



HIGH COURT OF SINDH

Case Law Review



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FORTNIGHTLY BENCH UPDATE

(16-09-2026 to 30-09-2026)

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

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1. Federal Constitutional Court of Pakistan
Azhar Khan Jadoon v. Registrar Peshawar High Court and others
F.C.P.L.A No. 810 of 2026

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

Source: <https://www.fccp.gov.pk/download/eyJpdil6lkRuVTZUZkFKVzZKR3NYVnZQaTRNK1E9PSIsInZhbHVlIjojTHFraGtHRGdGUjhUYitVT2xmZHlpUT09IiwibWJlIjojNmZiYjA1MTZmMmZkOTM0YzQ5MjA2MzUyNzYzN2VhNDYyZDJhMTBkNjMxNmVhM2Y1NzE4ZjdlZGNlMTUwNGI2ZiIsInRhZyI6IiJ9>

Facts: The petitioner, Dr. Azhar Khan Jadoon, was the President of the Professional Education and Promotion Society, which runs Women Medical & Dental Colleges at Abbottabad. Pro forma respondents Nos. 1 to 3 instituted a civil suit against him seeking declaration, permanent and mandatory injunction and rendition of accounts, mainly concerning their alleged ouster from the executive and general bodies of the Society. The suit was initially pending before the Court of Additional District Judge-II, Abbottabad, where the petitioner had already filed his written statement and evidence of some plaintiffs' witnesses had been recorded. During the pendency of the suit, the Peshawar High Court, exercising powers under Section 12A of the West Pakistan Civil Courts Ordinance, 1962, inserted through the West Pakistan Civil Courts (Amendment) Act, 2025, issued Notification No.324-J dated 08.09.2025 and transferred the suit from the Additional District Judge to the Consumer Court, Abbottabad. The petitioner challenged the jurisdiction of the Consumer Court and sought return of the suit to the ordinary civil court. The Consumer Court rejected the application on the ground that it had no authority to transfer back a case which had been transferred to it by order of the High Court. The petitioner then challenged the notification and the order before the Peshawar High Court, but his writ petition was dismissed on 21.02.2026. He consequently filed the present petition before the Federal Constitutional Court under Article 175F(1)(c) of the Constitution.

Issues: (i). Whether a Special Court, particularly the Consumer Court established under the Khyber Pakhtunkhwa Consumers Protection Act, 1997, could lawfully entertain and adjudicate an ordinary civil suit which did not fall within its ordinary statutory jurisdiction, when that suit had been transferred to it by the High Court under Section 12A of the West Pakistan Civil Courts Ordinance, 1962?

(ii). Whether Section 12A merely provided a procedural mechanism for transferring a case or whether, through its sub-section (3), it also conferred upon the transferee

Special Court all the powers and jurisdiction of the court from which the case had been transferred?

(iii). Whether the High Court's notification was immune from constitutional scrutiny merely because it was an administrative act and whether the Consumer Court could return the transferred suit to the ordinary civil court?

Rule:

The Court examined Section 12A of the West Pakistan Civil Courts Ordinance, 1962, particularly sub-sections (1), (3) and (4). Section 12A(1), beginning with the non obstante clause “Notwithstanding anything contained in any other law for the time being in force,” empowers the High Court, where it considers it expedient in the interest of justice, to transfer any case from the Court of a District Judge or Additional District Judge to a Special Court or Tribunal. Section 12A(3) provides that, after such transfer, the Special Court or Tribunal “shall be deemed to be the court ... in which the case was originally instituted and shall have all the powers and jurisdiction of such court.” Section 12A(4) further provides that the transferee Court shall proceed with the case from the stage at which it was pending immediately before transfer and may rely upon evidence already recorded. The Court held that a Special Court ordinarily derives its jurisdiction from its parent statute and cannot assume jurisdiction beyond that statute; however, this principle does not prevent the legislature from conferring additional jurisdiction upon the Special Court through another competent statutory enactment. Thus, the jurisdiction of a Special Court over a case validly transferred under Section 12A arises directly from Section 12A(3) and not from its parent statute. The Court also applied the principles that statutory provisions must be read as a whole and effect should be given to every word used by the legislature, as recognized in *Saif-Ur-Rehman v. Additional District Judge, Toba Tek Singh* (2018 SCMR 1885) and *JS Bank Limited v. Province of Punjab* (2021 SCMR 1617). It further held that the legal fiction created by the words “shall be deemed” cannot be extended beyond its statutory purpose and does not transform the Special Court institutionally into the Principal Court of Civil Jurisdiction.

Application:

Applying the above rule, the Court held that Section 12A did not merely authorize the physical or administrative transfer of the suit. Sub-section (3) expressly vested the Consumer Court with all the powers and jurisdiction of the Additional District Judge, in respect of the particular suit transferred to it. The expression “any case” in Section 12A(1), coupled with the non obstante clause, demonstrated that the legislature intended to permit transfer notwithstanding limitations contained in other laws. Therefore, although the Consumer Court would ordinarily entertain only matters falling within the Khyber Pakhtunkhwa Consumers Protection Act, 1997, its jurisdiction over the present suit arose independently from Section 12A(3). The Court rejected the petitioner's argument that the Consumer Court could not

adjudicate the suit because the dispute concerned the internal affairs of a Society and did not fall within the Consumer Protection Act. The Court reasoned that the parent statute determines the ordinary jurisdiction of the Consumer Court, whereas Section 12A provides an additional, case-specific statutory jurisdiction when a case is validly transferred by the High Court. The Court further held that there was no requirement to treat the Consumer Court as having become the “Principal Court of Civil Jurisdiction.” The legal fiction under Section 12A(3) attaches to the transferred case and enables the Special Court to exercise the jurisdiction necessary for adjudication of that case; it does not change the institutional character of the Consumer Court. Likewise, the fact that the Special Court was presided over by a District Judge or Additional District Judge was not the source of its jurisdiction. Jurisdiction is determined by law, not by the rank or designation of the judicial officer. The Court also rejected reliance on Section 9 CPC because the present case did not involve an assumption of jurisdiction by implication; rather, jurisdiction was expressly conferred by Section 12A(3). As regards the impugned notification, the Court declined to endorse the broader proposition of the High Court that every administrative act of a High Court is absolutely immune from constitutional scrutiny. Nevertheless, in the present case, the notification was issued pursuant to an express statutory power under Section 12A, and no violation of the statutory conditions for transfer had been established. The Court also found no jurisdictional prejudice because Section 12A(4) protected the proceedings already conducted before the transfer and allowed the Consumer Court to continue the suit from the stage at which it stood immediately before transfer.

Conclusion: The Federal Constitutional Court refused leave to appeal and dismissed the petition, maintaining the judgment of the Peshawar High Court subject to modification and clarification of its reasoning. The Court held that the Consumer Court, Abbottabad, was competent to proceed with the civil suit because its jurisdiction over the transferred case flowed directly from Section 12A(3) of the West Pakistan Civil Courts Ordinance, 1962, rather than from the Khyber Pakhtunkhwa Consumers Protection Act, 1997. The transfer did not convert the Consumer Court into an ordinary civil court or the Principal Court of Civil Jurisdiction, nor did its jurisdiction depend upon the fact that it was presided over by a District Judge or Additional District Judge. The Court clarified that this ruling is confined to cases validly transferred under Section 12A and does not confer general jurisdiction upon a Special Court beyond its parent statute in cases which have not been so transferred. Thus, the impugned notification and the Consumer Court's refusal to return the suit were upheld, while certain observations of the High Court concerning “hybridization,” elevation to the Principal Court of Civil Jurisdiction, and the role of the Presiding Officer were expressly disapproved.

2. Supreme Court of Pakistan
Altaf Hussain and others v. M/s Bayer Crops Science Pakistan
Civil Petition No.701-K of 2025

Present: **Mr. Justice Irfan Saadat Khan**
Mr. Justice Aqeel Ahmed Abbasi

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p._701_k_2025.pdf

Facts: The Petitioners, Altaf Hussain, Amin Muhammad and Aijaz Ali, were dealers of seeds, fertilizers and pesticides and had been authorized dealers of M/s Bayer Crops Science Pakistan since 2004 in District Badin. On 16.07.2008, a raid was conducted at the shop of Petitioner No.1 by Respondent No.2 along with a police party, during which six cartons containing 119 bottles of “Confidor” pesticides were seized and FIR No.87 of 2008 was registered against the Petitioners. A further raid was conducted on 17.07.2008 and additional pesticide samples were sent for chemical examination. The Hyderabad laboratory reported the samples to be genuine and according to standard specifications, whereas a subsequent report of the Karachi Chemical Laboratory dated 20.10.2008 declared the sample seized on 16.07.2008 to be fake. The FIR was ultimately disposed of in “C-Class” and cancelled by the Judicial Magistrate and Civil Judge, Tando Bago, on 15.04.2009. The Petitioners thereafter filed F.C. Suit No.4 of 2010 before the District Judge, Badin, claiming Rs.25.6 million as damages for alleged malicious prosecution, mental torture, loss of business and injury to reputation. The suit was dismissed by the I Additional District Judge, Badin on 27.08.2015, and the High Court of Sindh, Circuit Court, Hyderabad dismissed their First Appeal No.15 of 2015 on 13.02.2025. The Petitioners then approached the Supreme Court through the present petition for leave to appeal.

Issues:

- (i). Whether the Petitioners had established a legally actionable claim for defamation or malicious prosecution against the Respondents on the basis of the registration of the FIR, raid, subsequent criminal proceedings and publication of news reports, so as to entitle them to damages of Rs.25.6 million?
- (ii). Whether the Petitioners could maintain a claim of defamation when they had neither established that the Respondents were responsible for the newspaper publications nor complied with the limitation and procedural requirements of the Defamation Ordinance, 2002?
- (iii). Whether cancellation of the FIR in “C-Class”, particularly in the presence of conflicting chemical examination reports, by itself established malice and absence of reasonable and probable cause necessary for an action for malicious prosecution?

Rule: The Supreme Court held that the legal requirements of defamation and malicious prosecution are distinct and must be independently established. An action for malicious prosecution requires proof that the defendant prosecuted the plaintiff, the proceedings terminated in the plaintiff's favour, the prosecution was initiated without reasonable and probable cause, the defendant acted with malice, the proceedings interfered with the plaintiff's liberty or affected his reputation, and the plaintiff suffered damage. Mere termination or cancellation of criminal proceedings is not, by itself, sufficient to establish malicious prosecution. In an action for defamation under the Defamation Ordinance, 2002, the plaintiff must establish a defamatory representation or imputation communicated or published to a third person and must connect the publication with the defendant against whom damages are claimed. The Court further relied upon *Ayesha Bibi v. Additional District Judge, Lahore* (2018 SCMR 791), holding that communications made in the course of invoking the criminal justice process enjoy legal protection and that a grievance arising essentially from criminal proceedings cannot be converted into a defamation claim merely by giving it that label. The Court also observed that under Sections 8 and 12 of the Defamation Ordinance, 2002, a defamation action is subject to specific notice and limitation requirements, including institution of the suit within six months of publication and compliance with the prescribed prior-notice requirement. Therefore, the essential ingredients of the particular cause of action pleaded must be proved through cogent evidence.

Application: Applying these principles, the Supreme Court found that the Petitioners had failed before both the Trial Court and the High Court to establish their claim through evidence. Although the Petitioners relied upon the cancellation of the FIR in "C-Class" and the Hyderabad laboratory report declaring the pesticides genuine, there was another chemical report from the Karachi Chemical Laboratory dated 20.10.2008 which declared the seized sample to be fake. The Petitioners did not challenge that report. The existence of conflicting reports, therefore, did not establish that the FIR had been initiated maliciously or without reasonable and probable cause. The Court further noted that the Petitioners had not produced sufficient evidence to quantify their alleged loss of Rs.25.6 million or establish the particular loss suffered on account of the alleged defamation. With regard to the newspaper reports published in *Daily Khabrain* and *Daily Ummat*, the Petitioners merely produced copies of the reports but failed to establish that the Respondents had authored, procured, authorized or otherwise caused their publication. The Newspapers, Editors, Publishers or Correspondents were not impleaded or examined. Consequently, the essential element of publication attributable to the Respondents remained unproved. The Court further observed that the Petitioners' grievance substantially concerned the registration of the FIR, investigation and alleged wrongful prosecution; therefore, its true nature was one of malicious prosecution rather than defamation. If the Petitioners considered the criminal

proceedings to have been maliciously instituted, they were required to establish the recognized ingredients of malicious prosecution instead of attempting to circumvent those requirements through a defamation claim. Moreover, the Courts below had found that the legal notice was issued after approximately fifteen months and the suit was filed after more than twenty months, whereas the Defamation Ordinance prescribed a much shorter limitation period. The claim was, therefore, barred by time as well.

Conclusion: The Supreme Court concluded that the Petitioners failed to establish the essential ingredients of defamation or malicious prosecution. The cancellation of the FIR in “C-Class” did not, in the circumstances of the case, establish malice or absence of reasonable and probable cause, particularly because the Karachi Chemical Laboratory had independently reported the seized pesticide sample as fake and that report had not been challenged. The Petitioners also failed to connect the Respondents with the newspaper publications, prove the alleged damages through evidence, or comply with the limitation and procedural requirements applicable to a defamation action. The concurrent findings of the Trial Court and the High Court were therefore found to be in accordance with law and did not suffer from any legal infirmity warranting interference. Accordingly, the Supreme Court dismissed the Civil Petition No.701-K of 2025 and refused leave to appeal.

**3. Supreme Court of Pakistan
Federation of Pakistan v. Kamran Khan
Civil Petition for leave to Appeal No. 670 of 2024**

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

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p._670_2024.pdf

Facts: The respondent, Kamran Khan, was appointed as a probationer in the Police Service of Pakistan (PSP) and joined the 44th Common Training Programme (CTP) on 30.09.2016. He could not successfully complete the 44th CTP and was consequently directed to repeat the CTP with the 45th Batch. After successfully completing the 45th CTP, his seniority was fixed with the 45th CTP Batch. The respondent challenged the Office Memorandum (O.M.) dated 22.10.2015, which provided that where a probationer repeats CTP due to unsatisfactory performance, his seniority would be fixed with the batch in which he successfully completed the CTP, although his length of service for pay fixation would be counted from the date of joining the original CTP. The Federal Service Tribunal allowed the respondent’s appeal, declared the O.M. ultra vires, and directed that his seniority be determined on the

basis of his marks in the 44th CTP. The Federation challenged that judgment before the Supreme Court.

Issues: (i). Whether the respondent, having failed to successfully complete the 44th CTP and having subsequently passed the 45th CTP, was legally entitled to claim seniority with the officers of the 44th CTP Batch?

(ii). Whether the Establishment Division's O.M. dated 22.10.2015 was ultra vires the Occupational Groups and Services (Probation, Training and Seniority) Rules, 1990, particularly Rules 6 and 7, or whether it merely explained and implemented the existing statutory scheme relating to seniority?

Rule: The Court relied upon the Occupational Groups and Services (Probation, Training and Seniority) Rules, 1990, framed under the Civil Servants Act, 1973. Rule 3 requires every probationer to undergo the prescribed training and qualify the prescribed examinations, failing which the appointment may become liable to termination. Rule 4 permits the Government to require a probationer to undergo further training where his performance or conduct is found unsatisfactory. Rule 6 specifically prescribes consequences for failure in the Final Passing Out Examination, including loss of an increment after the first failure, relegation in seniority to the bottom of the batch after the second failure, and discharge from service after the third failure. Rule 7 provides the mechanism for determining seniority after the Final Passing Out Examination and makes the marks obtained in the prescribed training programmes and the Final Passing Out Examination relevant for determining inter-se seniority. The Court further observed that seniority is not an inherent or fundamental right; rather, it is governed by the applicable statutory rules. The Court also explained that an instrument can be declared ultra vires where it is issued without lawful authority or conflicts with the governing statute or rules.

Application: Applying these rules to the facts, the Supreme Court held that the respondent could not claim seniority with the 44th CTP Batch because he had not successfully completed that training programme. His completion of the 45th CTP was the relevant event for determining his seniority. The Court observed that the scheme of the 1990 Rules makes successful completion of the prescribed training and examination a fundamental prerequisite for determination of seniority. Since the respondent failed to qualify the 44th CTP but subsequently successfully completed the 45th CTP, his seniority was required to be determined with the batch in which he successfully completed the CTP. The Court further rejected the argument that fixing his seniority with the later batch amounted to a penalty under Rule 10. According to the Court, the respondent had in fact been given an additional opportunity to complete the training instead of being subjected to the more severe consequence of removal from service. The Court also examined the O.M. dated

22.10.2015 and found that it was consistent with Rules 6 and 7 rather than contrary to them. The O.M. merely clarified that a probationer repeating CTP due to unsatisfactory performance would have seniority with the batch in which he successfully completed the CTP. The separate provision that his length of service would be considered from the date of joining the original CTP for pay fixation was treated as a beneficial financial provision and did not confer a right to claim seniority with the original batch. Therefore, the Tribunal had no proper basis to declare the O.M. ultra vires.

Conclusion: The Supreme Court converted the Civil Petition into an appeal and allowed it. The Court set aside the judgment of the Federal Service Tribunal dated 11.12.2023 and dismissed the respondent's Service Appeal. It held that the respondent's seniority was correctly determined with the 45th CTP Batch because he had successfully completed the CTP only with that batch. The O.M. dated 22.10.2015 was also held to be consistent with the Rules of 1990 and could not validly be declared ultra vires. Thus, a probationer who fails to complete the prescribed CTP and subsequently succeeds in a later CTP cannot claim seniority with the original batch merely because his length of service may, for the limited purpose of pay fixation, be counted from the date of his original joining.

**4. Sindh High Court
Alam Sher v State and another
Criminal Revision Application No. 45 of 2022**

Present: Mr. Justice Muhammad Iqbal Kahoro
Mr. Justice Khalid Hussain Shahani

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0NzM5Y2Ztcy1kYzgZ> -
2026 SHC KHI 1866

Facts: Respondent No.3, Abdul Ghani, was convicted under Section 376 PPC for committing rape upon a girl aged about nine years at the school where he was employed as chowkidar. The trial Court accepted the prosecution case, found the victim to be a minor, and sentenced him to ten years' imprisonment with a fine of Rs.200,000. The complainant filed criminal revision seeking enhancement of sentence on the ground that the occurrence took place in 2019, when Section 376(3) PPC specifically provided death or imprisonment for life and fine for rape of a minor. During the pendency of proceedings, the respondent had served the sentence as calculated by the prison authorities, received the benefit of Section 382-B Cr.P.C. and admissible remissions, paid the fine, and was released.

Issue: Whether the trial Court could lawfully award ten years' imprisonment when rape of

a minor had been proved, and whether the High Court could correct or enhance that sentence in revision after the convict had already served the sentence and regained liberty?

Rule: The punishment applicable to an offence is the punishment provided by law on the date when the offence was committed. In 2019, Section 376(3) PPC provided that rape of a minor was punishable with death or imprisonment for life and fine. Where a special provision specifically governs a particular category of offence, the Court must sentence the offender within the limits prescribed by that provision. Sections 435 and 439 Cr.P.C. empower the High Court to examine the legality and propriety of a sentence and to enhance it, provided the accused is given proper opportunity of hearing.

Application: The trial Court had already concluded that the victim was about nine years old and that rape had been proved. Therefore, Section 376(3) PPC directly applied. The sentence of ten years was not one of the punishments authorized by that provision. The High Court held that the trial Court could not go back to the general punishment under Section 376(1) once the victim's minority had been established. The fact that the respondent had completed the earlier sentence and had been released did not deprive the High Court of revisional jurisdiction. However, those circumstances were relevant when deciding which lawful punishment should now be imposed. Considering his previous imprisonment, release, passage of time, and payment of fine, the Court declined to impose death and selected imprisonment for life.

Conclusion: The High Court allowed the criminal revision and converted the sentence of ten years' imprisonment into imprisonment for life under Section 376(3) PPC. The conviction and fine of Rs.200,000 were maintained. The respondent was also entitled to lawful credit for custody already undergone and the benefit available under Section 382-B Cr.P.C.

5. Sindh High Court
Fahad Ahmed Khan S/o Sartaj Ahmed Khan v. The State through FIA CBC
Criminal Revision Application No.341 of 2025

Present: Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Khalid Hussain Shahani

Source: <https://caselaw.shc.gov.pk/caselaw/downloadfile.php?doc=MzI0MDk5Y2Ztcy1kYzg&citation=2026+SHC+KHI+1796>
2026 SHC KHI 1796

Facts: The appellant, an employee of NIB Bank Limited, was convicted by the Special

Court (Offences in Banks) under Sections 409, 468, 471 and 477-A, PPC, for facilitating unauthorized withdrawals and falsifying banking records involving several customers' accounts. The prosecution relied upon original unused cheque leaves, account statements, transaction records, deposit slips, seizure memos and technical evidence. The appellant challenged his conviction on the grounds that no handwriting expert connected him with the forged instruments, no CCTV footage or personal financial trail was produced, no embezzled amount was recovered from him, and his alleged extra-judicial confession was involuntary. He further contended that the acquittal of two co-accused rendered his conviction unsustainable.

Issue: Whether a bank employee can be convicted of criminal breach of trust, forgery and falsification of accounts on the basis of documentary and circumstantial evidence despite the absence of direct recovery, handwriting identification, CCTV footage and proof of personal enrichment, particularly when co-accused have been acquitted?

Rule: The High Court held that criminal liability in banking fraud cases may be established through a complete and reliable chain of documentary and circumstantial evidence proving the accused's individual involvement. Under Section 409, PPC, entrustment includes dominion over customer funds arising from banking duties and is not confined to physical possession of money. For offences under Sections 468, 471 and 477-A, PPC, dishonest intention, knowledge and falsification may be inferred from proved transactions and conduct without necessarily establishing that the accused personally prepared every forged document. Non-recovery of money, absence of CCTV footage, non-examination of certain witnesses or failure to obtain handwriting examination does not automatically create reasonable doubt where the remaining evidence sufficiently establishes the offence. An extra-judicial confession is inherently weak evidence and cannot substitute for independent proof. Acquittal of co-accused does not automatically entitle another accused to acquittal where the evidence establishes a distinct individual role. The prosecution's burden remains unchanged, and reasonable doubt must arise from material circumstances rather than speculation.

Application: The High Court found that original cheque leaves remained in the possession of customers despite corresponding unauthorized withdrawals from their accounts. The banking documents, seizure memos, deposit instruments and technical evidence established a repeated pattern of fraudulent transactions. The appellant's operational connection with the processing and concealment of those transactions was independently proved. The Court excluded the disputed extra-judicial admission from its central reasoning but found that the remaining evidence

sufficiently established guilt. The absence of CCTV footage, handwriting attribution, recovery of funds and examination of some bank officials did not undermine the otherwise complete documentary chain. The acquittal of the co-accused was distinguishable because their individual involvement had not been established beyond reasonable doubt, whereas the appellant's participation was supported by independent documentary evidence. No material procedural illegality was established to justify remand or retrial.

Conclusion: The High Court dismissed the appeal and maintained the appellant's conviction, sentences and fine of Rs.77,240,485, holding that the prosecution had proved his involvement in unauthorized banking transactions and falsification of accounts beyond reasonable doubt. The substantive sentences were to run concurrently, and the request for remand or retrial was declined.

06. Sindh High Court
Pakistan Kuwait Investment Company(Pvt.) Ltd v. Amtex Limited and others
First Appeal No.54 of 2019

Amtex Limited and others v. Pakistan Kuwait Investment Company Limited
First Appeal No. 63 of 2019

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0OTk5Y2Ztcy1kYzgZ>
2026 SHC KHI 1873

Facts: Pakistan Kuwait Investment Company (Pvt.) Limited (PKIC) instituted a Banking Suit under Section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001 (FIO) for recovery of Rs.97,903,568/- against Amtex Limited and its guarantors/directors. The claim arose from two lease-finance facilities: the first facility was sanctioned up to Rs.100 million, out of which Rs.76,807,111/- was availed, while the second facility was also sanctioned up to Rs.100 million, out of which Rs.60,440,000/- was availed. Amtex filed an Application for Leave to Defend (LD Application), but it was twice dismissed for non-prosecution, first on 3.12.2013 and again on 25.4.2016. Although the first dismissal was restored by consent, Amtex did not pursue the LD Application thereafter and filed a Restoration Application on 17.10.2017. The Banking Court dismissed the Restoration Application as time-barred and for want of sufficient cause and subsequently decreed the Banking Suit to the extent of Rs.73,391,604/- as principal, together with cost of funds, but declined PKIC's claim for contractual mark-up and liquidated

damages. PKIC filed First Appeal No.54/2019 challenging the refusal of mark-up, whereas Amtex filed First Appeal No.63/2019 challenging the dismissal of its Restoration Application and the decree passed against it.

- Issues:**
- (i). Whether the Banking Court at Karachi had territorial jurisdiction to entertain the Banking Suit?
 - (ii). Whether the Banking Court was competent under the FIO to dismiss Amtex's Application for Leave to Defend for non-prosecution despite the application having been filed within the prescribed period?
 - (iii). Whether Amtex's Restoration Application was liable to be dismissed on account of delay and absence of sufficient cause?
 - (iv). Whether PKIC was entitled to recover contractual mark-up for the agreed contractual period in addition to the cost of funds awarded under the FIO?

Rule: Regarding territorial jurisdiction, the Court held that parties cannot confer jurisdiction upon a court which otherwise lacks jurisdiction; however, where more than one court has jurisdiction because a material part of the cause of action has arisen within its territorial limits, the parties may validly agree to submit their disputes to one of such competent courts. The Court relied upon *Eden Builders (Pvt.) Limited v. Muhammad Aslam* (2022 SCMR 2044). Regarding leave to defend, the Court relied upon the Division Bench decisions of the Sindh High Court in *Admore Gas (Pvt.) Limited v. Standard Chartered Bank* (2013 CLD 423) and *Jamil Masood Usmani v. Askari Bank Limited* (2016 CLD 387), holding that mere filing of a Leave to Defend Application does not give a defendant an absolute right to have it decided on merits. Where the defendant fails to appear, pursue the application or comply with the Court's directions, the Banking Court is competent to dismiss the application for non-prosecution, with the consequences provided under Section 10 of the FIO. As to restoration, sufficient cause must be shown for the delay and failure to prosecute, and an unexplained or inadequately explained delay may justify refusal of restoration. With respect to mark-up and cost of funds, the Court distinguished the two concepts. Contractual mark-up represents the agreed consideration for finance during the contractual period, whereas cost of funds is a statutory liability arising upon default under Section 3 of the FIO. The Court relied upon *Asma Hassan v. Askari Bank Limited* (2019 SCMR 1873), *Habib Bank Ltd. v. Karachi Pipe Mills Ltd.* (2006 CLD 842), and *Muhammad Niqab v. National Bank of Pakistan* (2023 CLD 222).

Application: On the question of territorial jurisdiction, the Court found substantial Karachi-based elements in the transaction. Amtex had addressed its requests for the lease facilities

and disbursement to PKIC's Karachi office; the Sanction Letter was issued at Karachi; refinancing under the SBP's LTF-EOP Scheme involved Karachi; a Demand Promissory Note was executed at Karachi; the facility was disbursed at Karachi; and the proceeds were transmitted to Amtex's bank account maintained in Karachi. Since a material part of the cause of action arose in Karachi, the Banking Court had territorial jurisdiction. Clause 22.15 of the Lease Facility Agreements, which provided for exclusive jurisdiction of the civil courts at Karachi, therefore did not create jurisdiction where none existed but validly selected Karachi as the agreed forum among courts otherwise having jurisdiction. The objection of Amtex was consequently rejected. As to the Leave to Defend Application, the Court held that Amtex had twice failed to prosecute the application. The first dismissal on 3.12.2013 had been restored by consent, but the application was again dismissed on 25.4.2016 after Amtex failed to appear despite a previous adjournment with caution. The Court held that mere filing of the application was insufficient; Amtex was required to pursue it and obtain leave in accordance with Section 10 of the FIO. In view of the binding Division Bench authorities of the Sindh High Court, the Banking Court was competent to dismiss the LD Application for non-prosecution. Regarding restoration, the Court found that Amtex had filed its Restoration Application approximately eighteen months after the second dismissal. Amtex claimed that it had first filed another restoration application on 23.1.2017 and that it had first acquired knowledge of the dismissal on 6.4.2017. However, these two assertions were materially inconsistent because an application allegedly filed on 23.1.2017 could not have preceded the claimed date of knowledge on 6.4.2017. Although Amtex later described 6.4.2017 as a typographical error and claimed that the correct date was 6.1.2017, it produced no independent documentary evidence establishing that the alleged earlier restoration application had actually been presented on 23.1.2017. The Court also noted the unusual features of the document relied upon by Amtex and its failure to obtain an explanation from the concerned Court office regarding the alleged disappearance of the application. Moreover, after 25.4.2016, the case continued to appear on the Cause List on 30.8.2016, 27.9.2016 and 27.10.2016, yet Amtex did not explain its continued absence. The Court therefore held that the circumstances, taken together, did not disclose sufficient cause for the prolonged failure to prosecute the LD Application or to seek its restoration. Even if Amtex's explanation was accepted in the most favourable manner, the delay and absence of sufficient cause remained unexplained. The dismissal of the Restoration Application was therefore upheld. On the issue of mark-up, the Court found that the Banking Court had incorrectly treated cost of funds as a substitute for contractual mark-up. The two liabilities had different legal foundations. PKIC's claim was limited to the mark-up that had accrued during the contractual lease periods, namely 72 months under the First Lease Facility Agreement and 60 months under the Second Lease Facility Agreement. Cost of

funds, on the other hand, became payable upon default under Section 3 of the FIO and operated under the statutory regime applicable after default. Since PKIC had not claimed contractual mark-up beyond the agreed contractual periods, the award of cost of funds did not extinguish PKIC's accrued contractual right to mark-up. The Court therefore concluded that PKIC was entitled to recover both the contractual mark-up for the agreed period and the cost of funds from the date of default until realization.

Conclusion: The High Court allowed First Appeal No.54/2019 filed by PKIC and dismissed First Appeal No.63/2019 filed by Amtex. The Court upheld the territorial jurisdiction of the Karachi Banking Court, confirmed that the Banking Court was competent to dismiss the Leave to Defend Application for non-prosecution, and upheld the dismissal of Amtex's Restoration Application for want of sufficient cause and because of the unexplained delay. At the same time, the Court held that contractual mark-up and statutory cost of funds are distinct liabilities and that the award of cost of funds does not prevent recovery of contractual mark-up accrued during the agreed contractual period. Accordingly, the judgment and decree of the Banking Court were modified to include PKIC's entitlement to the agreed mark-up, and the decretal amount was directed to be recomputed accordingly.

07. Sindh High Court
Shaukat S/o and another vs. Sohail Haron and others
First Appeal No. 03 of 2024

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0MzUzY2Ztcy1kYzgZ>
2026 SHC KHI 1827

Facts: The appellants challenged the judgment and decree dated 08.12.2023 passed by the learned IXth Additional District Judge/MCAC, Karachi East, in Summary Suit No.124 of 2021, whereby Respondent No.1's suit under Order XXXVII CPC for recovery of Rs.21,28,976/- was decreed against the appellants, along with interest at the rate of 6% per annum from the date of institution of the suit until realization and costs of Rs.30,000/-. The claim arose out of business transactions concerning the supply of metallic yarn/zari lorex. Respondent No.1 relied upon bills, delivery documents and seven post-dated cheques issued by the appellants towards payment of the goods supplied. All seven cheques were dishonoured for insufficient funds. The appellants defended the suit principally on the ground that the cheques had been issued merely as security in connection with their business arrangement and did not represent any presently enforceable liability. They relied upon an alleged Karobari

Muhaida, walk-in orders, receipts and the fact that they had been acquitted in criminal proceedings arising from dishonour of the cheques.

- Issues:**
- (i). Whether the seven dishonoured cheques represented an enforceable liability arising from the underlying commercial transactions, or whether they had merely been furnished as security without any presently enforceable liability?
 - (ii). Whether the acquittal of the appellants in criminal proceedings concerning the dishonoured cheques affected their civil liability in the summary suit?

Rule: A cheque cannot be treated as a “security cheque” merely because a party describes it as such. Its nature and purpose are to be determined from the transaction in which it was issued and the evidence produced by the parties. Where the underlying commercial transaction, supply of goods and corresponding liability are established through documentary evidence, the mere characterization of the cheques as security instruments does not, by itself, extinguish the liability. Further, civil and criminal proceedings are governed by distinct considerations and standards of proof. An acquittal in criminal proceedings does not, by itself, extinguish or determine civil liability. Each proceeding is to be decided upon the evidence available on its own record. The Court also referred to Article 57 of the Qanun-e-Shahadat Order, 1984, concerning the relevancy and evidentiary use of previous judgments, and relied upon *Malik Khuda Bakhsh v. The State* (1995 SCMR 1621).

Application: The Court found that Respondent No.1's claim was not founded merely upon the seven cheques. The bills and delivery documents established the underlying commercial transactions and supplies, while the cheques and return memos established the subsequent dishonour for insufficient funds. The documentary record consequently furnished a direct nexus between the goods supplied, the outstanding amount and the cheques. The appellants relied upon the alleged Karobari Muhaida to establish that the cheques were only security. However, Respondent No.1 had denied the agreement, and the appellants failed to produce its two attesting witnesses. Moreover, a verification report from the Superintendent of Stamps Office, City Court, Karachi, indicated that the stamp vendor whose stamp appeared on the alleged agreement was not registered as a stamp vendor during the relevant period. The High Court therefore found that the evidentiary value of the alleged agreement was materially weakened and that the trial Court was justified in declining to rely upon it. The Court also rejected the appellants' reliance upon their acquittal in the criminal case. The criminal proceedings involved a different standard and purpose, and the acquittal did not establish that the goods had not been supplied, that no amount was outstanding, or that the cheques could not be relied upon in the civil proceedings. The Court emphasized that a judgment in one

proceeding does not automatically constitute substantive evidence of the facts in issue in another proceeding. Upon examining the remaining evidence, the High Court found that the bills, delivery documents, cheques and return memos had been properly considered by the trial Court. The appellants were unable to identify any material evidence that had been ignored or misconstrued so as to render the trial Court's findings unsustainable. No circumstance warranting appellate interference was established.

Conclusion: The High Court held that Respondent No.1 had established the underlying transactions, supply of goods and liability corresponding to the seven dishonoured cheques through documentary evidence. The plea that the cheques had been issued merely as security remained unsubstantiated, particularly because the alleged Karobari Muhaida was not proved. The findings of the trial Court were not shown to suffer from misreading or non-reading of material evidence, perversity or illegality warranting appellate interference. Consequently, the First Appeal was dismissed, and the judgment and decree dated 08.12.2023 passed by the learned IXth Additional District Judge/MCAC, Karachi East, in Summary Suit No.124 of 2021, was maintained.

08. Sindh High Court
M/s New Vision Traders v. Federation of Pakistan and another
Constitutional Petition No. D-6141 of 2026

Present: **Mr. Justice Muhammad Saleem Jessar**
Mr. Justice Abdul Hamid Bhurgri

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0Njk5Y2Ztcy1kYzgZ>
2026 SHC KHI 1863

Facts: The petitioner, M/s New Vision Traders, was in dispute regarding a property measuring approximately 12,971 square feet situated at PTCL (Closed/OSS) Wireless Compound, Plot No.196, opposite JPMC, Karachi. A Civil Suit No.11691 of 2025 was already pending before the VIth Senior Civil Judge, Karachi South. In that suit, the Civil Court passed an order dated 28.04.2026 directing maintenance of status quo in respect of the subject property, followed by another order dated 05.08.2026. The petitioner alleged that, despite these orders, the respondents demolished the construction, dispossessed the petitioner from the property and removed valuable articles, including medicines, edible items, furniture, fittings, refrigerator, freezer and air-conditioners. Through the constitutional petition under Article 199 of the Constitution, the petitioner sought restoration of possession, return of the articles or payment of Rs.25,000,000/- in lieu thereof, departmental

inquiry and legal action against the respondents for allegedly violating the status quo order.

Issues: (i). Whether a constitutional petition under Article 199 of the Constitution was maintainable for seeking enforcement or implementation of an interlocutory/status quo order passed by a subordinate Civil Court when the underlying civil dispute was already pending before that Court and remedies for alleged disobedience or breach of injunction were available before the same Court?

(ii). Whether the High Court, in its constitutional jurisdiction, could determine disputed questions of fact relating to alleged demolition, dispossession, removal of movable property and the value of such articles?

Rule: The High Court held that the jurisdiction under Article 199 of the Constitution is extraordinary and is not intended to operate as a parallel mechanism for execution, implementation or enforcement of orders passed by a competent Civil Court where an adequate and efficacious remedy is available before that Court. In cases of alleged breach or disobedience of an injunction, Order XXXIX Rule 2(3), CPC provides a remedy before the Court which granted the injunction. The Civil Court may also exercise its inherent powers under Section 151, CPC, where applicable, to secure the ends of justice and prevent abuse of its process. Constitutional jurisdiction should not ordinarily be invoked to bypass such remedies. The Court further observed that restoration of possession, recovery of movable articles or their value, and determination of responsibility for alleged demolition and dispossession involve disputed questions of fact requiring evidence and are therefore not ordinarily suitable for determination in the summary constitutional jurisdiction under Article 199, particularly when the underlying dispute is already sub judice before the Civil Court.

Application: Applying these principles, the High Court found that the petitioner was essentially seeking enforcement of the status quo order dated 28.04.2026 and the subsequent order dated 05.08.2026 passed by the VIth Senior Civil Judge, Karachi South. Since the Civil Court which had passed those orders was already seized of Civil Suit No.11691 of 2025, the petitioner had an available remedy before that very Court in respect of the alleged violation or non-compliance. When the petitioner's counsel was specifically confronted regarding the maintainability of the constitutional petition and the availability of remedies before the Civil Court, he could not satisfy the Court as to why those remedies had not been pursued. Moreover, the allegations concerning demolition of the premises, dispossession of the petitioner, removal of articles and their alleged value of Rs.25 million required determination of factual matters on the basis of evidence. The High Court, therefore, considered that entertaining the petition would effectively convert its constitutional jurisdiction into

a mechanism for supervising compliance with an interlocutory order of a subordinate Civil Court and would create a parallel proceeding to the pending civil litigation.

Conclusion: The High Court concluded that no case was made out for exercise of its extraordinary constitutional jurisdiction under Article 199. The Constitution Petition was therefore dismissed in limine as misconceived, along with the listed applications, while leaving the petitioner at liberty to avail the remedies available before the competent Civil Court or any other forum in accordance with law. The Court clarified that it had expressed no opinion on the merits of the pending civil suit, the alleged violation of the Civil Court's orders, or the competing claims regarding the property. The Court also observed that invoking constitutional jurisdiction for enforcement of subordinate Courts' orders despite availability of an adequate remedy causes multiplicity of proceedings and ought to be discouraged; however, in the circumstances of the case, no costs were imposed.

- 09. Sindh High Court**
Miscellaneous Appeal No.66 of 2023
[Syed Liaquat Ali, through L.Rs. v. Syed Ishtiaq Ali, through L.Rs. and 5 others]
along with
- Miscellaneous Appeal No.31 of 2026**
[Firdous Cooperative Housing Society Limited v. Sultani Begum and 7 others]
- Miscellaneous Appeal No.32 of 2026**
[Firdous Cooperative Housing Society Limited v. Sultani Begum and 7 others]
- Miscellaneous Appeal No.33 of 2026**
[Firdous Cooperative Housing Society Limited v. Sultani Begum and 7 others]
- Present:** Mr. Justice Muhammad Faisal Kamal Alam
- Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0MDE3Y2Ztcy1kYzgZ>
2026 SHC KHI 1790
- Facts:** The present order arises out of Miscellaneous Appeal No.66 of 2023, along with Miscellaneous Appeals Nos.31, 32 and 33 of 2026, all arising from decisions of the Special Courts established under the Sindh Cooperative Societies Act, 2020. The central controversy arose because Rule 53(2) of the Sindh Cooperative Societies Rules, 2020 provides a right of appeal against decisions of the Special Court before

the High Court, whereas the Sindh Cooperative Societies Act, 2020 itself does not expressly provide such right of appeal. In an earlier order dated 04.12.2025 in M.A. No.138 of 2025, a learned Single Bench had held that the right of appeal is a substantive right which must be created by the parent statute, and consequently declared Rule 53(2) ultra vires the Act and converted the Miscellaneous Appeal into a Constitutional Petition under Article 199 of the Constitution. Since several subsequent appeals raised the same question, the present Bench framed the question of law regarding whether appeals under Rule 53(2) are maintainable or whether the aggrieved parties must invoke constitutional jurisdiction.

Issue: Whether Miscellaneous Appeals are maintainable against decisions of the Special Courts constituted under the Sindh Cooperative Societies Act, 2020 when the Act itself does not expressly provide a right of appeal, but such appellate remedy is provided under Rule 53(2) of the Sindh Cooperative Societies Rules, 2020; and whether the said Rule is ultra vires the parent Act?

Rule: The Court relied principally upon the judgment of the Supreme Court in Muhammad Dawood v. Mst. Sakeena Farooque and others (2025 SCMR 1229), wherein the Supreme Court considered the same statutory scheme and held that the Special Courts established under Section 117 of the Sindh Cooperative Societies Act have jurisdiction to decide civil suits and that their decisions are appealable before the High Court in terms of the statutory Rules. The Supreme Court specifically recognized that although the right of appeal is a substantive right, the appellate forum in the cooperative-societies framework has been provided through the Rules. The Court also relied upon Pakistan through Secretary, Ministry of Defence v. The General Public (PLD 1989 SC 6), emphasizing the importance of an appellate forum and observing that a review or administrative remedy cannot necessarily be equated with a right of appeal. Further, Province of Punjab v. Saleem Ijaz (2023 SCMR 774) was relied upon for the principle that a subordinate rule should not readily be declared ultra vires; courts should first attempt a harmonious interpretation or reading down so that the parent statute and subordinate legislation operate consistently. The Court also recognized the distinction between appellate jurisdiction and constitutional/writ jurisdiction, particularly that an appellate court may examine and reappraise evidence, whereas constitutional jurisdiction is exercised within a more limited scope.

Application: Applying these principles, the Court held that Rule 53(2) does not conflict with any provision of the Sindh Cooperative Societies Act, 2020. Section 118 of the Act expressly empowers the Government to frame Rules, and the Rules were promulgated pursuant to that statutory authority. The Court found no provision in the Act creating a different or exclusive appellate forum which could conflict with the forum provided under Rule 53(2). Therefore, the mere fact that the appellate

remedy is contained in the Rules rather than expressly in the Act does not render the Rule invalid, redundant or coram non judice. The Court further considered the Supreme Court's decision in Dawood, which had expressly acknowledged that, although ordinarily a right of appeal is substantive, in this particular statutory scheme the right of appeal to the High Court was provided through the Rules. The Court observed that declaring Rule 53(2) invalid would also deprive litigants of a proper appellate forum and leave them confined to the comparatively limited scope of constitutional jurisdiction. Such a result would cause hardship because an appellate court can examine the legality of the decision as well as the evidence, including its appraisal and reappraisal. In view of the binding precedent of the Supreme Court and the absence of any inconsistency between Rule 53(2) and the parent Act, the Court declined to follow the earlier view that the Rule was ultra vires.

Conclusion: The Court concluded that Sub-Rule (2) of Rule 53 of the Sindh Cooperative Societies Rules, 2020 is valid and provides a duly constituted appellate forum before the High Court against decisions of the Special Courts established under the Sindh Cooperative Societies Act, 2020. Accordingly, the Miscellaneous Appeals were held to be maintainable, and the framed question of law was answered in favour of the maintainability of the appeals. The Court directed the office to place the appeals before the appropriate Bench according to the roster on 05.10.2026, where the appeals would thereafter be decided on their merits in accordance with law and the applicable Rules.

10. Sindh High Court
Dr Munawar Hussain v. Pakistan Red Crescent Society

Present: Mr. Justice Muhammad Saleem Jessar

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0NzM3Y2Ztcy1kYzgz>
2026 SHC KHI 1865

Facts: The petitioner, Dr. Munawar Hussain, was a tenant of the premises belonging to Pakistan Red Crescent Society, which had been let out to him in 1992 at a monthly rent of Rs.6,000/-, subject to periodic enhancement under the lease agreement. The landlord filed Rent Case No.110 of 2014 under Section 15 of the Sindh Rented Premises Ordinance, 1979 (SRPO), alleging that the petitioner had committed willful default in payment of rent from July 2012 and that an amount of Rs.141,493/- was outstanding. The petitioner admitted the relationship of landlord and tenant but maintained that he had been depositing lump-sum rent in advance through the Court and, therefore, was not a defaulter. The matter had a prolonged procedural history. After earlier findings, remand orders, and proceedings before

this Court and the Supreme Court, the Rent Controller ultimately allowed the ejectment application on 22.07.2023. The petitioner's appeal, FRA No.210 of 2023, was dismissed by the XIIth Additional District Judge, Karachi-South on 04.11.2023. The petitioner then invoked the constitutional jurisdiction of the High Court, challenging the concurrent findings of the two courts below.

Issues: (i). Whether the petitioner had committed willful default in payment of monthly rent so as to justify his eviction from the demised premises under the Sindh Rented Premises Ordinance, 1979?

(ii). Whether the concurrent findings of the Rent Controller and the appellate court warranted interference in constitutional jurisdiction?

(iii). Whether the petitioner was legally justified in depositing rent in the previous MRC without first tendering the monthly rent directly to the landlord and whether the evidence established the correct rate and outstanding amount of rent?

Rule: The Court applied the principle that where a landlord specifically alleges non-payment of rent and enters the witness box to state on oath that rent has not been received, the initial burden upon the landlord is discharged and the onus shifts to the tenant to affirmatively prove payment or tender of rent. The Court relied upon *Allah Din v. Habib* (PLD 1982 SC 465), along with *Mrs. Asma Makhdoom v. Mrs. Yasmeen Azam* (2018 MLD 976) and *Mohammad Siddique v. Mohammad Riaz* (2013 YLR 1200 Sindh). The Court further relied upon Section 10 of the Sindh Rented Premises Ordinance, 1979, under which the tenant is required to pay or tender monthly rent to the landlord, and only where the landlord refuses or avoids acceptance can the tenant resort to payment through postal money order and, thereafter, deposit the rent with the Rent Controller. In *Muhammad Younus and another v. Mansoor Ali (deceased) through LR's and others* (2022 CLC 1787 Sindh), it was held that refusal or avoidance by the landlord is a condition precedent for depositing rent with the Rent Controller and the tenant bears the burden of proving such tender and refusal. The Court also applied the settled principle that in constitutional jurisdiction, concurrent findings of fact recorded by the rent authorities are not ordinarily interfered with unless they suffer from misreading or non-reading of evidence, glaring illegality, or result in miscarriage of justice. For this proposition, reliance was placed upon *Muhammad Salik Athar through Attorney v. Muhammad Obaid and others* (PLD 2023 Sindh 411).

Application: Applying these principles, the Court found that the landlord's representative had categorically stated in his affidavit that rent had not been received from July 2012 and remained consistent during cross-examination. Consequently, the burden shifted to the petitioner to establish that he had duly paid or tendered the rent. The

petitioner relied upon deposits made in the previous MRC, including Rs.69,588/- on 30.07.2012, Rs.50,000/- on 05/08.09.2012, and Rs.100,000/- on 16.01.2014. However, the Court found that after the compromise dated 19.05.2012 in the earlier Rent Case No.1366/2006, the petitioner had continued depositing rent in the old MRC without establishing that he had first tendered the rent directly to the landlord or that the landlord had refused to accept it. Therefore, the deposits in the MRC did not constitute valid payment in terms of Section 10 of the SRPO. The Court further calculated that from July 2012 until the filing of the rent case in January 2014, rent at the applicable rate of Rs.15,562.42 per month amounted to approximately Rs.295,681/-, whereas the petitioner had deposited only Rs.219,658/-, leaving an outstanding amount of approximately Rs.76,023/-. The Court also noted that the petitioner had not paid rent regularly after September 2012 and that the amount deposited in September 2012 only covered rent up to December 2012. Moreover, the petitioner failed to establish his claim that he was paying rent at a lower rate. His assertion that the monthly rent in July 2012 was Rs.7,860/- was found to be an improvement introduced during cross-examination and inconsistent with his earlier conduct and the documentary record showing higher rental deposits. The Court further observed that the lease agreement provided for a 10% increase in rent every three years, whereas the petitioner continued claiming and depositing rent at substantially lower rates. His own statement of accounts filed during the proceedings showed payment of Rs.11,508/- per month in 2023, whereas, according to the lease calculation, the rent was Rs.25,063.41. These circumstances reinforced the finding that the petitioner had persistently defaulted in payment of the agreed rent. Since both the Rent Controller and the appellate court had reached concurrent findings on the basis of the evidence, the High Court found no exceptional circumstance, misreading, non-reading of evidence, or glaring illegality warranting interference under Article 199 of the Constitution.

Conclusion: The High Court concluded that the petitioner was a persistent defaulter in payment of monthly rent. His deposits in the previous MRC, without prior tender to the landlord and proof of refusal, did not constitute valid payment under Section 10 of the SRPO. He also failed to establish the alleged lower rate of rent or to explain the outstanding arrears and non-payment for the relevant period. The concurrent findings of the Rent Controller and the appellate court were therefore found to be supported by the evidence and were not open to interference in constitutional jurisdiction. Consequently, C.P. No. S-1269 of 2023 was dismissed, the ejectment order dated 22.07.2023 was maintained, and the petitioner was directed to hand over peaceful and vacant possession of the demised premises to the respondent/landlord within one month.

**11. Sindh High Court
Abdul Wahid alias Papoo and others v. The State**

Criminal Appeal No. S-158 of 2013

Present: Mr. Justice Zulifqar Ali Sangi

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0MTYxY2Ztcy1kYzgZ>
2026 SHC HYD 1809

Facts: Abdul Wahid alias Papoo, Abdul Sattar, Muhammad Hassan and Majno challenged the judgment dated 07.12.2013 of the Sessions Judge, Tando Muhammad Khan, in Sessions Case No. 15 of 2012, arising from Crime No. 18 of 2010, Police Station Bulri Shah Karim. They had been charged under sections 394, 395, 458 and 35, P.P.C., but were convicted only under section 395 and each sentenced to seven years' rigorous imprisonment and a fine of Rs.20,000, with three months' imprisonment in default and the benefit of section 382-B, Cr.P.C. They sought remand because the judgment omitted findings on the remaining charge and the relevant medical evidence.

Issue: Whether a criminal judgment recording conviction under section 395, P.P.C., without clear findings on the remaining charge or adequate consideration of relevant medical evidence, constituted a complete adjudication or required a limited remand?

Rule: A criminal judgment must constitute a complete adjudication of the charge. The trial court must record clear findings on each offence charged, on the evidence available and after considering the accused's defence. Failure to do so leaves uncertainty about the precise extent of conviction or acquittal. Where medical evidence of injuries forms part of the prosecution case and has been put to the accused under section 342, Cr.P.C., the court must assess that evidence and determine its effect on the relevant charge. Such a material omission renders the judgment deficient and calls for its correction through a fresh, complete adjudication.

Application: The trial court convicted the appellants under section 395, P.P.C., but did not determine whether they were acquitted or otherwise dealt with in respect of sections 394, 458 and 35. Medical evidence concerning injuries allegedly sustained by the complainant party had been produced and confronted to the appellants under section 342, Cr.P.C.; nevertheless, the judgment failed adequately to evaluate it, particularly in relation to section 394. The High Court found the adjudication incomplete. Both the complainant's counsel and the Deputy Prosecutor General conceded the deficiency and did not oppose the limited remand. The defect required clear findings on the existing charge after hearing the parties.

Conclusion: The High Court partly allowed the appeal and set aside the judgment only to the extent necessary to remove the defect. It directed the trial court to rewrite the

judgment after hearing all concerned, record clear findings on each offence charged and consider the relevant medical evidence, within one month of receipt of the order. A compliance report was required through the Additional Registrar, and the appellants were to remain on the same bail until the fresh decision. The ratio decidendi is that omission of findings on material parts of the charge and relevant evidence leaves a criminal judgment incomplete and warrants the limited corrective remand ordered here.

**12. Sindh High Court
Subhan v. The State
Criminal Jail Appeal No. S-131 of 2022**

Present: Mr. Justice Zulifqar Ali Sangi

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0NTgwY2Ztcy1kYzgZ>
2026 SHC HYD 1855

Facts: Subhan challenged the judgment dated 08.09.2021 of the 2nd Additional Sessions Judge, Badin, in Sessions Case No. 01 of 2021. He had been convicted under section 376(3), P.P.C., and sentenced to imprisonment for life and a fine of Rs.200,000, with one year's simple imprisonment in default and the benefit of section 382-B, Cr.P.C. His counsel submitted that medical and circumstantial evidence relied upon for conviction had not been specifically put to him in his statement under section 342, Cr.P.C., and sought remand for a fresh statement and judgment. The Deputy Prosecutor General conceded the omission and did not oppose remand.

Issue: Whether a conviction could stand where material incriminating evidence relied upon by the trial court had not been put to the accused under section 342, Cr.P.C., and whether the defect required a remand confined to that stage?

Rule: Section 342, Cr.P.C., requires the accused to be confronted with every incriminating circumstance appearing in evidence so that he can understand and explain the prosecution case against him. This includes adverse material emerging in examination-in-chief, cross-examination or re-examination, as explained with reference to Article 132 read with Articles 2(c) and 71 of the Qanun-e-Shahadat Order, 1984. Prosecution evidence not put to the accused cannot be used against him. The Court relied on Jan Muhammad v. The State and others, Criminal Appeal No. 77 of 2020, decided by the Supreme Court on 04.03.2021, which required a fresh section 342 statement and judgment where such evidence had not been confronted.

Application: The trial court relied on the evidence of Dr. Hajira, Dr. Muhammad Zafar, Mashir Mashooque Ali, first Investigating Officer Pir Bux and second Investigating Officer

Aijaz Ahmed, including exhibited documents, without confronting the appellant with that material under section 342, Cr.P.C. In particular, Dr. Hajira's evidence concerning recent sexual intercourse and the provisional medico-legal certificate recording genital swelling, a perineal tear and heavy bleeding were not put to him. The High Court held that omission of material questions concerning the medical and circumstantial evidence denied him an opportunity to explain the circumstances against him and prejudiced his right to a fair trial. Applying Jan Muhammad, it required correction of the defective examination before a fresh decision.

Conclusion: The High Court allowed the appeal to the extent of setting aside the impugned judgment and remanded the case for a fresh section 342 statement, followed by a fresh judgment after hearing the parties. As the appellant was in custody, the exercise was to be completed within one month on a day-to-day basis without adjournments. The remand expressly excluded repetition of evidence already recorded. The ratio decidendi is that material incriminating evidence not put to the accused under section 342 cannot sustain a conviction against him; the omission here required a fresh statement and judgment through a remand confined to that stage.

13. Sindh High Court
M/s Humera v. Imran Ahmed
Constitutional Petition No. S-128 of 2025

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

Source: <https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzI0MjA3Y2Ztcy1kYzg&citation=2026+SHC+SUK+1822>
2026 SHC SUK 1822

Facts: Mst. Humera married Imran Ahmed on 26 November 2022 against dower of two tolas of gold. She alleged that he expelled her from the matrimonial home on 25 October 2023 and retained her dowry and gold, whereas he maintained that she left voluntarily with valuables and cash. Following divorce, she sued for maintenance and recovery of dowry articles. The Family Court awarded iddat maintenance, two tolas of gold as dower, and return of dowry articles, excluding six tolas of gold, or Rs.500,000 alternatively. The appellate court set aside the dower and dowry awards, prompting her constitutional petition.

Issue: Legality of the appellate judgment setting aside the wife's awards of dowry and dower, and the scope for interference with maintenance under Article 199.

Rule: Findings in family appeals ordinarily remain final, but constitutional interference is permissible where gross misreading or non-reading of material evidence causes a

miscarriage of justice. Once delivery of dowry to the matrimonial home is admitted, the party asserting its return or removal must prove it. Where payment of dower is established, the wife must substantiate its alleged subsequent snatching.

Application: The appellate court rejected the dowry claim by questioning purchase receipts while ignoring the husband's admissions, his witness's testimony and the video evidence on which the Family Court relied. The husband failed to establish removal of the entire dowry. Regarding dower, the Family Court acknowledged payment of two tolas of gold but wrongly required the husband to prove that payment again, instead of examining proof of subsequent snatching. Although the appellate court's jurisdictional reasoning was incorrect, setting aside the dower award remained sustainable. Maintenance was left undisturbed because the wife had neither appealed nor filed cross-objections against its restriction to the iddat period.

Conclusion: The petition was partly allowed. Return of dowry articles, excluding six tolas of gold, or Rs.500,000 alternatively, was restored; refusal of dower and iddat maintenance of Rs.10,000 were maintained.

14. Sindh High Court
Criminal Bail Application No.2575 of 2026
Usama Abdullah & Danish Iqbal Versus The State
a/w Criminal Bail Application No.2548 of 2026
Aemon Farooque Khan Versus The State
a/w Criminal Bail Application No.2829 of 2026
Sardar Khan Versus The State
a/w Criminal Bail Application No.2830 of 2026
Arif Khan Versus The State
a/w Criminal Bail Application No.2786 of 2026
Muhammad Siddique Versus The State

Present: Mr. Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzIzODIzY2Ztcy1kYzgZ>
2026 SHC KHI 1775

Facts: The applicants sought post-arrest bail in FIR No.205/2026 registered at FIA, Anti-Human Trafficking Circle, Karachi under Sections 6(1)(g) and (h) of the Passport Act, 1974 read with Sections 17 and 18 of the Emigration Ordinance, 1979. The prosecution case arose from an FIA inquiry concerning Jutt Brothers Manpower Services, whose premises were raided and from where forged driving licences, counterfeit MOFA stickers, fake Aqad-e-Amal/employment agreements, forged immigration documents, tampered passport pages, passports belonging to different

persons and electronic devices containing immigration-related data were allegedly recovered. Usama Abdullah and Danish Iqbal were found at the premises, while the other applicants were subsequently implicated during investigation. Aemon Farooque Khan, proprietor of M/s Al Badri International, maintained that she was not named in the FIR, was absent from the place of raid, no incriminating article was recovered from her exclusive possession and her agency was a duly licensed Overseas Employment Promoter. Similar pleas of non-nomination, absence of direct recovery and reliance upon statements of co-accused were raised by Sardar Khan, Arif Khan and Muhammad Siddique.

Issue: Whether the prosecution material provided reasonable grounds for connecting the respective applicants with the alleged forged immigration and passport-related activities, or whether their individual cases fell within further inquiry under Section 497(2), Cr.P.C?

Rule: At the bail stage the Court is required to make a tentative assessment of the material and determine whether reasonable grounds exist for believing that an accused is connected with the alleged offence. Questions regarding legality of search, ownership or control of devices, forensic examination and ultimate evidentiary value of recovered articles ordinarily require determination at trial. Mere completion of investigation or the fact that an offence does not fall within the prohibitory clause does not by itself confer an absolute right to bail where prima facie incriminating material exists. Conversely, where an accused is subsequently implicated, no recovery is effected from his or her exclusive possession, and there is no independent material establishing knowledge, connivance or intentional participation, the case may fall within further inquiry under Section 497(2), Cr.P.C.

Application: In respect of Usama Abdullah, Danish Iqbal, Sardar Khan, Arif Khan and Muhammad Siddique, the Court found that the recoveries from the raided premises, including forged immigration material, tampered passports, counterfeit stickers and electronic data, coupled with material collected during investigation, prima facie disclosed a nexus requiring them to face trial. Their objections regarding search, possession, ownership of electronic devices and forensic linkage required deeper appreciation and could not be treated as sufficient for further inquiry at the bail stage. Aemon Farooque Khan, however, stood on a materially different footing. She was neither named in the FIR nor present at the raid; no forged document, passport, device or other incriminating article was recovered from her exclusive possession; no particular questioned document was attributed to her; and no independent material prima facie established knowing participation in the alleged illegal activity. Mere proprietorship of a licensed OEP concern was held insufficient, without further material showing knowledge or intentional participation, to deny bail.

Conclusion: The Court dismissed Criminal Bail Applications Nos.2575, 2829, 2830 and 2786 of 2026, but allowed Criminal Bail Application No.2548 of 2026 and admitted Aemon Farooque Khan to post-arrest bail on surety of Rs.500,000/- with a P.R. bond in the like amount. The ratio decidendi was that bail must be assessed on the basis of the individual incriminating material available against each accused: where recoveries and investigative material prima facie establish a nexus, disputed questions of search, possession and evidentiary value should ordinarily be resolved at trial; however, subsequent implication without personal recovery or independent material demonstrating knowledge, connivance or intentional participation attracts further inquiry under Section 497(2), Cr.P.C. The Court's observations regarding completion of investigation, the applicant being a woman, and absence of likelihood of abscondence or tampering were additional supporting considerations in Aemon Farooque Khan's case.

**15. Sindh High Court
Criminal Miscellaneous Application No.212 of 2026
Abdul Wahab Shah S/o Mubarak Shah Versus The State & others**

Present: Mr. Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0NTMxY2Ztcy1kYzgZ>
2026 SHC KHI 1844

Facts: The applicant was a partner in a concern operating a petrol pump over industrial land which had been leased and subsequently sub-leased to him. Disputes subsequently arose with Respondent No.2 regarding possession and dealings with the property, resulting in several civil proceedings. According to the applicant, despite a status quo order passed by the High Court, the private respondents entered the property armed with firearms, threatened the applicant and his employees, forcibly disrupted the business and attempted to damage installations. The applicant approached the police for registration of an FIR, but no FIR was registered. His application under Section 22-A, Cr.P.C. was declined by the Ex-Officio Justice of Peace on the ground that the dispute was essentially civil, though protection was granted. The applicant challenged that refusal.

Issue: Whether the pendency of civil litigation concerning title, possession and contractual rights barred registration of an FIR where the applicant's allegations independently disclosed commission of cognizable criminal offences?

Rule: Civil and criminal proceedings are distinct in nature, scope and object and may, where a cogent foundation exists, proceed simultaneously. Pendency of civil proceedings arising out of the same transaction does not by itself bar criminal proceedings if the allegations independently disclose a cognizable offence. While

exercising jurisdiction under Section 22-A, Cr.P.C., the Ex-Officio Justice of Peace is not required to conduct a detailed inquiry into truthfulness of allegations or finally determine disputed questions of title, possession or contractual rights. If information discloses a cognizable offence, the statutory obligation under Section 154, Cr.P.C. is attracted.

Application: The allegations were not confined merely to ownership or possession of the property. The applicant specifically alleged forcible trespass, threats, use of firearms, closure and interference with his business and damage to installations. Those allegations were capable of independently constituting cognizable offences. The existence of various civil suits, appeals and revisions concerning the same property did not extinguish the statutory obligation of the police to act on information disclosing a cognizable offence. Defences regarding alleged surrender of possession, unauthorized sub-letting or the proceedings being a counterblast involved disputed facts that could be raised during investigation or subsequent proceedings, but could not justify outright refusal to register an FIR.

Conclusion: The Court allowed the Criminal Miscellaneous Application and set aside the order of the Ex-Officio Justice of Peace to the extent it had refused registration of an FIR. The concerned police authority was directed to record the applicant's statement and, if it disclosed a cognizable offence, register the FIR under Section 154, Cr.P.C. and investigate in accordance with law. The ratio decidendi was that pending civil litigation does not bar criminal proceedings where the allegations independently disclose a cognizable offence, and the Justice of Peace cannot decline registration merely because civil rights concerning the same property are under adjudication. The Court's clarification that its observations would not prejudice title, possession or merits of the civil dispute was protective and ancillary to the principal holding.

16. Sindh High Court
Criminal Bail Application No.988 of 2026
Dad Shah S/o Muhammad Saleem Versus The State

Present: Mr. Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0NTM1Y2Ztcy1kYzgZ>
2026 SHC KHI 1846

Facts: The applicant sought confirmation of pre-arrest bail in FIR No.55/2026, Police Station Memon Goth, Karachi under Sections 324/34 PPC. The complainant alleged that his son Abdul Raqeeb was sitting on the roof of a room when the applicant, accompanied by another person, arrived and fired a burst from a Kalashnikov at him, causing firearm injuries. The defence alleged false implication due to a civil/property dispute, delay in registration of FIR, absence of the complainant from

the occurrence, non-examination of the injured's companion, absence of weapon recovery and an alibi supported by a movement report allegedly showing the applicant's presence at DHA Phase-VI.

Issue: Whether the applicant, who was specifically nominated and assigned the role of directly firing upon the injured, had established the exceptional grounds including mala fide necessary for confirmation of pre-arrest bail, or whether his pleas required determination at trial?

Rule: Pre-arrest bail is an extraordinary remedy intended to protect an innocent person against arrest motivated by mala fide, ulterior motive or abuse of process. It is not a substitute for post-arrest bail. At the bail stage only a tentative assessment is permissible. Where an accused is specifically nominated with a direct role of firearm injury and the accusation is prima facie supported by medical evidence, disputed defence pleas such as alibi ordinarily require examination of evidence at trial and cannot conclusively override the prosecution case at the pre-arrest bail stage.

Application: The applicant was specifically named in the FIR and directly attributed the role of firing a burst from a Kalashnikov at the injured. The injured's firearm injuries were not disputed and the ocular allegation was prima facie supported by medical evidence. The Court treated the movement report/alibi as a defence plea requiring comparison and appreciation of evidence rather than a conclusive ground for extraordinary relief. The alleged property dispute did not establish mala fide sufficient to neutralize the direct accusation. The Court further held that the ingredients of Section 324 PPC were prima facie attracted because the allegation involved intentional firing upon the victim, and sufficient material existed connecting the applicant with the offence.

Conclusion: The Court recalled the ad-interim pre-arrest bail granted on 01.04.2026 and dismissed the bail application. The ratio decidendi was that where an accused is specifically nominated with the direct role of firing upon the injured and that accusation is prima facie corroborated by medical evidence, disputed pleas such as alibi, delay or property-related enmity do not by themselves justify extraordinary pre-arrest bail unless the applicant demonstrates credible mala fide or abuse of process. The discussion concerning the evidentiary worth of the non-citation of an independent witness was supportive of the tentative assessment and was not an independent basis for dismissal.

17. **Sindh High Court**
Criminal Bail Application No.2712 of 2026
Ayyan Najeeb S/o Najeeb Ahmed Versus The State

Present: Mr. Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0NTM3Y2Ztcy1kYzgZ>
2026 SHC KHI 1847

Facts: The applicant sought post-arrest bail in FIR No.59/2026 registered at FIA/NCCIA, Karachi under Sections 3, 4, 13, 14, 16 and 26 of PECA read with Sections 34 and 109 PPC. An alleged illegal call centre was raided at LA Lounge Restaurant, Gulistan-e-Johar, where the applicant and another accused were found present. Digital devices were seized which, upon preliminary technical examination, allegedly contained confidential Medicare and health-insurance information of foreign nationals and material concerning unauthorized financial transactions. The applicant asserted that he was merely present at a social gathering, that his personal devices had been returned after scrutiny, no specific digital material was linked to him, and the search and seizure allegedly lacked the warrant required under Section 33 of PECA.

Issue: Whether the applicant's presence at the premises, coupled with the digital material recovered during the raid and subsequent technical examination, constituted sufficient prima facie material to connect him with the alleged cybercrime activities, or whether absence of a specific overt role and objections regarding search and seizure rendered the case one of further inquiry under Section 497(2), Cr.P.C?

Rule: At the bail stage the Court undertakes a tentative assessment and does not finally determine admissibility, legality or probative value of evidence. Defence pleas concerning legality of search and seizure, absence of private witnesses, ownership of digital devices and ultimate evidentiary value of electronic material may require deeper examination at trial. Where the cumulative material collected during investigation prima facie connects an accused with the alleged occurrence, such disputed matters cannot ordinarily be converted into grounds for further inquiry merely by requiring detailed appreciation of evidence.

Application: The applicant was found at the premises where the alleged illegal call centre was operating. Digital devices recovered there allegedly contained confidential Medicare and health-insurance data and other material relating to unauthorized financial activities. Although the FIR did not assign a separate overt act to the applicant, the Court held that his association with the operation and connection with the recovered material were matters to be determined through investigation and technical evidence. His plea of being present merely for a social gathering was treated as a defence requiring evidence. Similarly, objections concerning the warrant, private witnesses, seizure proceedings and admissibility of digital material involved questions requiring deeper examination and could not be finally decided at the bail stage.

Conclusion: The Court dismissed the post-arrest bail application. The ratio decidendi was that where an accused is found at premises allegedly being used for organized cybercrime and technical examination of devices recovered there reveals incriminating confidential data, the cumulative circumstances may constitute sufficient prima facie material at the bail stage, while objections concerning individualized digital attribution, search, seizure and evidentiary admissibility require determination at trial. The Court's observations concerning Sections 34 and 109 PPC were tentative and dependent upon the cumulative evidence to be produced at trial.

18. Sindh High Court
Criminal Bail Application No.1149 of 2026
Shahbaz, Pervaiz Ali & Owais Ali Versus The State
a/w Criminal Bail Application No.2062 of 2026
Shahnawaz Khokhar Versus The State

Present: Mr. Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0NTQzY2Ztcy1kYzgZ>
2026 SHC KHI 1848

Facts: The applicants were implicated in FIR No.72/2026, Police Station Mauripur, Karachi under Section 395 PPC. The complainant alleged that eight unknown armed persons entered his house during the night, confined the family and took away cash, licensed pistols, ammunition and several mobile phones. Shahbaz, Pervaiz Ali and Owais Ali sought post-arrest bail, while Shahnawaz Khokhar sought confirmation of pre-arrest bail. The FIR was admittedly against unknown accused. No test identification parade was conducted and no stolen property was recovered from the applicants. Shahnawaz's name allegedly surfaced subsequently through a statement of a co-accused. The defence also relied upon previous habeas corpus proceedings and complaints against police officials as circumstances suggesting possible police hostility.

Issue: Whether applicants who were not nominated in an FIR against unknown offenders, were not identified through a lawful identification parade, and from whom no stolen property was recovered could nevertheless be denied bail, particularly where one applicant was subsequently implicated principally through a co-accused's statement?

Rule: Where an FIR is against unknown offenders, identification of subsequently arrested suspects through a legally conducted identification parade assumes material importance. A statement made by a co-accused before police is not, by itself and without independent corroborative material, substantive evidence sufficient to

establish another accused's involvement. At bail stage only tentative assessment is required. Non-nomination, absence of identification, non-recovery of stolen property and absence of a specific overt role may cumulatively bring a case within further inquiry under Section 497(2), Cr.P.C.

Application: The complainant had not nominated any of the applicants because the offence was attributed to eight unknown persons. The prosecution produced no legally conducted identification parade establishing that the complainant or any eyewitness subsequently identified them. No stolen property or other incriminating article was recovered from their possession. In Shah Nawaz's case, his subsequent implication was principally attributed to a co-accused's statement, without independent corroborative material or a specific role appearing in the FIR. The Court also considered the earlier habeas corpus proceedings and complaints against police as circumstances that, though ultimately matters for evidence, could not altogether be ignored at the tentative stage. Cumulatively, these circumstances made the applicants' involvement doubtful and required further inquiry.

Conclusion: The Court allowed both applications. Shahbaz, Pervaiz Ali and Owais Ali were admitted to post-arrest bail on surety of Rs.50,000/- each with P.R. bonds in the like amount, while Shah Nawaz Khokhar's ad-interim pre-arrest bail was confirmed. The ratio decidendi was that where an occurrence is attributed to unknown offenders, subsequent implication without test identification, incriminating recovery or a specific role, and in one case principally through an uncorroborated police statement of a co-accused, renders involvement a matter of further inquiry under Section 497(2), Cr.P.C. The prior habeas corpus proceedings and allegations of police hostility were supportive circumstances rather than the independent legal foundation of the grant of bail.

19. Sindh High Court
Criminal Bail Application No.1578 of 2026
Naveed ur Rehman S/o Hanif ur Rehman Versus The State
a/w Criminal Bail Application No.1331 of 2026
Faheem Shahzad & Nasru Khan @ Nasru Pathan Versus The State

Present: Mr. Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0NTQ3Y2Ztcy1kYzgZ>
2026 SHC KHI 1850

Facts: The applicants were nominated in FIR No.95/2026, Police Station Iqbal Market, Karachi under Sections 337-A(i), 365, 377 and 34 PPC. The complainant, a transgender person, alleged that while returning from a dance function, her vehicle was intercepted by several armed persons who assaulted her and her companions,

forcibly took her to a godown and subjected her to sexual assault. Naveed ur Rehman sought post-arrest bail, while Faheem Shahzad and Nasru Khan sought confirmation of pre-arrest bail. They relied upon delay in FIR and medical examination, alleged contradictions, absence of independent witnesses and recovery, alleged investigative defects and a negative DNA report. The victim had, however, specifically nominated the accused and subsequently supported the allegations in her statement under Section 164, Cr.P.C.

Issue: Whether the alleged delay, negative DNA report, absence of independent witnesses, non-recovery and alleged investigative defects created further inquiry sufficient to override the victim's direct accusation, statement under Section 164, Cr.P.C. and supporting medical evidence?

Rule: At bail stage the Court makes only a tentative assessment and does not undertake a mini-trial. Delay, investigative omissions, absence of independent witnesses and questions concerning the evidentiary value of medical or forensic material ordinarily require assessment at trial where the accused are specifically nominated and the complainant's version receives prima facie support. Where several offences arise from the same occurrence, entitlement to bail is assessed on the accusation as a whole rather than by selectively isolating lesser offences carrying non-prohibitory punishments.

Application: The victim specifically named the applicants and attributed roles to them in the assault, abduction and sexual violence. Her version was subsequently maintained in a statement recorded under Section 164, Cr.P.C. and the medical evidence prima facie supported the allegation of sexual assault. The Court held that a negative DNA report did not, at the bail stage, automatically displace the ocular account when medical material otherwise supported the allegation. Delay, absence of independent witnesses, alleged failure to prepare inspection memos and non-recovery involved evidentiary matters for trial. The Court also rejected the argument that Sections 337-A(i) and 365 PPC should be viewed separately for purposes of the prohibitory clause because the FIR also contained the grave allegation under Section 377 PPC.

Conclusion: The Court dismissed both bail applications, refused post-arrest bail to Naveed ur Rehman and recalled the ad-interim pre-arrest bail granted to Faheem Shahzad and Nasru Khan. The ratio decidendi was that a specific accusation of sexual assault, maintained in a judicial statement under Section 164, Cr.P.C. and prima facie supported by medical evidence, is not displaced at the bail stage merely by a negative DNA report, delay, absence of independent witnesses or alleged investigative defects, because those matters require evidentiary assessment at trial. The Court's reference to the complainant being a member of a vulnerable segment of society was a contextual and supportive observation; the direct basis for refusal

of bail remained the specific accusation and corroborative material.

**20. Sindh High Court
Criminal Bail Application No.1804 of 2026
Muhammad Ramzan S/o Eman Shareef Versus The State**

Present: Mr. Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0NTUzY2Ztcy1kYzgZ>
2026 SHC KHI 1852

Facts: The applicant sought post-arrest bail in FIR No.448/2024, Police Station Docks, Karachi under Section 376 PPC. The allegation was that the applicant had sexually assaulted his own biological daughter, aged about seventeen years, after threatening and intimidating her. The defence relied upon a two-day delay in registration of FIR, a negative DNA report, alleged discrepancies between ocular and medical evidence and an allegation of false implication due to a dispute involving a person who had developed a relationship with and subsequently married the victim. The prosecution relied upon the victim's statement under Section 164, Cr.P.C. and medical evidence.

Issue: Whether the negative DNA report, delay in FIR and defence allegations of ulterior motive were sufficient to bring the case within further inquiry despite the victim's specific statement under Section 164, Cr.P.C. and medical evidence supporting sexual assault?

Rule: Where an alleged victim directly implicates an accused in a judicial statement under Section 164, Cr.P.C. and that account receives prima facie support from medical evidence, hypothetical defence pleas or matters capable of being resolved after evaluation of evidence at trial do not automatically convert the case into one of further inquiry. An offence under Section 376 PPC, carrying death or imprisonment of not less than ten years, falls within the prohibitory clause of Section 497, Cr.P.C.

Application: The victim, who was the applicant's biological daughter, specifically implicated him in her Section 164, Cr.P.C. statement. The medical report prima facie supported the prosecution allegation by indicating that she had been subjected to sexual intercourse/assault. In these circumstances, the Court held that the defence pleas, including the negative DNA report, delayed FIR and alleged motive for false implication, required evaluation at trial and were insufficient at the tentative stage to create further inquiry. The serious punishment prescribed for Section 376 PPC also attracted the prohibitory clause.

Conclusion: The Court dismissed the post-arrest bail application. The ratio decidendi was that a

victim's specific judicial statement under Section 164, Cr.P.C., when prima facie corroborated by medical evidence in a prosecution under Section 376 PPC, constitutes reasonable grounds for connecting the accused with the offence, and defence pleas requiring evaluation of evidence at trial do not by themselves create further inquiry under Section 497(2), Cr.P.C. The reference to the biological relationship between the accused and victim heightened the factual gravity but was not an independent legal test for refusal of bail.

**21. Sindh High Court
Criminal Bail Application No.2392 of 2026
Muhammad Saad Mir S/o Mir Ahmed Versus The State**

Present: Mr. Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0NTcxY2Ztcy1kYzgZ>
2026 SHC KHI 1854

Facts: The applicant sought post-arrest bail in Crime No.210/2026, Police Station Malir Cantonment, Karachi under Section 376 PPC. The complainant's daughter, who was a deaf and dumb Class-VIII student, went missing and returned the following day. Initially, she communicated through sign language that a person named Kashif had sexually assaulted her. The applicant Muhammad Saad Mir was not named in the FIR but was subsequently specifically identified and nominated by the victim in her statement recorded under Section 164, Cr.P.C. The defence claimed that his subsequent nomination was an afterthought arising from a previous relationship and refusal to marry the victim. The prosecution relied upon the victim's judicial statement, medical evidence and, significantly, a positive DNA report connecting the applicant with the occurrence.

Issue: Whether the applicant's non-nomination in the FIR and alleged contradictions or previous relationship with the victim created further inquiry, notwithstanding his specific subsequent nomination under Section 164, Cr.P.C. and positive DNA evidence?

Rule: Non-nomination in an FIR is not conclusive in favour of an accused where subsequent investigation produces direct and corroborative material connecting him with the offence. At bail stage, a statement under Section 164, Cr.P.C. is a material circumstance for tentative assessment, while questions concerning its ultimate evidentiary worth are reserved for trial. A positive DNA report may constitute independent corroborative material connecting an accused with an alleged sexual offence. Defence explanations and contradictions requiring deeper appreciation cannot ordinarily displace such prima facie material at the bail stage.

Application: Although the applicant had not been named in the FIR, the victim subsequently specifically identified and nominated him before the Judicial Magistrate under Section 164, Cr.P.C. The Court considered that judicial statement a material circumstance for tentative assessment. The medical evidence supported the prosecution version, while the positive DNA report provided independent corroboration connecting the applicant with the occurrence. The defence pleas concerning a previous relationship, refusal to marry, false implication and inconsistencies between the FIR and later statement required detailed evidentiary assessment at trial and could not override the presently available corroborative material. The victim's minority and disability were also relevant contextual circumstances in the Court's tentative assessment.

Conclusion: The Court dismissed the post-arrest bail application, holding that no case of further inquiry under Section 497(2), Cr.P.C. had been made out. The ratio decidendi was that non-nomination in the FIR does not entitle an accused to bail where subsequent investigation produces a specific judicial statement of the victim, medical support and positive DNA evidence independently connecting him with the alleged offence. The observations concerning the victim being a minor, deaf and dumb and therefore particularly vulnerable were contextual considerations reinforcing the tentative assessment, while the decisive basis remained the cumulative corroborative evidence connecting the applicant with the offence.

22. Sindh High Court
Rashid Mehmood v. Dilawar Khan
Civil Revision No. S-96 of 2026

Present: Mr. Justice Muhammad Humayon Khan

Source: [https://caselaw.shc.gov.pk/caselaw/view-file/MzIzNjczY2Ztcy1kYzg2026 SHC MPK 1770](https://caselaw.shc.gov.pk/caselaw/view-file/MzIzNjczY2Ztcy1kYzg2026%20SHC%20MPK%201770)

Facts: Dilawar Khan instituted Summary Suit No. 11 of 2026 on cheque No. D-20168264 dated 05.08.2025, drawn on Rashid Mehmood's photo account at Meezan Bank, Sanghar. Both parties admitted that the cheque was returned because the account holder was absent. Its amount, loan or guarantee purpose, and alleged tampering were disputed. Rashid obtained conditional leave to defend on 06.03.2026. The Additional District Judge-II, Sanghar, dismissed his application under Order VII Rule 11, C.P.C., on 16.07.2026, prompting this revision under section 115, C.P.C.

Issue: Whether return of a photo-account cheque for absence of the account holder constituted dishonour and supplied a cause of action under Order XXXVII, C.P.C., or required rejection of the summary plaint under Order VII Rule 11?

Rule: Order VII Rule 11 requires acceptance of the plaint and admitted documents as true; disputed factual or mixed questions cannot be decided through defensive

allegations. The Court construed sections 29A and 29B of the Negotiable Instruments Act, 1881 purposively: signature must fulfil legally prescribed authentication requirements. Dishonour under sections 91 and 92 presupposes due presentment, subject to lawful exceptions. A photo-account cheque requires the account holder's presence for authentication; mere physical delivery to the bank is insufficient. Without dishonour, liability under section 30(b) does not arise to support an Order XXXVII suit. The Court relied on *Salamat Ali v. Sabohi Naz* (PLD 2026 Lahore 601), *Ghulam Mustafa v. Muhammad Musharaf Hussain* (PLJ 2023 Lahore 485), and *Ghulam Muhammad and others v. Jan Ali Khan* (First Appeal No. S-01 of 2023, unreported).

Application: The guarantee and tampering allegations required evidence and could not justify threshold rejection. The admitted reason for return, however, raised a distinct legal defect even on the plaintiff's version. Without Rashid's presence and authentication, the bank was required to return the cheque for want of valid presentment; that return was not dishonour. No material facts invoking an exception under section 76 of the 1881 Act were pleaded. Consequently, the instrument-based cause of action had not arisen. The cheque could remain evidence of an underlying obligation, recoverable through an ordinary suit if established. The trial court's failure to reject the summary plaint constituted material illegality and irregularity warranting revision.

Conclusion: The revision was allowed, the order dated 16.07.2026 set aside, and the plaint rejected under Order VII Rule 11, with no order as to costs. The ratio decidendi is that return of a photo-account cheque for want of the account holder's required authentication is not dishonour; absent a pleaded statutory exception, it supplies no cause of action for the summary suit. An ordinary recovery suit remains available, subject to law and proof of liability. The suggestion that the State Bank consider distinctive markings on photo-account cheques is obiter dicta; the Office was directed to send the judgment to its Governor for consideration.

23. Sindh High Court
Wazeer Samoon v. The State
Criminal Appeal No. S-39 of 2024

Present: Mr. Justice Muhammad Humayon Khan

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzI0ODMxY2Ztcy1kYzgZ>
2026 SHC MPK 1871

Facts: Wazeer Samoon appealed his conviction dated 16.04.2018 under section 302(b), P.P.C., carrying life imprisonment and Rs.50,000 compensation, in Sessions Case No. 108 of 2013 arising from Crime No. 28 of 2013, Police Station Mirpur Old. Ali Sher suffered a stab injury on 31.05.2013 and died on 06.06.2013 after treatment. No witness saw the stabbing. The conviction rested on statements attributed to the deceased, medical evidence and recovery of a chhuri. Defence counsel sought

reduction to the period undergone, with the prosecutor's consent; the amicus opposed disposal without examining the conviction.

Issue: Whether the appeal could be disposed of solely on the conceded request for reduction of sentence, and whether the deceased's attributed statements and supporting evidence proved the appellant's guilt beyond reasonable doubt?

Rule: Section 423, Cr.P.C., requires independent review of the conviction despite counsel's concession: *Tariq Sajjad Khan v. The State* (2026 SCMR 1215). Actual custody and remission perform distinct functions; section 57, P.P.C., does not convert life imprisonment into an automatic twenty-five-year term. Under Article 46(1), Qanun-e-Shahadat Order, 1984, a deceased person's statement concerning the cause or circumstances of death may be relevant even if originally recorded under section 161, Cr.P.C. Relevance does not establish authenticity or truth. Absence of a Magistrate, medical endorsement or signature does not automatically exclude it; Rule 25.21, Police Rules, 1934 informs scrutiny of its reliability. A reliable declaration may suffice without mandatory corroboration: *Tahir Khan v. The State* (2011 SCMR 646). One genuine reasonable doubt requires acquittal: *Tariq Pervez v. The State* (1995 SCMR 1345).

Application: The Court declined the proposed sentence-only disposal: the required substantive custody had not been served and no applicable commutation or exceptional release order was proved. On merits, the police-recorded statement lacked contemporaneous independent authentication and adequate proof of the maker's capacity. The relatives were not eyewitnesses, and their accounts did not reliably establish independent sources for the accusation. Material uncertainty about the scene and declarations remained. Medical evidence established injury but not the assailant; no forensic result linked the recovered weapon. The medical chain to death was incomplete, but identity remained decisive even assuming causation. FIR delay, kinship and absent post-mortem findings were not automatically fatal. The appellant's silence, unproved defence and unrelated bad-character allegation could not repair prosecution deficiencies.

Conclusion: The appeal was allowed; the conviction, sentence, compensation and default imprisonment were set aside, and Wazeer was acquitted by benefit of reasonable doubt, with immediate release unless required in another case. The ratio decidendi is that legal relevance of a dying declaration does not establish its reliability, and the declarations and supporting evidence here failed to prove the assailant's identity beyond reasonable doubt. Independent appellate review despite counsel's concession was a preliminary holding.

24. **Lahore High Court**
Ghulam Mustafa v. Mst. Rasheeda etc

Civil Revision No. 460 of 2026

Present: Mr. Justice Sajid Mehmood Sethi

Source: <https://sys.lhc.gov.pk/appjudgments/2026LHC5742.pdf>

Facts: The petitioner, Ghulam Mustafa, instituted a suit for specific performance against respondents No.1 to 9, claiming that respondents No.1 to 5 had agreed to sell House No. NW-3, Sana Ullah Colony, Saidpur Scheme-II, Rawalpindi, measuring 3 Marlas, for Rs.36,00,000/-. He alleged that he had paid Rs.22,00,000/- as part of the sale consideration in the presence of witnesses, while the remaining Rs.14,00,000/- was to be paid at the time of execution and registration of the sale deed. According to the petitioner, possession had also been delivered to him and the respondents had undertaken to complete the transaction by 31.10.2016. When the respondents allegedly failed to execute the sale transaction despite his readiness and willingness, he sought specific performance. The Trial Court partially decreed the suit on 02.03.2026. Both sides preferred appeals, but the learned Appellate Court dismissed both appeals on 28.04.2026. The petitioner thereafter invoked the revisional jurisdiction of the High Court, particularly challenging the denial of relief against respondents No.6 to 9. His contention was that respondents No.6 to 9 claimed themselves to be legal heirs of deceased Boota Masih, in whose name the property stood, and that their failure to enter the witness-box, coupled with their alleged knowledge of the agreement, demonstrated collusion with respondents No.1 to 5.

Issues: (i). Whether respondents No.6 to 9, who admittedly were not executants or parties to the agreement to sell entered into between the petitioner and respondents No.1 to 5, could nevertheless be compelled to specifically perform the agreement merely because they subsequently claimed themselves to be legal heirs of deceased Boota Masih and allegedly had knowledge of the transaction?

(ii). Whether the alleged collusion between respondents No.1 to 9, or the failure of respondents No.6 to 9 to substantiate their claim of inheritance, was sufficient to establish a legal obligation upon them to honour the agreement to sell?

Rule: The Court held that an agreement to sell ordinarily creates contractual rights and obligations only between the parties to the agreement and cannot ordinarily be enforced against a person who was neither an executant nor otherwise legally bound by its terms. Mere knowledge of an agreement does not make a person a contracting party and does not, by itself, constitute consent, authorization or ratification. Similarly, merely claiming to be a legal heir of the owner of the property does not automatically impose upon such person the contractual obligations arising from an

agreement executed by other persons. A plaintiff seeking specific performance against a particular defendant must establish a legal nexus between that defendant and the contract sought to be enforced. The Court further reiterated that the burden of proving the facts necessary for obtaining relief lies upon the person asserting them, and allegations of collusion must be established through cogent and reliable evidence. In revisional jurisdiction under section 115, C.P.C., concurrent findings of fact recorded by the Courts below are not to be interfered with unless they are shown to suffer from material illegality, irregularity, misreading or non-reading of evidence, perversity, or jurisdictional defect. The Court relied upon *Nasir Ali v. Muhammad Asghar* (2022 SCMR 1054), *Aamir Afzal and another v. S. Akmal* (deceased) through L.Rs. and two others (2024 SCMR 1649), *Hadayat Khan and others v. Mst. Nasreen and others* (PLD 2025 SC 502), and *Rana Muhammad Yamin and another v. Muhammad Jamil* (deceased) through L.Rs. and others (2025 SCMR 860).

Application: Applying the above principles, the High Court found that respondents No.6 to 9 were admittedly not parties to the agreement to sell executed between the petitioner and respondents No.1 to 5. The petitioner failed to identify any evidence showing that respondents No.6 to 9 had authorized respondents No.1 to 5 to execute the agreement on their behalf, had participated in receiving the sale consideration, had subsequently ratified the agreement, or had otherwise expressly or impliedly consented to be bound by it. Their alleged status as legal heirs of Boota Masih did not, by itself, establish a contractual obligation towards the petitioner. The Court also rejected the argument of collusion because the petitioner had produced no substantive evidence demonstrating that respondents No.6 to 9 had participated in or adopted the transaction. Their filing of an application under section 12(2), C.P.C., claiming inheritance rights, followed by their failure to lead evidence, could not automatically be treated as proof of collusion or consent to the agreement. The Court emphasized that the failure of respondents No.6 to 9 to prove their own claim did not relieve the petitioner of his independent burden to establish his entitlement to specific performance against them. Consequently, no legal nexus between respondents No.6 to 9 and the agreement sought to be specifically enforced was established. The High Court further observed that the Courts below had concurrently appreciated the evidence and that the petitioner had failed to point out any material misreading or non-reading of evidence, perversity, illegality, material irregularity, or jurisdictional defect warranting interference under section 115, C.P.C.

Conclusion: The High Court concluded that respondents No.6 to 9, being strangers to the agreement to sell, could not be compelled to specifically perform the contractual obligations merely on the basis of their alleged status as legal heirs of Boota Masih or their alleged knowledge of the transaction. Since the petitioner failed to establish

their consent, authorization, ratification, participation, or any other legal nexus with the agreement, his claim against them was rightly declined by the Courts below. The concurrent findings were not shown to suffer from misreading, non-reading of evidence, perversity, illegality, material irregularity, or jurisdictional error. Accordingly, the Civil Revision was found to be devoid of merit and was dismissed in limine.

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