLY BENCH UPDATE

(16-5-2026 to 31-05-2026)

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

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**FEDERAL CONSTITUTIONAL COURT OF PAKISTAN****Civil Appeal No. 103-K/2024****(on appeal from the judgment dated 04.06.2021 passed by the High Court of Sindh in C.P. No. D-1859 of 2017)****Present:****Mr. Justice Syed Hasan Azhar Rizvi  
Mr. Justice Muhammad Karim Khan Agha****Source:**

<https://www.fccp.gov.pk/download/eyJpdil6InIyUIZqdVZBSGhvM2RhcUwxeWErQVE9PSIsInZhbHVlIjoiUWRnOWVHM3JMU2h0L2dxS1BEUTRrZz09IiwibWFjIjoiNTRiMDY4MjRiZDAzZjc1ZWZkNDQ3N2RlYzRkYTg4ZGZkYTFINmRjZmY1NjU1NjYwYmYzOWJkNzEzYzgwZTFZmMSIsInRhZyI6IiJ9>

**Facts:**

The appellants, Muhammad Qutub-ud-Din and others, challenged the retrospective regularization and seniority granted to Respondent No.4, Nadir Hussain Kanasro, in the Sindh Employees' Social Security Institution (SESSI). Respondent No.4 was initially appointed as Social Security Officer BS-16 on a two-year contract in 2002, and his contractual service was extended from time to time. His service was regularized from 31.03.2007, but later, on his representation, SESSI regularized him retrospectively from the date of his initial contractual appointment and placed him senior to the appellants. The appellants, who had been appointed on a regular basis in 2004, challenged this action before the High Court, but their petition was dismissed. They then filed the present appeal.

**Issue:**

Whether Respondent No.4, who was initially appointed on a contract basis, could lawfully be granted retrospective regularization and seniority from the date of his contractual appointment, thereby placing him above employees who were appointed on a regular basis during his contractual service?

**Rule:**

Under Regulation 9(3) of the Sindh Employees' Social Security Institution (Revised) Service Regulations, 2006, seniority of a member of service is to be reckoned from the date of his regular appointment. A contractual appointment is different from a regular appointment and does not confer substantive status in service unless the law expressly provides otherwise. Retrospective seniority cannot be granted through administrative discretion unless there is clear statutory authority for it.

**Application:**

The Court held that Respondent No.4 remained a contractual employee until his regularization in 2007 and was not part of the regular cadre before that date. His name did not appear in the seniority lists of 2005 and 2006, which showed that SESSI itself treated him as outside the regular cadre before regularization. On the

other hand, the appellants were appointed through regular process in 2004, and their names appeared in the seniority lists soon after their appointment. The Court found that SESSI had no express legal authority under the Regulations of 2006 to grant Respondent No.4 retrospective seniority from 2002. The Court further observed that seniority is a valuable civil right affecting promotion and career progression, so it cannot be altered by an administrative decision without lawful authority. The selective grant of retrospective benefit to Respondent No.4, while similar relief had earlier been denied to other similarly placed contractual officers, was also found arbitrary and discriminatory.

**Conclusion:** The Federal Constitutional Court allowed the appeal, set aside the High Court's judgment, and also set aside the impugned orders dated 01.03.2017 and 17.03.2017. It held that contractual service cannot be treated as regular service for seniority unless the law expressly permits it. The Court declared that the appellants were lawfully senior to Respondent No.4 and directed SESSI to issue a revised seniority list within 60 days in accordance with the judgment.

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## 2. SUPREME COURT OF PAKISTAN

**Civil Petitions No.5674 and 5708 of 2025  
Against the judgment dated 03.11.2025  
passed by Federal Service Tribunal,  
Islamabad in Appeals No.13(P)CS and 14(P)CS/2024**

**Muhammad Afzal Usama Mehmood  
(In CP 5674/25) (In CP 5708/25)**

**Versus**

**Director GEO Information Center Survey of Pakistan, Peshawar and others  
(In both cases)**

**Present:** **Mr. Justice Muhammad Ali Mazhar  
Justice Ms. Musarrat Hilali**

**Source:** [https://www.supremecourt.gov.pk/downloads\\_judgements/c.p.\\_5674\\_2025.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p._5674_2025.pdf)

**Facts:** The petitioners, Muhammad Afzal and Usama Mehmood, were appointed as Naib Qasid in the respondent department in April 2019 and were later assigned field work at Chilas through letter dated 01.04.2022. In May 2023, an inquiry was initiated against them on the allegation that their appointment letters were fake. They claimed that no proper show-cause notice or statement of allegations was issued, yet their services were terminated through order dated 31.08.2023, with retrospective effect from 15.04.2019. Their departmental appeals were not decided within the statutory period, so they approached the Federal Service Tribunal, but the FST dismissed

their appeals as not maintainable on the ground that they were locally hired persons and not civil servants.

- Issue:** Whether the Federal Service Tribunal was justified in dismissing the appeals as not maintainable while also recording findings on the merits of the petitioners' appointments, alleged fake appointment letters, and status as employees?
- Rule:** When a Court or Tribunal finds that it lacks jurisdiction or that a matter is not maintainable, it should normally decide only that threshold question and avoid entering into the merits of the case. If a forum lacks jurisdiction, the proper course under the principle reflected in **Order VII Rule 10 CPC** is to return the case for presentation before the competent forum, rather than dismissing it after commenting on merits. Any decision on merits by a forum lacking jurisdiction is **coram non iudice** and void
- Application:** The Supreme Court observed that although the FST dismissed the appeals on the ground of maintainability, it had still discussed the merits in detail by holding that the petitioners were recruited on forged appointment letters, were not regular employees, were local hired persons, and were ghost employees. The Supreme Court found this approach legally improper because once the Tribunal treated the matter as outside its jurisdiction, it should have confined itself to that issue only. The Court also noted that the FST did not properly examine whether being a "local person" legally prevented a person from being appointed as a civil servant. The petitioners' stance was that their appointments were lawful and not fake, so the question of their status as civil servants required proper determination first.
- Conclusion:** The Supreme Court converted the petitions into appeals, allowed them, set aside the judgment of the Federal Service Tribunal, and remanded the matter to the FST. The Tribunal was directed to first decide the question of **jurisdiction and maintainability**, particularly whether the petitioners were civil servants or not, and whether there was any legal bar on locally hired persons being appointed as civil servants.
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### 3. HIGH COURT OF SINDH

**Criminal Appeal No.281 of 2022**  
**Munsif Khan S/o Ikramullah Khan Vs The State**

**Present:** **Mr. Justice Zafar Ahmed Rajput (Author), Hon'ble Chief Justice**  
**Mr. Justice Jan Ali Junejo.**

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzEzOTcxY2ZtcylkYzgz>  
**2026 SHC KHI 1128**

**Facts:** The prosecution case was that on 30.10.2020, complainant SIP Maqsood Alam interrogated appellant Munsif Khan, a police constable, who allegedly disclosed that he along with other police officials had apprehended Mehboob Ali Jaffary and his son Mohsin on 27.10.2020 and recovered 34 packets of charas, but instead of taking legal action, they released them and divided the narcotic among themselves. According to the prosecution, Munsif Khan received 7 packets as his share and kept them at his house. On this disclosure, the police arrested him and went to his house at Generalabad, Shireen Jinnah Colony, Keamari, Karachi, where he allegedly led them to a cupboard and produced a black plastic shopper containing 7 packets of charas, weighing 8,200 grams, wrapped in yellow tape. The police prepared the memo of arrest and recovery at the spot, sealed the case property, brought the appellant and recovered narcotics to the police station, and registered the FIR under section 6/9-C of the Control of Narcotic Substances Act, 1997.

**Issue:** Whether the conviction of appellant Munsif Khan under section 6/9-C of the Control of Narcotic Substances Act, 1997 could legally stand when his co-accused, who faced the same allegations arising from the same incident and recovery proceedings, had already been acquitted by the High Court due to defects in proving safe custody and transmission of the narcotic substance.?

**Rule:** In narcotics cases, the prosecution must prove the safe custody of the recovered narcotic from the time of recovery until its dispatch and receipt at the chemical laboratory. If the chain of custody is not proved, the possibility of tampering cannot be ruled out, and the chemical examiner's report loses legal value. The Court also applied the principle of parity: where the case of an accused stands on the same footing as that of acquitted co-accused, based on the same facts and evidence, the accused is entitled to the same benefit.

**Application** The appellant had been convicted by the trial Court and sentenced to 7 years and 6 months' rigorous imprisonment with a fine of Rs.55,000 for allegedly possessing 8,200 grams of charas recovered from his house. The prosecution case was that the appellant, a police constable, disclosed that he and other police officials had recovered 34 packets of charas from two persons, released them, and divided the narcotics among themselves. The defence argued that the appellant had been falsely implicated, that there were material contradictions and investigative defects, and that co-accused Sher Muhammad Khan and Fayyaz Khan, implicated on the same allegations, had already been acquitted by the High Court. The Additional Prosecutor General conceded that those co-accused were acquitted on the basis of the same memo of arrest and recovery in separate FIRs. The High Court noted that the earlier acquittals were based on failure of the prosecution to prove safe custody and transmission of the narcotic substance. Since the present appellant's case stood on the same footing as those co-accused, with the same facts and evidence recorded by the trial Court, the Court held that the conviction could not be maintained.

**Conclusion:** The High Court allowed the criminal appeal, set aside the conviction and sentence dated

20.04.2022, and held that the prosecution had failed to prove its case against the appellant.

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#### 4. HIGH COURT OF SINDH

##### **AM Associates and another v. Government of Sindh and others Constitutional Petition No.D-2473 of 2026**

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

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzE0NDc1Y2Ztcy1kYzg>  
2026 SHC KHI 1140

**Facts:** The case emerged from a Constitutional Petition filed by AM Associates and another (the Petitioners) against the Government of Sindh and TransKarachi (Respondent No. 7) seeking the de-sealing of a project site and camp office located at Aladin Park on Rashid Minhas Road, Karachi. The Petitioners, entering into a joint venture agreement, had successfully bid approximately PKR 15.94 billion for the execution of Lot-2 (Mosamiyat to Numaish) of the Karachi Bus Rapid Transit (BRT) Red Line Project. After executing the contract agreement on January 4, 2022, disputes over incomplete site designs and cost escalations arose, leading to several favorable awards for the Petitioners by a Dispute Resolution Board (DRB) and a subsequent reference to arbitration. Concurrently, the Petitioners had obtained 10 acres of land near Aladin Park on a three-year rental basis from the Karachi Metropolitan Corporation (KMC) in July 2022 to set up their project camp office, labor accommodations, and material yards. Upon the expiration of the tenancy period, and following the Petitioners' failure to comply with a final notice to vacate the premises, KMC sought administrative assistance from local revenue and law enforcement authorities. On April 21, 2026, local revenue officials dispossessed the Petitioners, sealed the structures, and handed the land back to KMC. On the exact same day, TransKarachi served the Petitioners with a contract termination notice due to alleged persistent execution delays. The Petitioners moved the High Court, asserting that the forceful eviction and sealing of their office and machinery were illegal, premature, and violated their fundamental constitutional rights.

**Issues:**

- (i). Whether a Constitutional Writ Petition under Article 199 of the Constitution of Pakistan is legally maintainable against state authorities when the core dispute arises out of commercial, contractual obligations that explicitly provide for alternative dispute resolution forums like arbitration?
- (ii). Whether the unilateral sealing and dispossession of the project camp office and construction machinery by the local revenue authorities, at the behest of a municipal corporation (KMC) that was deliberately omitted as a party to the proceedings, was lawful and contractually justified?

**Rule:** The High Court focused on the parameters of its constitutional jurisdiction under Article 199 of the Constitution of Pakistan, 1973, which dictates that writ jurisdiction cannot ordinarily be invoked to settle purely commercial or contractual disputes when a comprehensive, agreed-upon remedy—such as an arbitration clause or reference to a Dispute Resolution Board—is readily available within the contract. Additionally, the court examined the Sindh Public Property (Removal of Encroachment) Act, 2010, which provides a specific administrative and legal mechanism for a government department to retrieve state-owned land from overstaying tenants or illegal encroachers, alongside statutory remedies for aggrieved individuals to contest such dispossession. Furthermore, under basic principles of civil procedure and constitutional law, a court cannot issue a binding writ or order adverse to the interests of an indispensable statutory body (such as KMC) if that entity has not been formally arrayed as a party to the judicial proceedings.

**Application:** Applying these legal principles, the High Court observed that the physical retrieval of the 10-acre camp office land was executed because the Petitioners' statutory three-year lease with KMC had expired, and they had ignored multiple formal notices to vacate. The court noted that because the land now safely rested with its rightful owner, KMC, and because the Petitioners intentionally failed to name KMC as a respondent, no constitutional writ could be issued to reverse the dispossession. While the court recognized that the administrative authorities acted lawfully under KMC's directive to retrieve the state land, it found that the officials failed to demonstrate any legal justification for the continuous sealing of the Petitioners' commercial machinery, trucks, and construction materials. The court explicitly separated the local government's land dispute from the broader commercial contract with TransKarachi. It noted that any grievances concerning the validity of the contract termination, delays, or defect liabilities must be aggressively pursued through the dispute mechanism provided under Clause 20 of the contract agreement or via the statutory provisions of the Act of 2010, rather than asking the court to assume executive policy-making functions over public infrastructure projects.

**Conclusion:** The High Court of Sindh partially disposed of the Constitutional Petition by refusing to restore the possession of the 10-acre camp office land to the Petitioners, highlighting their failure to implead KMC and directing them to instead pursue statutory remedies under the Sindh Public Property (Removal of Encroachment) Act, 2010. However, the court ruled in favor of the Petitioners regarding their seized property, holding that the administrative sealing of construction materials and heavy machinery lacked legal justification. It ordered the immediate de-sealing and restoration of all machinery and construction material to the Petitioners, provided they were not actively required by TransKarachi under the main contract. Finally, the court explicitly directed the Government of Sindh to ensure that the vital, traffic-congested University Road is made fully functional for public transport within two months, confirming that any continuing contractual defaults or liability claims between TransKarachi and the contractor must be settled independently through their contractually mandated arbitration mechanisms.

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## 5. HIGH COURT OF SINDH

### **Farhan Hanif and others v. Federation of Pakistan and others** **Constitutional Petition No.D-5167 of 2024**

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

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzE0NDczY2Ztcy1kYzgz>  
2026 SHC KHI 1139

**Facts:** The petitioners, comprising the proprietor of M/s Denim Co. and partners of M/s Hantex, were engaged in manufacturing and export of denim products and had longstanding financial dealings with Bank Islami. The Bank had extended various loan facilities secured through pledged stocks, hypothecation of receivables, mortgages over immovable properties, and personal guarantees. Subsequently, the Bank issued legal notices dated 20.07.2024 under sections 20 and 2(g) of the Financial Institutions (Recovery of Finance) Ordinance, 2001 (FIO), demanding repayment of substantial outstanding amounts and warning of criminal proceedings for “wilful default” upon non-payment. The petitioners disputed the Bank’s claims, particularly the quantum involving KIBOR charges, and challenged the notices and FIA inquiries numbered 98 and 99 of 2024 before the High Court. They contended that since recovery suits (Suit Nos. B-23 and B-24 of 2024) were already pending before the Banking Court and civil liability had not yet been determined, initiation of criminal proceedings for wilful default was premature, unlawful, and mala fide.

**Issues:** (i). Whether the Federal Investigation Agency (FIA), acting under section 20(7) of the FIO, could lawfully initiate inquiry proceedings for the offence of “wilful default” prior to the final adjudication of civil liability by the Banking Court, particularly where recovery suits concerning the same loan transactions were pending?  
(ii). Whether allegations involving removal or misappropriation of pledged stock and transfer of mortgaged property constituted independent grounds for criminal inquiry under section 2(g) of the FIO?

**Rule:** The Court examined the scheme of the Financial Institutions (Recovery of Finance) Ordinance, 2001, particularly sections 2(g) and 20. Section 2(g) defines “wilful default” in three distinct forms: first, deliberate failure to repay finance after it becomes due under section 2(g)(i); second, utilization of finance for purposes other than those for which it was obtained coupled with non-payment under section 2(g)(ii); and third, removal, transfer, misappropriation, or sale of collateralized assets without the financial institution’s permission under section 2(g)(iii). Section 20(7) authorizes an investigating agency nominated by the Federal Government to investigate such

offences upon a written complaint by an authorized officer of the financial institution after service of a thirty-day demand notice. Section 20(8) further characterizes the offence as cognizable, non-bailable, and non-compoundable. The Court held that while a charge under section 2(g)(i), involving deliberate non-payment, generally presupposes establishment of default and thus determination of civil liability, offences under sections 2(g)(ii) and 2(g)(iii) are independent criminal wrongs akin to criminal breach of trust and may be investigated regardless of whether civil liability has been conclusively determined.

**Application:** Applying these principles to the case, the Court observed that Bank Islami had advanced loan facilities against various securities, including pledged stocks and mortgaged properties. The Bank alleged that the petitioners had misappropriated pledged stock, obstructed stock inspection, and transferred mortgaged shops to third parties without its consent. Special inspection conducted through M/s Hunza Services allegedly revealed that stocks present at the premises belonged to third parties and that inspection had been hindered by the petitioners. The Court noted that, although the petitioners disputed certain financial calculations and KIBOR-related amounts, they neither denied the underlying loan obligations nor demonstrated willingness to repay or settle the accounts. Their replies to legal notices were viewed as evasive. More importantly, the allegations concerning removal of pledged stock and unauthorized transfer of mortgaged property were not specifically denied in the petition. The Court therefore held that the case involved not merely an issue of outstanding repayment under section 2(g)(i) but also allegations squarely attracting section 2(g)(iii), which constituted independent criminal misconduct. Consequently, the pendency of recovery suits and unresolved civil liability did not bar the FIA from commencing inquiry proceedings. While acknowledging the general legal principle that deliberate non-payment ordinarily follows determination of liability, the Court considered the present circumstances exceptional because the petitioners' conduct suggested deliberate avoidance of repayment accompanied by alleged breach of trust concerning secured assets. The Court further found no material substantiating allegations of mala fide or abuse of process by either the Bank or the FIA and held that the investigative process had been initiated in accordance with the statutory procedure prescribed by the FIO.

**Conclusion:** The High Court concluded that the FIA had acted within its lawful authority under section 20(7) of the FIO in initiating inquiries into allegations of wilful default. The Court clarified that although determination of civil liability may ordinarily be relevant for an offence under section 2(g)(i), allegations falling within sections 2(g)(ii) and 2(g)(iii), particularly involving misappropriation or transfer of secured assets, constitute independent criminal offences capable of investigation irrespective of pending civil proceedings. Since the petitioners failed to establish illegality, mala fide, or infringement of constitutional rights warranting judicial review under Article 199 of the Constitution, the constitutional petition was dismissed along with all pending applications, without any order as to costs.

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**6. HIGH COURT OF SINDH****Muhammad Saeed Khan and others v. Federation of Pakistan and others  
Constitutional Petition No.D-5950 of 2025**

**Present:** Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Muhammad Hasan Akbar

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzE0NDgzY2Ztcy1kYzgZ>  
2026 SHC KHI 1144

**Facts:** The petitioners invoked constitutional jurisdiction under Article 199 of the Constitution seeking unblocking and restoration of their bank accounts, mobile wallet accounts, CNICs, and passports, alleging unlawful actions by the FIA and other authorities. Petitioner No.1, a retired government pensioner, claimed that his pension account, CNIC, and passport had been blocked without notice or lawful authority. Petitioners Nos.2 and 3, engaged in lawful business activities relating to travel, Umrah, Ziyarat services, and trading, contended that their business and financial operations had been paralysed due to restrictions imposed on their accounts and identification documents. They asserted that despite being registered taxpayers and conducting legitimate businesses, coercive measures had been adopted against them without any show-cause notice or opportunity of hearing. The petitioners further relied upon their acquittal in FIR No.178/2021 under Sections 406, 420, and 109 PPC and a subsequent judicial order directing release of their passports, arguing that continued restrictions amounted to unlawful harassment and deprivation of livelihood. The respondents, particularly the FIA and the Federal Government through the learned DAG, opposed the petition and argued that proceedings under the Anti-Money Laundering Act, 2010 (AML Act) were independent of the criminal proceedings in which the petitioners had been acquitted. It was contended that inquiry proceedings had been initiated lawfully under the AML Act and that the FIA had merely sought financial information under Section 25(1) of the AML Act without itself ordering blockage of CNICs or passports. NADRA also denied any digital impounding of the petitioners' CNICs. FIA officials produced correspondence issued to banks seeking transactional information but maintained that the inquiry was exploratory and no longer operative.

**Issue:** Whether the FIA and related authorities could lawfully permit or cause restrictions on the petitioners' passports, bank accounts, mobile wallet accounts, and business activities merely on the basis of an exploratory anti-money laundering inquiry and administrative correspondence, without any freezing order or restraint issued by a competent court or lawful authority, particularly after the petitioners' acquittal in the predicate criminal case and judicial directions for release of passports?

**Rule:** The Court reaffirmed the settled legal principle that although proceedings under the Anti-Money Laundering Act, 2010 are independent and may continue despite acquittal in the predicate offence,

any coercive action affecting citizens' fundamental rights must strictly conform to due process and lawful authority. The exercise of state power must remain consistent with constitutional guarantees, particularly Articles 4, 18, 23, and 24 of the Constitution, which protect due process, lawful trade and business, and property rights. The Court emphasized that mere pendency of an inquiry or issuance of investigative correspondence cannot by itself justify indefinite restrictions upon financial affairs, business operations, or freedom of movement unless supported by reasonable grounds and lawful authorization through a competent court or statutory forum. State authorities exercising powers under the AML Act are required to act cautiously, transparently, and within clearly defined legal limits.

**Application:** Applying these principles, the Court observed that the petitioners had already been acquitted in the predicate criminal proceedings and that the learned Judicial Magistrate had specifically ordered release of certain passports where not required in any other proceedings. Despite these judicial developments, the respondents failed to place any material on record showing that the passports, accounts, or mobile wallet facilities had been restrained pursuant to any valid freezing order or competent legal authority. The Court noted that FIA's correspondence dated 20.08.2024 under Section 25 of the AML Act merely sought financial information from banks and did not itself constitute a lawful freezing order. Nevertheless, banks apparently relied upon this correspondence to block or restrict accounts, thereby causing financial hardship and disruption of lawful business activities. The Court further found significance in the respondents' own concession that the inquiry remained exploratory and that no substantial incriminating material had surfaced against the petitioners. In such circumstances, continuing restrictions without disclosure of allegations, notice, hearing, or lawful restraint amounted to arbitrary interference and violated constitutional safeguards. The Court considered such conduct contrary to procedural fairness and characterized the use of investigative powers without proper authorization as capable of resulting in harassment, humiliation, and financial paralysis of citizens. Consequently, the Court held that powers under the AML framework could not be exercised in excess of law or used as a substitute for judicially sanctioned restraint mechanisms.

**Conclusion:** The High Court disposed of the petition by directing that if the petitioners' passports, bank accounts, mobile wallet accounts, or other facilities had been blocked solely on the basis of the impugned inquiry or FIA correspondence and were unsupported by any lawful restraint order issued by a competent court or authority, they were to be immediately restored and unblocked in accordance with law. The respondents were restrained from interfering with the petitioners' lawful business activities except through due process. Additionally, recognizing the seriousness of potential misuse of investigative authority, the Court directed the Director General FIA to examine the conduct of delinquent officers involved in issuing communications or adopting coercive measures without lawful sanction and to initiate disciplinary proceedings wherever misuse of power or mala fide conduct was established. The Court further warned that future misuse of authority by FIA officials could invite proceedings under Article 204 of the Constitution, thereby reinforcing judicial oversight over unlawful executive action.

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## 7. HIGH COURT OF SINDH

### **Abdul Karim v. Province of Sindh and others** **Constitutional Petition No.D-2296 of 2026**

**Present:** Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Muhammad Hasan (Akber)

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzE0NT01Y2Ztcy1kYzgZ>  
**2026 SHC KHI 1165**

**Facts:** The petitioner, Abdul Karim, proprietor of M/s. Proud Build Construction and holder of a valid PEC Category C-3 license, participated in a tender floated by KMC for the development of Anwar Shaheed Park, Karachi. Although his technical proposal was initially declared compliant, it was later rejected on the ground of alleged deficiencies in the submitted documents. The petitioner contended that his bid, which was substantially lower than the estimated project cost, was arbitrarily disqualified along with several other lower bidders to facilitate the award of the contract to Respondent No.5, whose bid was lower than the estimated cost by only one rupee. Aggrieved, the petitioner filed a complaint under Rule 31 of the Sindh Public Procurement Rules, 2010, and subsequently approached the Review Committee under Rule 32 when no timely decision was rendered. However, instead of examining the merits of his grievance, the Review Committee dismissed his appeal under Rule 32(7)(a) on the basis that he had failed to deposit a penalty of Rs.200,000 imposed in an unrelated earlier procurement matter. Challenging this dismissal, the petitioner invoked the constitutional jurisdiction of the High Court.

**Issue:** Whether the Review Committee acted lawfully under Rule 32(7)(a) of the Sindh Public Procurement Rules, 2010 by dismissing the petitioner's appeal solely on account of his alleged non-compliance with directions issued in a separate and unrelated procurement matter, without adjudicating the merits of the grievances raised concerning the impugned tender process?

**Rule:** Rule 32(7)(a) of the Sindh Public Procurement Rules, 2010 empowers the Review Committee to dismiss an appeal where the appellant fails to comply with the lawful directions of the Committee. The Court observed, however, that while this provision ensures procedural discipline and respect for the authority of the Review Committee, its exercise must remain within legal bounds and consistent with principles of substantive justice. The statutory framework governing public procurement disputes requires each complaint or appeal to be independently adjudicated on its own factual and legal merits, particularly where allegations involve arbitrariness, lack of transparency, or potential loss to the public exchequer. Discretion under Rule 32(7)(a) is therefore required to be exercised judiciously and not in a manner that frustrates fair adjudication.

**Application:** Applying the above principles, the Court found that the Review Committee had not examined the petitioner’s substantive allegations relating to arbitrary disqualification, favouritism, and lack of transparency in the procurement process. Rather, the Committee dismissed the appeal solely because the petitioner had allegedly failed to deposit a penalty imposed in another procurement dispute concerning District Council Tando Allahyar. The Court held that such prior alleged default had no direct nexus with the tender under challenge and could not be treated as an automatic disqualifying factor. Although the learned AAG defended the dismissal by relying on Rule 32(7)(a), the Court held that this argument overlooked the essential requirement that each procurement dispute be decided independently. By relying on an unrelated matter and bypassing consideration of the actual grievances raised, the Review Committee exercised its discretion mechanically and failed to determine the core controversy. This non-consideration of relevant issues rendered the impugned decision legally unsustainable and contrary to the spirit and purpose of the Sindh Public Procurement Rules, 2010.

**Conclusion:** The High Court concluded that the impugned decision of the Review Committee was legally vulnerable because it rested on irrelevant considerations and failed to address the merits of the petitioner’s complaint. Consequently, without expressing any opinion on the validity of the procurement process itself, the Court set aside the impugned order and remanded the matter to the Review Committee for fresh consideration strictly in accordance with the Sindh Public Procurement Rules, 2010. The Committee was directed to provide all concerned parties a fair opportunity of hearing and to decide the appeal expeditiously, preferably within two weeks. The constitutional petition was accordingly disposed of along with all pending applications.

## 8. HIGH COURT OF SINDH

**Mst. Jawaria Juman v. Federation of Pakistan and others**  
**Constitutional Petition No.D-1881 of 2025**

**Mst. Jawaria Juman v. Federation of Pakistan and others**  
**Constitutional Petition No. D-1406 of 2026**

**Present:** **Mr. Justice Adnan-ul-Karim Memon**  
**Mr. Justice Muhammad Hasan (Akber)**

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzE0NTAzY2Ztcy1kYzgz>  
**2026 SHC KHI 1153**

**Facts:** The petitioner, Mst. Jawaria Juman, a disabled female employee of Pakistan Railways, served as Reservation Supervisor (BS-12) at City Railway Station Karachi and retired on 16.06.2025. Prior to her retirement, Pakistan Railways initiated the process for promotion to the post of Senior

Reservation Supervisor (BS-16) through the Departmental Promotion Committee (DPC), and the petitioner stood at Serial No.1 in the seniority list, making her the senior-most candidate for consideration. Her ACRs and service record were requisitioned in December 2024, indicating that her promotion case was actively under process. However, despite the pending promotional process and her approaching retirement, the respondents did not finalize the matter and subsequently withdrew an earlier exemption granted to her from the mandatory P-15 course shortly before retirement. After retirement, the petitioner also complained that her retirement dues, including G.P. Fund, gratuity, leave encashment, and other admissible benefits amounting to more than Rs. 38 lacs, remained unpaid, causing serious financial hardship. She therefore invoked constitutional jurisdiction seeking issuance of promotion or proforma promotion, release of retirement benefits, and protection from dispossession from railway accommodation until payment of dues.

- Issues:**
- (i). Whether the constitutional petitions were maintainable under Article 199 of the Constitution despite the respondents' objection based on Article 212 and the jurisdiction of the Federal Service Tribunal?
  - (ii). Whether the petitioner had been unlawfully deprived of fair consideration for promotion due to departmental delay and withdrawal of the P-15 exemption?
  - (iii). Whether she was entitled to consideration for proforma promotion after retirement; and whether the withholding of retirement benefits without lawful justification violated her vested rights and constitutional protections?

**Rule:** The Court reiterated the settled legal principle that ordinary service disputes relating to terms and conditions of service ordinarily fall within the exclusive jurisdiction of the Service Tribunal under Article 212 of the Constitution, and promotion itself is not a vested or fundamental right. However, the Court emphasized that fair and lawful consideration for promotion is a legal right, and constitutional jurisdiction may still be invoked where departmental actions reveal arbitrariness, mala fide conduct, discrimination, patent illegality, or violation of fundamental rights. The Court further reaffirmed the doctrine of proforma promotion, under which an employee who suffers loss of promotion due to circumstances attributable to departmental delay or omission may be granted notional promotion with consequential service and pensionary benefits. Reliance was placed upon the principles recognized in *Ghulam Qadir Thebo v. Government of Pakistan*, whereby an employee cannot be penalized for administrative inaction that deprives him or her of timely consideration for promotion. Regarding retirement dues, the Court observed that such benefits are accrued and vested rights rather than discretionary bounties, and unjustified delay in their release violates constitutional guarantees under Articles 4, 9, and 24 of the Constitution.

**Application:** Applying these principles, the Court found that although the respondents had objected to maintainability under Article 212, the peculiar circumstances of the case justified invocation of constitutional jurisdiction. The grievance was not merely a routine service matter concerning promotion but related to alleged arbitrariness and discriminatory administrative conduct. The Court noted that the petitioner had approached the Court before retirement, clearly informing the department of her impending superannuation and requesting timely consideration of her case. Despite her

seniority and the fact that her promotion process had already commenced, the department failed to conclude the matter expeditiously. The Court attached significance to the withdrawal of the P-15 course exemption on 27.05.2025, only days before retirement, observing that the respondents failed to demonstrate fraud, misrepresentation, or any overriding public interest justifying such withdrawal. Since the exemption had initially been granted by the competent authority, apparently considering her disability and special circumstances, its abrupt withdrawal without meaningful opportunity or timely resolution of her promotional claim reflected unfairness and administrative arbitrariness. The Court further observed that the prolonged delay in finalizing the DPC proceedings effectively frustrated her promotional prospects and that a public employer could not defeat an employee's right of consideration by administrative procrastination. At the same time, recognizing limitations on judicial interference in service matters, the Court refrained from directly granting promotion and instead directed reconsideration of the petitioner's claim for proforma promotion by the competent authority through a speaking order. Regarding retirement benefits, the Court found no legal impediment justifying their continued withholding and held that indefinite delay in payment of admitted dues was unlawful and violative of constitutional rights.

**Conclusion:** The Court concluded that the continued inclusion of the petitioner's name on the ECL was unlawful, arbitrary, and violative of his fundamental rights. Accordingly, the impugned memorandum dated 23.06.2023 was set aside, and the competent authority was directed to forthwith remove the petitioner's name from the ECL and grant all consequential relief in accordance with law. All pending applications were also disposed of.

**9. HIGH COURT OF SINDH  
C. P. No. D-4630 of 2025  
Imtiaz Hussain Kazi & others Versus Parwaz Express (Private) Limited & others**

**Present:** Mr. Justice Yousuf Ali Sayeed  
Mr. Justice Muhammad Osman Ali Hadi

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzE0NzE1Y2Ztcy1kYzgZ>  
**2026 SHC KHI 1181**

**Facts:** The petitioners challenged orders dated 24.02.2025 and 11.08.2025 passed by the Consumer Court Karachi East and the VIIIth Additional District and Sessions Judge Karachi East, whereby their consumer complaint was dismissed as time-barred under Section 29(4) of the Sindh Consumer Protection Act, 2014. The complaint related to alleged faulty travel-agent services, as the petitioners claimed that they were wrongly assured that their luggage would be transferred between airlines during their return journey from Sarajevo to Karachi, which led to missing the onward flight and incurring additional cost. The petitioners had earlier obtained ex parte condonation of delay, but the complaint was later dismissed on limitation objection raised by the respondent.

**Issue:** Whether the respondents could still raise the plea of limitation after ex parte condonation of delay, and whether dismissal of the consumer complaint as time-barred was unreasonable or illegal?

**Rule:** A consumer claim under Section 29(4) of the Sindh Consumer Protection Act, 2014 must be filed within thirty days from the arising of cause of action. Delay may be condoned only on showing sufficient cause. An ex parte order condoning delay, passed without notice to the opposite party, does not finally bar the respondent from raising limitation once notice is issued. The limitation period starts from the date the consumer obtains knowledge of the alleged defect in service.

**Application:** The Court observed that the complaint was admitted subject to legal objections, therefore the respondent was not precluded from raising limitation. The petitioners themselves pleaded that the cause of action first arose on 28.07.2024 when the alleged faulty service was discovered at Sarajevo airport, whereas the complaint was filed on 26.09.2024. Their explanation that they were pursuing the matter privately through email and legal notice did not constitute sufficient cause for delay. The Court also relied on the principle that subsequent correspondence does not extend limitation once knowledge of the defect has already arisen.

**Conclusion:** The Court held that no illegality or perversity was found in the impugned orders dismissing the complaint as time-barred. The constitutional petition was dismissed. The decisive reason was that ex parte condonation of delay does not attain finality against a party who had no notice, and where no sufficient cause for delay is shown, a complaint filed beyond thirty days from knowledge of defective service is liable to be dismissed. The observations regarding the beneficial nature of consumer legislation and the discussion on conversion of an Order VII Rule 11 CPC application into proceedings under Section 36 of the Act were ancillary. The real basis of the decision remained limitation under Section 29(4).

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**10. HIGH COURT OF SINDH**  
**C.P No. D-2045 of 2025 and C.P No. D-2046 of 2025**  
**Asif Razaak Deenar Versus Federation of Pakistan & others**  
**Abdul Qadir & another Versus Federation of Pakistan & others**

**Present:** **Mr. Justice Yousuf Ali Sayeed**  
**Mr. Justice Muhammad Osman Ali Hadi**

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzE0NzIxY2Ztcy1kYzgZ>  
**2026 SHC KHI 1182, 2026 SHC KHI 1188, 2026 SHC KHI 1189**

**Facts:** The petitioners sought quashment of FIR No.01 of 2025 registered by the Directorate of Intelligence and Investigation, Inland Revenue, Hyderabad, alleging tax fraud under the Sales Tax Act, 1990. The petitioners were directors/former director of MD Industries (Private) Limited. Earlier, an Order-in-Original had been passed against the company determining tax liability of Rs.3,145,172,773/-, which was challenged before the Appellate Tribunal. The Tribunal granted stay against recovery, and during that period the impugned FIR was lodged. The petitioners relied mainly on Directorate of Intelligence and Investigation v. Taj International, 2025 PTD 1270, arguing that no criminal proceedings could be initiated before final determination.

**Issue:** Whether the FIR for tax fraud under the Sales Tax Act, 1990 could be quashed under Article 199 of the Constitution when an Order-in-Original had already determined liability but recovery proceedings were stayed by the Appellate Tribunal?

**Rule:** Criminal proceedings under the Sales Tax Act, 1990 are governed by a special statutory mechanism, including proceedings before the Special Judge. Constitutional jurisdiction to quash an FIR is to be exercised sparingly and only in exceptional cases involving grave injustice or clear abuse of process, particularly where no adequate alternate remedy exists. A stay against recovery does not by itself suspend or erase the underlying determination of liability.

**Application:** The Court held that the petitioners' reliance on Taj International was misconceived because, unlike that case, an Order-in-Original had already been passed and a determination was in the field when the FIR was registered. The Tribunal's stay order was limited to recovery of the tax demand and did not suspend the Order-in-Original or restrain criminal proceedings. The Court further held that the Sales Tax Act provides a complete mechanism for dealing with criminal offences, and the petitioners could raise their objections before the Special Court, including by filing an application under Section 265-K Cr.P.C., if so advised.

**Conclusion:** The Court held that the petitioners had an adequate statutory remedy and failed to establish exceptional circumstances for quashment of the FIR. The petitions were dismissed. The core holding was that where an Order-in-Original determining tax liability exists, and only recovery is stayed, criminal proceedings under the Sales Tax Act are not barred merely because appellate proceedings are pending. The accused must ordinarily approach the Special Court, and Article 199 jurisdiction for quashing FIRs is reserved for exceptional cases. The Court's remarks on the post-2024 amendments introducing the expression "sought to be evaded" in the Sales Tax Act were expressly left for determination in an appropriate future case. Those observations were not necessary for deciding the petitions.

**11. HIGH COURT OF SINDH  
C.P No. D-2261 of 2026  
Imtiaz Group (Private) Limited Versus Federation of Pakistan & others**

**Present:** Mr. Justice Yousuf Ali Sayeed  
Mr. Justice Muhammad Osman Ali Hadi

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzE0NzIzY2Ztcy1kYzgz>  
**2026 SHC KHI 1183**

**Facts:** The petitioner challenged coercive recovery initiated by FBR through a notice dated 13.04.2026 under Section 140 of the Income Tax Ordinance, 2001, issued to the petitioner's bank. Earlier, FBR had issued a demand notice dated 10.04.2026 under Section 137(2), requiring payment of Rs.822,895,710/- within thirty days. The petitioner argued that recovery under Section 140 before expiry of the thirty-day period was premature and unlawful. FBR contended that the matter

concerned advance tax under Section 147 and that direct recovery under Section 140 did not require prior notice.

**Issue:** Whether FBR could initiate recovery under Section 140 of the Income Tax Ordinance, 2001 before expiry of the thirty-day period granted in the demand notice issued under Section 137(2)?

**Rule:** Recovery under Section 140 is an extreme coercive measure and can be invoked only for tax that is actually due. Where a demand notice grants a taxpayer a specified period for payment, recovery cannot lawfully be initiated before expiry of that period. The taxpayer must be given reasonable notice and an opportunity to avail statutory remedies before coercive recovery is undertaken.

**Application:** The Court found that the demand notice dated 10.04.2026 granted thirty days to the petitioner, making the tax due around 10.05.2026. Since the Section 140 notice was issued on 13.04.2026, the amount had not yet become due for coercive recovery. The Court rejected FBR's stance that direct recovery could proceed without regard to the demand notice, holding that such an approach would defeat Sections 137 and 138 and upset the statutory recovery scheme. The Court relied on Commissioner Inland Revenue (Legal) Islamabad v. Pakistan LNG Ltd. & others, 2026 PTD 192, which held that coercive recovery must follow notice, legal certainty, due process and reasonable opportunity.

**Conclusion:** The Court allowed the petition, set aside the impugned notice dated 13.04.2026 issued under Section 140, and held that any money recovered pursuant to that notice was null and void and liable to be refunded immediately. The binding reason was that once FBR issued a demand notice granting thirty days for payment, it was legally bound to wait until expiry of that period before initiating coercive recovery under Section 140. A recovery notice issued before tax becomes due is premature and unlawful. The Court's observations that premature coercive recovery damages taxpayer confidence and undermines statutory safeguards were supportive comments. The decision itself turned on the illegality of recovery before expiry of the demand-notice period.

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**12. HIGH COURT OF SINDH  
Criminal Appeal No.D81 of 2022  
Muhammad Aslam v. The State**

**Present:** Mr. Justice Jawad Akbar Sarwana,  
Mr. Justice Syed Fiaz ul Hassan Shah

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzE00TU3Y2Ztcy1kYzgz>  
2026 SHC HYD 1219

**Facts:** The appellant, a police constable, was convicted by the trial court under Section 9C of the Control of Narcotic Substances Act, 1997, for being in possession of 1 kg and 10 grams of heroin.

According to the prosecution, the heroin was recovered during a search at a patrolling checkpoint. The appellant challenged the conviction, asserting that he was falsely implicated due to personal enmity regarding his relationship with a woman, and pointed out several procedural lapses in the recovery and custody of the evidence.

**Issue:** Whether the prosecution successfully established a continuous and unbroken chain of custody and proved the lawful recovery of the narcotics at the crime scene as required to sustain a conviction?

**Rule:** It is by now well settled that the prosecution, in cases involving narcotics, must successfully pass a twofold test with regard to the case property. Firstly, it must establish the lawful recovery, seizure, and incorporation of the case property in the challan, coupled with unimpeachable proof of its safe custody. This requires preparation of contemporaneous documents free from doubt, reflecting accurate description, proper sealing, and deposit of the case property in the Malkhana under duly maintained record. Secondly, the prosecution must affirmatively prove the safe transmission of the case property, i.e., its movement from safe custody to the Chemical Laboratory, and thereafter its return and production before the Court as admissible evidence.

**Application:** The Court found major contradictions that undermined the prosecution's case. The complainant (PW1) and the mashir (PW2) admitted that the memorandum of recovery and arrest was not prepared at the crime scene but at the police station. The Court noted that the "sanctity of the chain of custody is inextricably linked with meticulous maintenance of Register No. XIX." There was an unexplained threeday delay in depositing the case property in the Malkhana, and discrepancies existed regarding whether a digital or steel scale was used for weighing. The Court held that these "material contradictions, lacunas, and legal infirmities" violated the doctrine of safe custody.

**Conclusion:** The High Court set aside the trial court's judgment and acquitted the appellant. The Court ruled that the prosecution failed to prove its case beyond reasonable doubt due to the broken chain of custody and procedural irregularities.

**13. HIGH COURT OF SINDH**  
**Civil Miscellaneous Appeal No. S07 of 2024**  
**Muhammad Khalid v. Muhammad Sabir and others**

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

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzEzOTQ5Y2Ztcy1kYzgZ>  
 2026 SHC MPK 1125

**Facts:** The appellant, Muhammad Khalid, filed a succession application following the death of his uncle and aunt, who died childless. The surviving relatives were nephews and nieces (children of the deceased's brother). One nephew, Muhammad Ayoub, had predeceased the uncle in 2008. The Trial Court, applying Section 4 of the Muslim Family Laws Ordinance, 1961 (MFLO) "by analogy,"

included the children of the predeceased nephew as legal heirs. The appellant challenged this, arguing that Section 4 is limited to children of a predeceased son or daughter and does not extend to collateral heirs like nephews.

**Issue:** Whether the principle of representation under Section 4 of the MFLO can be extended beyond the children of a predeceased son or daughter of the propositus to collateral heirs, such as the children of a predeceased brother or nephew?

**Rule:** Section 4 introduced a statutory principle of representation, providing that 'the children of such son or daughter shall per stirpes receive a share equivalent to the share which such son or daughter would receive, if alive.' The provision thus creates a narrow, carefully worded exception to the classical scheme, confined to a defined class: the children of a predeceased son or daughter of the propositus.

**Application:** The Court relied on the Supreme Court's judgment in Hassan Aziz, which held that Section 4 cannot be extended even to greatgrandchildren, as it is a "wellworded exception" that does not permit "liberal extension." The High Court reasoned: "If, as the Supreme Court has held, Section 4 cannot be extended even from grandchildren to great-grandchildren, who are still lineal descendants of the propositus because the statute is confined to 'children of predeceased son/daughter', then a fortiori it cannot be stretched to encompass collateral relatives such as nephews, nieces or the children of a predeceased nephew." Under classical Hanafi law, the Court noted that nephews (sons of a full brother) are agnatic residuaries (asabatbinnafs) who exclude nieces (daughters of a full brother), who are considered distant kindred (zawilarham). The Court concluded that Section 4 did not intend to recast the entire hierarchy of heirs.

**Conclusion:** The High Court allowed the appeal and set aside the Trial Court's order. It declared that Section 4 of the MFLO cannot be extended to the children of a predeceased nephew. Consequently, the entire estate devolved upon the three surviving nephews in equal shares, while the nieces and the children of the predeceased nephew were excluded.

**14. HIGH COURT OF SINDH**  
**First Appeal No. S-30 of 2025**  
**Swai Singh v. Hemraj @ Ghemro and 08 others**

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

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzE0MzA3Y2Ztcy1kYzgz>  
**2026 SHC MPK 1133**

**Facts:** The appellant, the elected Chairman of a Union Council, filed a suit for damages under the Defamation Ordinance, 2002, alleging that the respondents (political rivals) conducted a "false,

baseless and defamatory campaign" against him across social, print, and electronic media. The respondents moved an application under Order VII Rule 11 of the C.P.C., asserting that the plaint did not disclose a cause of action because it failed to specify the particular defamatory words or statements. The trial court rejected the plaint, leading to this appeal.

**Issue:** Whether a defamation plaint that merely alleges a "defamatory campaign" without reproducing the specific words, the substance of the imputations, or the exact occasion of publication is legally sufficient to disclose a cause of action under Order VII Rule 11(a) C.P.C.?

**Rule:** In defamation, the material facts ordinarily include: the precise words or imputations complained of (or their substantial gist), the reference to the plaintiff, the mode and occasion of publication and the manner in which such words are alleged to be defamatory. While absolute verbatim reproduction may not always be necessary, especially where the material is voluminous or in a foreign language, the plaint must nonetheless convey with reasonable particularity what was said or published, by whom and when, so that the Court can assess whether a cause of action in defamation is disclosed. The defendant can know the case he has to meet.

**Application:** The Court observed that under the Defamation Ordinance, 2002, the cause of action is fundamentally rooted in a "false statement or representation." By only alleging a "defamatory campaign," the appellant pleaded a legal conclusion rather than the material facts necessary to support it. The Court emphasized that without the specific words or their substance, it cannot determine if the statements are capable of a defamatory meaning or if they fall under statutory defenses such as fair comment or truth. The Court further noted that for a public official, the threshold for pleading is significant to distinguish between legitimate political criticism and actionable defamation.

**Conclusion:** The High Court maintained the trial court's order, ruling that the plaint was "stillborn" due to the lack of specific defamatory content and material facts. The appeal was dismissed, and the rejection of the plaint under Order VII Rule 11(a) C.P.C. was upheld.

**15. HIGH COURT OF SINDH  
Criminal Jail Appeals No.S-09 & S-10 of 2025  
Javed v. The State**

**Present:** Mr. Justice Riazat Ali Sahar

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzE0NzMzY2Ztcy1kYzgz>  
**2026 SHC HYD 1184**

**Facts:** The appellant Javed Zardari was convicted under section 302(b), PPC and sentenced to imprisonment for life for the murder of Mir Muhammad. The prosecution alleged that the appellant,

armed with a repeater, came with two muffled-faced persons and fired at the deceased due to a family dispute regarding alleged maltreatment of his wife. The connected appeal related to the alleged recovery of the repeater. The appellant denied the allegation and pleaded false implication due to land dispute and family hostility.

**Issue:** Whether the conviction under section 302(b), PPC could be maintained when the FIR was delayed, eye-witnesses were related and doubtful, natural witnesses were withheld, motive was not proved and recovery of weapon was unsafe?

**Rule:** In criminal cases, the prosecution must prove its case beyond reasonable doubt. The accused is not required to prove innocence. Even a single reasonable doubt is sufficient for acquittal as a matter of right, not as a concession.

**Application:** The Court observed that the FIR was lodged after delay although police had already reached the hospital, inspected the dead body and visited the place of occurrence before registration of FIR. The ocular account was not confidence-inspiring because the witnesses were related, their presence was doubtful and important natural witnesses, including sons of the deceased, women of the house, villagers and hospital staff, were not examined. The prosecution witnesses also made material contradictions and improvements regarding injuries, police proceedings and handing over of blood-stained clothes. Medical evidence only confirmed the injuries and did not establish the identity of the assailant. The alleged recovery of repeater was also unsafe because it was delayed, the plastic bag was not produced, fingerprints were not taken and safe custody was doubtful. The alleged motive was also not proved because the appellant's wife was not examined.

**Conclusion:** The Court held that the prosecution failed to prove the case beyond reasonable doubt and allowed both appeals. The conviction and sentence under section 302(b), PPC were set aside and the appellant was acquitted by extending benefit of doubt. The connected recovery appeal was also allowed because the recovery was found unsafe, uncorroborated and forensically inconsequential. The main legal basis was that conviction cannot be sustained where delayed FIR, doubtful ocular account, withheld witnesses, unproved motive and unsafe recovery create reasonable doubt. The observations that the occurrence appeared unwitnessed and the prosecution story seemed managed or tailored were supporting observations, while the acquittal mainly rested on benefit of doubt.

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