



HIGH COURT OF SINDH

Case Law Review



Fortnightly Bench Update



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FORTNIGHTLY BENCH UPDATE

(01-10-2025 to 15-10-2025)

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

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1. SUPREME COURT OF PAKISTAN
Abbas Asif Zaman & another V The State & others
Criminal Petition No.61-K of 2025

Present: Mr. Justice Muhammad Hashim Khan Kakar
Mr. Justice Salahuddin Panhwar
Mr. Justice Ishtiaq Ibrahim

Source: https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 61 k 2025.pdf

Facts: The complainant, a retired medical doctor, claimed that his two adult children (the petitioners, Abbas Asif Zaman and another) unlawfully dispossessed him of his house located at 24-B, Sunset Boulevard, DHA Phase-II Extension, Karachi. The complainant alleged that despite financially supporting his children's education, they turned abusive and eventually forced him out of his residence. A complaint was filed under Sections 3, 4, 7, and 8 of the Illegal Dispossession Act, 2005 (IDA), asserting that the petitioners had unlawfully ousted him from his property. After a police inquiry, the trial court took cognizance under Section 3 of the IDA, 2005, and issued bailable warrants against the petitioners. The petitioners challenged this decision, arguing that the IDA was meant to combat land grabbing and not intra-family disputes. They maintained that their possession was with the father's consent and that he voluntarily left the home after his second marriage. The Sindh High Court dismissed the challenge and upheld the trial court's order.

Issue: Whether a complaint under Section 3 of the Illegal Dispossession Act, 2005, can be maintained in an intra-family dispute where possession of the property is permissive, and there is no evidence of forcible dispossession or criminal intent to dispossess?

Rule: Under the Illegal Dispossession Act (2005), the primary purpose is to protect lawful owners from forcible dispossession or land grabbing. Pakistani jurisprudence has established that the Act is not applicable in cases where possession is based on familial consent and there is no element of force or criminal intent. In cases involving familial disputes, civil processes or domestic violence laws should be utilized instead of criminalizing ordinary familial disputes.

Application: The petitioners, Abbas Asif Zaman and another, argued that their possession of the house was based on the father's permission, and that no force or criminal intent was involved in their occupancy of the property. They further argued that the complainant voluntarily left after his second marriage, making the dispute an ordinary family matter. The Court examined the nature of the dispute and found that the petitioners' possession was not unlawful. There was no evidence of

forcible dispossession or criminal intent. The Court reiterated that the IDA, 2005, was designed to combat unlawful dispossession by third parties, such as land grabbers or mafias, and not intra-family disputes. The Court referred to prior judgments, emphasizing that the IDA should not be used in cases where familial relationships explain possession. In such cases, the appropriate legal recourse lies within the civil framework, such as suits for possession, partition, or injunctions, or under the domestic violence laws.

Conclusion: The Supreme Court allowed the petition and converted it into an appeal, setting aside the orders of the lower courts, which had taken cognizance under Section 3 of the IDA, 2005. The complaint was dismissed, as the dispute pertained to a familial breakdown, not unlawful dispossession. The Court emphasized that the issue should be resolved through civil remedies or protective family laws, not criminalizing intra-family disputes under the IDA. The Court directed the Government of Sindh to ensure the functioning of Protection Committees under the Sindh Domestic Violence (Prevention and Protection) Act, 2013 within ninety days. Further recommendations were made for the introduction of senior-citizen welfare statutes.

2. SINDH HIGH COURT

Abdul Hameed V The State

Criminal Appeal No. 289 of 2023

Present: **Mr. Justice Zafar Ahmed Rajput**
Mr. Justice Miran Muhammad Shah

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1NzQzY2Ztcy1kYzgZ>
2025 SHC KHI 2692

Facts: The appellant, Abdul Hameed, has challenged the judgment dated 15.05.2023 passed by the Special Court-II (CNS), Karachi, in Special Case No. 12 of 2020, arising from F.I.R No. 02 of 2020, registered at Police Station ANF-Clifton, Karachi, under Sections 9-C, 14/15 of the Control of Narcotic Substances Act, 1997. On 15.01.2020, Abdul Hameed was arrested at Hub River Road, Karachi, while in possession of 40 packets of Charas, weighing 48 kilograms. He was booked under the above-mentioned FIR. The trial court convicted him under Section 265-H(ii), Cr.P.C, sentencing him to life imprisonment and a fine of Rs. 2,00,000, with a default imprisonment of 2 years. He was also extended the benefit of Section 382-B, Cr.P.C. Abdul Hameed appealed, claiming the recovery of the narcotics was not proven, and several procedural errors occurred during the trial.

Issue: The issue is whether the conviction of Abdul Hameed under Sections 9-C, 14/15 of

the Control of Narcotic Substances Act, 1997 was justified, considering the alleged recovery of narcotics was not proven beyond doubt, the absence of independent witnesses during the recovery, and the safe custody and proper transmission of the narcotics to the Chemical Examiner were not sufficiently proven.

Rule: Section 9-C of the Control of Narcotic Substances Act, 1997 prescribes the penalties for narcotic possession, including life imprisonment for large quantities. Section 103, Cr.P.C requires independent witnesses during searches and recoveries. In narcotics cases, the prosecution must prove the safe custody and proper transmission of the recovered drugs to the Chemical Examiner, following required protocols. Judicial precedents, such as Muhammad Hanif v. The State (2003 SCMR 1237) and Liaquat Ali and another v. The State (2022 SCMR 1097), emphasize the reliability of police testimony in narcotics cases, provided there is no evidence of malice or false implication.

Application: The prosecution's case relied on the testimonies of police officials who claimed to have arrested Abdul Hameed and recovered the narcotics. The defense argued that independent witnesses were not involved in the recovery, as required by Section 103, Cr.P.C. The defense also pointed out contradictions in the testimonies of the prosecution witnesses and questioned the safe custody and transmission of the seized narcotics to the Chemical Examiner. The Court reviewed the evidence and found the police testimonies consistent and reliable. There was no indication of animosity or malice between the appellant and the police. The prosecution sufficiently proved the safe handling and analysis of the narcotics, and the Chemical Examiner followed all necessary protocols in examining the seized substance.

Conclusion: The Court dismissed the appeal, finding that the prosecution had proven its case beyond any reasonable doubt through reliable and consistent evidence, including witness testimony and the Chemical Examiner's report. The conviction and sentence were maintained.

3. SINDH HIGH COURT

Farman Ali and others V Federation of Pakistan & others
Constitutional Petition No. D-682 of 2023

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg0OTMxY2Ztcy1kYzgZ>
2025 SHC KHI 2640

Facts: The petitioners, employees of the Ministry of Foreign Affairs, challenged the

absorption of deputationist into permanent positions within the Ministry and Pakistan Missions abroad. They contended that such absorptions over the past two decades were made in violation of binding judgments of the Supreme Court, particularly *Ali Azhar Khan Baloch v. Province of Sindh* (2015 SCMR 456) and *Contempt Proceedings Against Chief Secretary Sindh* (2013 SCMR 1752), as well as contrary to Section 10 of the Civil Servants Act, 1973. The petitioners argued that these unlawful absorptions had blocked their promotions, violated merit and provincial quotas, and deprived eligible candidates—especially from Sindh and Balochistan—of their right to fair competition.

- Issue:** Whether the permanent absorption of deputationist into the Ministry of Foreign Affairs without proper recruitment procedures is legal? Whether the High Court has the jurisdiction to grant relief in light of Supreme Court judgments and constitutional provisions regarding service matters?
- Rule:** Under Section 10 of the Civil Servants Act, 1973, deputation refers to temporary postings and does not allow for permanent absorption unless explicitly permitted by law. The judgments in *Ali Azhar Khan Baloch* and *Contempt Proceedings against Chief Secretary Sindh* held that absorption is only permissible when a post or department is abolished and cannot be used to bypass merit-based recruitment. Rule 20A of the APT Rules also limits deputation to a maximum of five years. The Supreme Court has consistently held that appointments must strictly follow recruitment rules and codal formalities, and deputationist have no vested right to absorption or extended postings.
- Application:** The Court applied these principles and examined multiple precedents from the Supreme Court and High Courts to reaffirm that deputation does not create a right to permanent absorption and that any such appointment, unless made through proper procedure and competitive selection, is unlawful. The Court noted that the Ministry of Foreign Affairs had absorbed deputationist without abolishment of posts, competitive selection, or adherence to quotas, thereby violating both legal provisions and Apex Court directives. The actions of the respondents were seen as contrary to meritocracy and good governance. While the Additional Attorney General questioned the Court's jurisdiction and raised issues of maintainability, the Court held that it had jurisdiction to enforce compliance with Supreme Court judgments and constitutional mandates under Article 187(2).
- Conclusion:** The Court disposed of the petition by directing the Secretary Establishment Division to form a committee, including the Secretary of the Ministry of Foreign Affairs, to scrutinize all such deputation cases. If any absorptions fall within the scope of the Supreme Court judgments cited, those deputationist must be repatriated to their parent departments within three months after being heard. A compliance report must

be submitted accordingly. The petition was thereby disposed of with binding directions for review and rectification.

4. SINDH HIGH COURT

Abdul Hameed and others V Province of Sindh & another Constitutional Petition No. D-5014 of 2023

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg0MzgxY2Ztcy1kYzgZ>
2025 SHC KHI 2606

Facts: The petitioners, senior Assistant Executive Engineers (AEEs) in BS-17 of the Irrigation Department, joined government service as Sub-Engineers (BS-11) between 1993 and 1995. After decades of unblemished service, they were promoted to BS-17 between 2019 and 2021. They sought consideration for promotion to Executive Engineer (BS-18) on the grounds that they had met the five-year minimum service requirement, counting their previous service in lower grades per a 1984 notification. They contended that 37 posts of Executive Engineer (BS-18) were vacant and that the Departmental Promotion Committee (DPC) had been deliberately delayed allowing junior or ineligible officers to qualify. They claimed this delay violated their constitutional and service rights, and they cited several Supreme Court precedents affirming the right to be considered for promotion and the prohibition on using OPS/additional charge as long-term arrangements.

Issue: Whether the petitioners, senior AEEs with long service, are entitled to consideration for promotion to BS-18 posts by counting prior lower-grade service as qualifying service under the relevant rules and whether the delay in convening the DPC violated their legal and constitutional rights?

Rule: The applicable rules include the Sindh Civil Servants Promotion Rules, 2022; the 1984 Notification allowing counting of half of BS-16 and one-quarter of lower-grade service towards promotion eligibility; Rule 8 and 8-A of the APT Rules, 1974; and the principle that promotion consideration is a vested legal right (2021 SCMR 97). The Supreme Court has consistently held that competent authorities must consider eligible civil servants for promotion from the date a vacancy arises, and that delays due to administrative mismanagement do not negate this right (e.g., Asad Hussain case, 2025 judgment; Tariq Aziz-ud-Din, 2011; Ghulam Shabbir, 2025). The use of OPS/officiating positions as long-term substitutes for regular promotion is also discouraged (2016 SCMR 2125).

- Application:** The Court found that the petitioners had a legitimate expectation to be considered for promotion when the BS-18 posts became vacant, provided they met eligibility criteria. It noted that the petitioners were acting charge promotees since 2014 and had long-standing service, and thus their eligibility—based on both seniority and qualifications—was not adequately considered due to unjustified administrative delays. The Court reaffirmed that such delays or the posting of junior officers on OPS or acting charge is against public interest, Supreme Court precedent, and good governance principles. Furthermore, the Court emphasized that the 1984 Notification remains applicable unless overruled, and the petitioners' prior service must be evaluated under it.
- Conclusion:** The petition was disposed of with a direction to the competent authority to review the petitioners' promotion cases within three months in accordance with the law, relevant rules, the 1984 Notification, and Supreme Court precedents. Promotions, if found due, must be considered from the date vacancies in their quota became available. The order is to be communicated to the Chief Secretary and the head of the concerned department for compliance.
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5. SINDH HIGH COURT

Shahid Hussain V Registrar High Court of Sindh and others Constitutional Petition No. D-4371 of 2023

- Present:** Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Adnan-ul-Karim Memon
- Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg0Mzc1Y2Ztcy1kYzgZ>
2025 SHC KHI 2605
- Issue:** The central issue in this petition was whether the legal heirs of the deceased petitioner, a retired Naib Qasid, were entitled to the back benefits (including salary and pensionary dues) for the period from 01.12.2014 to 06.11.2018, which had remained unpaid despite multiple court orders and administrative directions. The legal heirs also raised the question of whether the withholding of these benefits constituted a violation of the petitioner's constitutional right to life and livelihood under Article 9 of the Constitution.
- Rule:** The Court reaffirmed the legal principle that pension, and retirement benefits are not state bounties but acquired rights of a government servant after completing the required service, as laid down by the Supreme Court in *I.A. Sherwani v. Government of Pakistan* (1991 SCMR 1041) and *PLD 2013 SC 829*. Further, in *PLD 2007 SC 35* (*Haji Muhammad Ismail Memon*), it was held that withholding of pension is illegal and violative of constitutional and statutory provisions. Pension is considered a form

of deferred compensation and is protected under the right to life, ensuring livelihood even after retirement.

Application: The Court reviewed the facts and observed that despite being declared not invalid by the medical board, the petitioner was prematurely retired on medical grounds. He was later reinstated and allowed to resume duty after a tribunal remand; however, the intervening period was neither regularized nor compensated. Although multiple court directions were issued in favor of the petitioner, and the Drawing and Disbursing Officer forwarded the claim to the Finance Department, the arrears were never released. The respondents delayed action citing procedural requirements like finance department permission and lack of a formal decision by the Appointing Authority regarding the "intervening period." The Court found such delays unjustified, especially in view of the repeated judicial orders in the petitioner's favor. The Court held that such conduct amounted to denial of lawful entitlements and breached the deceased petitioner's and his family's right to life and dignity under Article 9.

Conclusion: The High Court directed the Registrar and relevant government officials, including the Chief Secretary Sindh, Accountant General Sindh, and officers from the petitioner's parent department, to resolve the outstanding service and pensionary benefits within one month. The officials were instructed to attend a meeting coordinated by the Registrar and ensure compliance with the Supreme Court precedents. The petition was disposed of with these directions, ensuring that the petitioner's legal heirs receive the rightful dues in accordance with the law.

6. SINDH HIGH COURT

Shakeel Ahmed and others V Federation of Pakistan & others
Constitutional Petition No. D-4163 of 2025

Ahmed Ali Afridi and others V Federation of Pakistan & others
Constitutional Petition No. D-5844 of 2021

Khaliq Islam Qureshi and others V National Bank of Pakistan & others
Constitutional Petition No. D-7175 of 2021

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MzEyY2Ztcy1kYzgZ>
2025 SHC KHI 2680, 2025 SHC KHI 2678, 2025 SHC KHI 2679

Facts:	The Petitioners, employees of the National Bank of Pakistan (NBP), challenged the Bank's continued discrimination between Management Trainee Officers (MTOs) and non-MTO officers, despite binding judgments of the Supreme Court (notably <i>NBP v. Ashfaq Ali</i> , CA No. 1644/2013) that held both categories perform identical duties and are therefore entitled to equal pay, benefits, and promotions. NBP had introduced "Compromise Agreements" that required non-MTO employees to waive their rights to equal treatment under the law, allegedly obtained under duress. These agreements formed the basis of pay fixation letters that perpetuated discrimination. The Petitioners claimed the agreements were illegal, coercive, and a deliberate attempt to defeat Supreme Court judgments.
Issue:	Whether the compromise agreements executed by non-MTO employees of NBP, which waive their right to equal treatment affirmed by the Supreme Court, are legally valid and enforceable? Whether such agreements are void for being coercive and in violation of constitutional and judicial mandates?
Rule:	Under Articles 4, 5, and 25 of the Constitution of Pakistan, all similarly placed individuals are entitled to equal treatment. The Supreme Court, in <i>NBP v. Ashfaq Ali</i> (2016 SCMR), ruled that MTOs and non-MTOs performing the same duties in equivalent grades cannot be paid differently, and this judgment applies in rem. Moreover, under the Contract Act, any agreement procured through coercion, undue influence, or that defeats legal obligations or constitutional rights, is void or voidable.
Application:	The Court found that the NBP, being a statutory body, is subject to the Constitution and its employees have the right to invoke Article 199. It was observed that the compromise agreements were introduced post-judgment to undermine the Supreme Court's directions and coerce employees into surrendering their rights. The Petitioners were in a weaker bargaining position and executed these agreements under the threat of withheld promotions and pay. The Court ruled that such coercion and duress, especially when fundamental and judicially protected rights are involved, renders the agreements voidable. The Bank's defence of estoppel and the doctrine of approbate and reprobate was rejected, as parties cannot waive constitutional rights or override judicial determinations through private agreements.
Conclusion:	The Sindh High Court allowed the petitions, declared the compromise agreements and the resulting pay fixation letters to be of no legal effect, and directed NBP to immediately equalize the pay, perks, and promotions of the Petitioners in line with the Supreme Court's binding judgment in <i>NBP v. Ashfaq Ali</i> . The Court held that the Respondent Bank's actions were discriminatory, unconstitutional, and in contempt of settled judicial principles.

7. SINDH HIGH COURT

Manzoor Qadir V Federation of Pakistan & others Constitutional Petition No. D-4724 of 2025

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MzAwY2Ztcy1kYzgz>
2025 SHC KHI 2677

Facts: The petitioner, Manzoor Qadir, a retired Director General of the Sindh Building Control Authority and a professional architect, is facing trial as accused No.32 in NAB Reference No.01/2025 for alleged corruption. He was earlier placed on the Exit Control List (ECL) but was removed from it in June 2024 upon NAB's own recommendation. After traveling abroad for cancer treatment and returning voluntarily, he was subsequently placed on the Passport Control List (PCL) on 1st February 2025 by the Directorate General Immigration & Passports upon NAB's request. His application seeking removal from PCL for urgent medical treatment abroad was dismissed by the Accountability Court on 26th August 2025. Being aggrieved, he filed this constitutional petition before the High Court of Sindh, arguing that the restrictions violated his fundamental rights, especially his right to life and freedom of movement under Articles 9 and 15 of the Constitution, in light of his stage IV cancer diagnosis.

Issue: Whether the placement of the petitioner's name on the Passport Control List (PCL), despite serious medical conditions and pending criminal proceedings, violates his constitutional rights under Articles 9 (right to life) and 15 (freedom of movement) of the Constitution of Pakistan, 1973, and whether the Accountability Court's refusal to grant permission for travel abroad was lawful and justified?

Rule: Under Articles 9 and 15 of the Constitution, every citizen has the right to life and liberty, and freedom of movement, respectively, which cannot be curtailed except in accordance with the law. Moreover, consistent jurisprudence from superior courts, including the case of Ayyan Ali v. Federation of Pakistan, has held that the mere pendency of a criminal case does not justify the indefinite restriction of movement unless warranted under Rule 2 of the Exit from Pakistan (Control) Rules, 2010. Medical necessity, particularly life-threatening illnesses, must be weighed against the state's interest in prosecuting a case.

Application: The Court found that while the petitioner was facing trial in a NAB reference, the nature of the allegations was based on documentary evidence already in the possession of the prosecution, reducing the risk of tampering or flight. Importantly,

the petitioner had already been allowed to travel abroad for medical treatment once, had returned to Pakistan voluntarily, and continued to participate in trial proceedings. Medical reports from Aga Khan University Hospital confirmed that the petitioner was suffering from recurrent Stage IV cancer and that follow-up treatment in Canada—where prior therapy was administered—was necessary for safe and effective management. The prosecution failed to rebut these medical claims or provide substantive reasons to justify the continued travel ban. The Court noted that indefinite restriction on travel in the face of a life-threatening disease, without a clear legal basis, infringes on the petitioner’s constitutional rights. Additionally, the Court emphasized that legal proceedings require a living person to stand trial, and denying essential medical care could risk the petitioner’s life, effectively defeating the purpose of a fair trial.

Conclusion: The High Court held that the impugned order dated 26.08.2025 by the Accountability Court and letters dated 01.02.2025 placing the petitioner’s name on the PCL were illegal, without lawful authority, and violative of fundamental rights. Accordingly, the Court set aside those orders and directed the removal of the petitioner’s name from all travel restriction lists (PCL, ECL, BL), allowing him to travel abroad for medical treatment for a period of three months, subject to furnishing a security of Rs. 2 million. The petitioner’s counsel was directed to ensure no delay in trial proceedings during his absence. The petition was disposed of in these terms, with directions for immediate compliance by all concerned authorities.

8. SINDH HIGH COURT

Shamsher Khan V Federation of Pakistan & others Constitutional Petition No. D-4397 of 2024

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

Source: **<https://caselaw.shc.gov.pk/caselaw/view-file/Mjg0NzUzY2Ztcy1kYzgZ>
2025 SHC KHI 2632**

Facts: The petitioners, 12 Junior IP Assistants at the Karachi office of the Intellectual Property Organization (IPO) of Pakistan, were initially appointed on a contract basis in May 2009 and later regularized in 2012. Despite serving for over a decade, they have not been promoted, while counterparts in the Islamabad office have been promoted twice. The petitioners claim this is discriminatory and that their promotions are being unjustly withheld due to alleged irregularities in their initial appointments. They also challenge a new recruitment process initiated in August 2024, asserting that it will undermine their seniority and chances of promotion. They seek a declaration that their seniority should be counted from their initial

appointment date and not from the date of regularization.

- Issue:** Whether the petitioners' seniority should be reckoned from their initial contract appointment in 2009 or from the date of regularization in 2012, and whether they are entitled to promotion accordingly?
- Rule:** According to settled principles laid down by the Supreme Court, including in *Vice Chancellor Agriculture University Peshawar v. Muhammad Shafiq* (2024 SCMR 527) and *Deputy Director Food Faisalabad v. Muhammad Tauqir Shah* (2021), contract service cannot be counted towards seniority. Regularization is considered a fresh appointment, and seniority is calculated from the date of regular appointment, not from the start of ad-hoc or contract service. Promotions are governed by service rules on a seniority-cum-fitness basis and cannot be claimed as a matter of right.
- Application:** The Court acknowledged that the petitioners' original appointments in 2009 were upheld in earlier litigation and found no illegality in their selection process. However, it held that despite this, the law does not permit seniority to be counted from the date of contract appointment. Regularization in 2012 marked their formal entry into regular service, and thus, seniority must begin from that point. The Court also found that while promotion consideration is a right, actual promotion is subject to rules, fitness, and availability of posts. The IPO's argument that promotions were delayed due to the lack of sanctioned posts prior to 2023 was accepted, but the Court directed that the petitioners' promotion cases must now be meaningfully considered.
- Conclusion:** The Court dismissed the petitioners' claim for seniority from 2009, holding that seniority starts from their regularization in 2012. However, it directed the competent authority to consider the petitioners for promotion based on seniority-cum-fitness and subject to available vacancies, within a two-month period, strictly in accordance with law and service rules. The petition was thus disposed of accordingly.
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9. SINDH HIGH COURT

Dr Muhammad Abrar and others V Federation of Pakistan & others Constitutional Petition No. D-201 of 2022

- Present:** Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Adnan-ul-Karim Memon
- Source:** <https://caselaw.shc.gov.pk/caselaw/viewfile/Mjg0OTM3Y2Ztcy1kYzg2>
2025 SHC KHI 2642
- Facts:** The petition was filed by Medical Officers serving at Jinnah Postgraduate Medical Centre (JPMC), Karachi, a federal medical institution. The petitioners

challenged the continued administrative and operational control of JPMC by the Provincial Government of Sindh, despite a binding Supreme Court judgment in *Government of Sindh v. Dr. Nadeem Rizvi* (2019 SCMR 556) which declared the transfer of JPMC and similar institutions from the Federation to the Provinces as unconstitutional and ordered their return to the Federal Government. The petitioners alleged that the Sindh Government's issuance of notifications appointing and deputing its employees to JPMC violates the said judgment and the Civil Servants Act, 1973, thereby affecting the petitioners' service rights, including promotions and salaries.

- Issue:** Whether the High Court of Sindh could entertain and grant relief in a constitutional petition regarding the implementation of the Supreme Court's judgment when a review petition on the same matter is pending before the Supreme Court?
- Rule:** The Court reiterated the rule of judicial propriety and constitutional hierarchy, particularly Article 187(2) of the Constitution, which mandates all judicial and executive authorities, including High Courts, to act in aid of the Supreme Court. Precedents including PLD 1989 SC 61, PLD 1994 SC 105, PLD 1999 SC 288, and PLD 2010 SC 483 establish that High Courts cannot exercise jurisdiction in matters that are pending before the Supreme Court, whether under appeal, review, or original jurisdiction. Further, the filing of a review application suspends the finality of the Supreme Court's earlier judgment to the extent of the review.
- Application:** Applying these principles, the High Court acknowledged that although the petitioners raised serious grievances about the provincial government's control over JPMC contrary to the Supreme Court's judgment, the matter was already sub judice before the Supreme Court due to a pending review. Therefore, any interference or relief by the High Court would amount to judicial impropriety and an overreach of its constitutional mandate. The Court noted that the Supreme Court had explicitly ordered that until the transition back to federal control is completed, all affairs of the institutions must continue as they were on the date of the judgment. The High Court emphasized it was constitutionally barred from issuing any direction that could conflict with or preempt the Supreme Court's pending adjudication.
- Conclusion:** The High Court held that it lacked jurisdiction to entertain or grant relief in this matter due to the ongoing review proceedings before the Supreme Court. Accordingly, it refrained from interfering and disposed of the petition, clarifying that the petitioners retain the right to seek appropriate remedy directly before the Supreme Court, which is already seized of the matter.
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10. SINDH HIGH COURT

Shahbaz Mazhar Sahito and others V Province of Sindh & others Constitutional Petition No. D-5776 of 2023

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

Source: <https://caselaw.shc.gov.pk/caselaw/viewfile/Mjg0OTM3Y2Ztcy1kYzgZ>
2025 SHC KHI 2608

Facts: The petitioner, Shahbaz Mazhar Sahito, was appointed in 2007 as Deputy Director (BS-18) in the federal Ministry of Social Welfare & Special Education. Following the 18th Amendment in 2010, his department was devolved, and he was transferred to the Sindh Social Welfare Department in 2012. However, his appointment by transfer was delayed, and he was not included in the seniority list nor considered for promotion, unlike his colleague who was transferred at the same time and regularized in 2017. The petitioner's service record and seniority remained unresolved due to a controversy surrounding his academic qualification—initially based on an M.A. (Sociology) degree from the University of Sindh, later declared “bogus,” although he produced a valid degree from another university. The department cited lack of verification from the federal government as the reason for the delay.

Issue: Whether the petitioner is entitled to appointment by transfer and seniority benefits in the Sindh Government service, despite the disputed academic credentials and alleged bureaucratic delays?

Rule: The court referred to the principle laid down in *Government of the Punjab v. Aamir Junaid* (2015 SCMR 74), which held that disputed questions of fact, particularly relating to authenticity of documents, cannot be resolved under Constitutional Jurisdiction and must be determined by a competent authority through proper inquiry.

Application: The court found that the core dispute—authenticity of the petitioner's degree—requires factual investigation and cannot be adjudicated constitutionally. However, the court acknowledged the petitioner's prolonged bureaucratic ordeal and noted that his colleague, similarly placed, had already been regularized. The delay was attributed to inefficiencies within the department and pending documentation from the federal government. To resolve the matter, the court directed the Chief Secretary Sindh to form a committee (including the Secretary Social Welfare Department and another co-opted member) to investigate the petitioner's educational documents and also identify the officials responsible for the delay. The committee is mandated to

ensure due process and act according to law.

Conclusion: The petition was disposed of with directions to the Chief Secretary Sindh to conduct an inquiry into the petitioner's credentials and administrative delays. If the credentials are found genuine, the petitioner's appointment by transfer must be finalized promptly, and action must be taken against responsible officials.

11. SINDH HIGH COURT

Mujahid Ali and others V Federation of Pakistan & others Constitutional Petition No. D-1768 of 2023

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg0MzYzY2Ztcy1kYzgZ>
2025 SHC KHI 2602

Facts: The Petitioners were initially appointed as Lecturers (or Warden) between 2001 and 2005 and were later promoted to Assistant Professors at Pakistan Steel Cadet College. They served on a contractual basis until they filed a petition (C.P. No. 5176/2013) seeking regularization of their services. The Sindh High Court, through an order dated December 15, 2016, directed regularization in accordance with a Cabinet Sub-Committee decision. The Supreme Court upheld this order on March 21, 2017. Following this, the Petitioners were regularized by Pakistan Steel Mills (PSM) on June 23, 2017, but were appointed as Assistant Managers, which they claim is one step lower than their contractual designation of Assistant Professor, equivalent to Deputy Manager under PSM's policy. They alleged this was done in violation of service rules and resulted in a loss of both designation and pay.

Issue: Whether the Petitioners, after accepting regularization as Assistant Managers, are entitled to the designation and pay scale of Deputy Manager with protection of their last drawn contractual salary under the applicable service rules of Pakistan Steel Mills?

Rule: The relevant rule is Chapter VII, Clause 7.2 of the Pakistan Steel Mills Officers Service Rules, which states: "*Pay of the departmental candidate shall be fixed by protecting the last pay drawn.*" Additionally, the settled law on regularization holds that it constitutes a fresh appointment and generally does not have retrospective effect, except where specific policies or service rules apply.

Application: The Court observed that although regularization is usually treated as a fresh

appointment with prospective effect, this principle cannot override specific service rules that ensure pay protection for departmental candidates. In this case, the Petitioners were not regularized through ordinary administrative processes but under judicial directions based on a Cabinet Sub-Committee decision. The Court accepted the Petitioners' contention that their designation and pay should have been fixed at the Deputy Manager level, equivalent to their prior contractual designation of Assistant Professor, and that PSM's failure to do so violated Clause 7.2 of its own rules. The argument by the Respondents—that the Petitioners had waived their right to challenge the terms by accepting regularization—was rejected because the Petitioners' regularization was mandated by the court, not voluntarily negotiated.

Conclusion: The Court directed the competent authority of Pakistan Steel Mills to reconsider the Petitioners' pay and designation in light of their last drawn contractual salaries and the equivalence of their previous role to Deputy Manager, in accordance with Clause 7.2 of PSM's service rules. The authority is also required to calculate and pay all arrears and associated benefits from the date of the original High Court regularization order (15.12.2016), after granting the Petitioners a hearing. The exercise is to be completed within three months, and the petition was accordingly disposed of.

12. HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-4708 of 2022

Ms. Farida Zia V Pakistan International Airlines Corporation & Others

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

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg0NjMzY2Ztcy1kYzgZ>
2025 SHC KHI 2627

Facts: The Petitioner, Ms. Farida Zia challenged the dismissal from her employment at Pakistan International Airlines Corporation (PIAC) following the discovery that she had submitted a forged Intermediate Certificate at the time of her appointment. The Petitioner argued that the dismissal and the decisions of the lower forums were erroneous, stressing that the qualification required for the position was only Matriculation, not Intermediate. The Petitioner asserted that whether the Intermediate Certificate was genuine or forged did not matter since her Matriculation Certificate was authentic and sufficient for the post. However, the Court queried whether the Petitioner had indeed submitted a forged Intermediate Certificate as stated in the Show Cause Notices issued by PIAC in 2014 and 2017. The Petitioner's counsel confirmed the submission of the Intermediate Certificate but argued that the issue of its authenticity should be immaterial since it

was not a required qualification for the position.

- Issue:** The primary issue before the Court was whether the forged submission of an Intermediate Certificate by the Petitioner, even though Matriculation was the required qualification for the position, could justify dismissal from service, and whether the decisions of the lower forums upholding the dismissal were correct.
- Rule:** The Court emphasized that submitting a forged document, even if not required for the post, constitutes serious misconduct. Integrity and honesty are paramount in the employment context, and the submission of fraudulent documents cannot be excused on the grounds that they were not essential qualifications for the job. The forgery of documents amounts to deception and fraud, which is a breach of trust and moral turpitude, and no organization is obligated to retain someone who has deceived it to gain employment.
- Application:** In response to the Petitioner’s defense, the Court dismissed her argument that the forgery should be overlooked because Matriculation was the required qualification for the position. The Court held that the submission of a forged certificate at any stage, even if it was not necessary for meeting the job qualifications, still amounted to fraudulent misrepresentation. The Petitioner’s plea that she submitted the forged certificate “believing it to be genuine” was deemed implausible and insufficient to exonerate her, given that she was submitting her own educational credentials. The Court reasoned that it was inconceivable for an individual not to know the status and authenticity of their own academic credentials. The Court also distinguished the present case from an earlier case cited by the Petitioner, *Khalid Mansoor v. National Industrial Relations Commission* (2021), where the employee’s appointment was not based on forged documents, but a later promotion was. In contrast, the Petitioner in this case had relied on a forged certificate at the very beginning of her employment.
- Conclusion:** The Court concluded that the dismissal of the Petitioner from service by PIAC was justified. The forgery of the Intermediate Certificate was a clear act of misconduct involving moral turpitude. The Petitioner’s defense, relying on the argument that the Intermediate Certificate was not required for the post, was dismissed. The Court noted that allowing such a claim would legalize fraud and compromise the integrity of the recruitment process. Thus, the Petition was dismissed with costs of Rs. 5,000 to be deposited with the High Court Clinic within one week.
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13. SINDH HIGH COURT

Mst. Sakina V Abdullah Soomro & Others

C.P. No. S-1041 of 2025

Present: Mr. Justice Arshad Hussain Khan

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1OTE5Y2Ztcy1kYzgZ>
2025 SHC KHI 2708

Facts: The case originated from an ejectment application filed by Abdullah Soomro (now deceased and represented through legal heirs) under Section 15 of the Sindh Rented Premises Ordinance, 1979. He sought eviction of Mst. Sakina (now deceased and represented through her legal heirs) from Flat No. 1, Amina Abdullah Soomro Manzil, Hasan Manzil, Plot No. 7/18, Soomro Gali, Jamila Street, Nishtar Road, Karachi, on the grounds of default in payment of rent and personal bona fide requirement. The petitioner, through her legal representatives, denied the existence of a landlord–tenant relationship and asserted ownership of the property, alleging that her mother-in-law, Mst. Sakina Bai had purchased the premises from the respondent through a sale agreement executed in 1995. The Rent Controller, after recording evidence and hearing both parties, allowed the ejectment application on 11 March 2025. The petitioner’s appeal before the XII Additional District Judge, Karachi (South), was dismissed on 21 August 2025. Aggrieved by the concurrent findings of the two courts below, the petitioner approached the High Court under Article 199 of the Constitution of Pakistan.

Issue: The principal question before the Court was whether the concurrent findings of the Rent Controller and the Appellate Court, holding that a landlord–tenant relationship existed between the parties and that eviction was justified on grounds of rent default and bona fide personal need, were sustainable in law and whether interference under Article 199 of the Constitution was warranted.

Rule: Under Section 15 of the Sindh Rented Premises Ordinance, 1979, a landlord may seek eviction of a tenant on specific grounds including rent default and bona fide personal requirement. Section 2(f) of the same Ordinance defines a landlord as any person entitled to receive rent in respect of premises. It is a well-settled legal principle that a tenant cannot claim ownership of rented premises merely on the basis of an unperformed sale agreement, as ownership can only be established through a decree for specific performance. Possession under an unperformed sale agreement, without lawful transfer of title, does not extinguish the tenancy. The jurisdiction of the High Court under Article 199 of the Constitution is supervisory in nature and not appellate, meaning the Court does not reappraise evidence or substitute its findings unless the subordinate courts have acted without jurisdiction or their findings are perverse or based on misreading of evidence. The Court referred to several precedents including **Muhammad Shabbir v. Hamed Begum** (1992 MLD 323), **Saifullah v. Chaudhry Ghulam Ghous** (2000 CLC 1841), **Pakistan Institute of International Affairs v. Naveed Merchant** (2012 SCMR 1498), and **M.*

Hamad Hassan v. Mst. Isma Bukhari* (2023 SCMR 1434), which reiterate these settled propositions.

Application: In applying these legal principles to the facts of the case, the Court examined the record and found that the petitioner’s claim of ownership was based solely on an alleged sale agreement dated 27 April 1995. The petitioner admitted that neither she nor her mother-in-law ever filed a suit for specific performance of that agreement or took steps to have ownership transferred in their name. The respondent, on the other hand, produced documentary evidence including a registered conveyance deed, rent receipts, and an Iqrarnama which demonstrated his ownership of the premises and the existence of a landlord–tenant relationship. The Court held that a tenant cannot dispute the landlord’s title in the absence of a valid transfer of ownership. The continuous possession of the petitioner’s family, without any decree or adverse claim of ownership, did not alter the nature of the tenancy. The Court also noted that the respondent’s testimony regarding the bona fide requirement of the premises for his son was unchallenged during cross-examination and, therefore, deemed sufficient proof of genuine personal need in accordance with established legal principles. The plea that the dispute was of a purely civil nature was rejected, as the record clearly indicated the existence of a subsisting tenancy, thereby bringing the matter within the jurisdiction of the Rent Controller under the Ordinance. Considering that both the Rent Controller and the Appellate Court had examined the evidence thoroughly and reached concurrent conclusions, the High Court held that there was no misreading or non-reading of evidence, nor any jurisdictional error that could justify interference under Article 199.

Conclusion: The High Court found no illegality or material irregularity in the concurrent findings of the two courts below. It held that the landlord–tenant relationship between the parties was duly proved, that rent default had been established, and that the landlord’s claim of bona fide personal requirement was supported by credible and unchallenged evidence. Since no error of jurisdiction, misapplication of law, or perversity of findings was demonstrated, the constitutional petition was dismissed in limine.

14. SINDH HIGH COURT

**Zain-ul-Abdin @ Faraz V Mst. Tahira and another
Constitutional Petition No. S-1043 of 2025**

Present: Mr. Justice Arshad Hussain Khan

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MDU5Y2Ztcy1kYzgZ>
2025 SHC KHI 2649

- Facts:** The petitioner, Zain-ul-Abdin @ Faraz, filed a constitutional petition challenging the order dated 31 May 2025, passed by the learned XVI Guardian and Family Judge, Karachi-Central, in Guardian and Wards Application No. 1446 of 2024. By that order, the family court had disposed of the petitioner's application seeking temporary custody and visitation rights with his minor son, Muhammad Yaseen. The family court had allowed visitation at the court's Meeting Hall on the second and fourth Saturdays of every month and on the third day of Eid-ul-Fitr and Eid-ul-Adha at the Food Court of Lucky One Mall, Karachi, under the supervision of a court bailiff. The petitioner, being the real father and natural guardian of the minor, contended that the arrangement was inconvenient and not in the best interest of the child. He argued that the Meeting Hall of the City Court was congested and unhygienic, and therefore requested that visitation take place at his residence in Gulshan-e-Iqbal, which he claimed would better serve the emotional and psychological welfare of the child and help him bond with his paternal family. The respondents opposed the request, maintaining that the court's neutral and supervised environment was necessary to protect the child's welfare.
- Issue:** The central issue before the High Court of Sindh in Zain-ul-Abdin @ Faraz v. Mst. Tahira and another (C.P. No.S-1043 of 2025) was whether the order passed by the learned XVI Guardian/Family Judge, Karachi-Central on 31.05.2025, restricting the petitioner's visitation with his minor son to supervised meetings within the court premises, was lawful and in the best interest of the child, and whether the High Court should interfere with such order under Article 199 of the Constitution of Pakistan.
- Rule:** Under Section 12 of the Guardian and Wards Act, 1890, matters concerning interim custody and visitation must always be determined with the paramount consideration being the welfare of the minor. Moreover, the jurisdiction of the High Court under Article 199 of the Constitution is discretionary and supervisory, not appellate in nature. It can only be invoked where there is a manifest illegality, jurisdictional error, or perversity on the face of the record. The settled judicial principle is that the convenience or desire of a parent cannot override the welfare of the minor, and that supervised or neutral meeting arrangements are often maintained to ensure the child's safety and emotional well-being.
- Application:** The petitioner, being the father of the minor, challenged the family court's order, arguing that the court failed to appreciate his lawful and natural right to meet his son in a comfortable environment. He contended that his residence in Gulshan-e-Iqbal was more suitable and hygienic than the congested court meeting hall, and that visitation at his home would strengthen the child's emotional bond with the paternal family. The High Court, however, found these arguments unconvincing and unsupported by any legal or factual basis. It observed that the family court had already made reasonable arrangements for visitation—allowing meetings twice a

month at the Court's Meeting Hall and on specific festival days at a neutral public venue under court supervision. These measures, including the requirement of a personal bond and bailiff oversight, were considered appropriate safeguards ensuring the child's welfare. The High Court further noted that the convenience of the petitioner could not take precedence over the safety and best interest of the minor, and that no irregularity or illegality had been committed by the family court in the exercise of its discretion.

Conclusion: The Court concluded that the family judge had exercised judicial discretion in accordance with law, keeping in view the welfare of the minor. Since no jurisdictional defect, material irregularity, or illegality was found in the impugned order, there was no ground for interference under Article 199. Consequently, the constitutional petition was dismissed in limine, reaffirming that the welfare of the minor remains the foremost consideration in matters of custody and visitation.

15. SINDH HIGH COURT

Amir Hussain V Mst. Gul Naz Anum Shakeel

Constitutional Petition No. S-726 of 2025

Present: Mr. Justice Arshad Hussain Khan

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MDY5Y2Ztcy1kYzgZ>
2025 SHC KHI 2651

Facts: The respondent, Mst. Gul Naz Anum Shakeel, filed Family Suit No. 3137 of 2023 seeking maintenance and medical expenses from her husband, Amir Hussain, alleging neglect and cruelty. Despite being duly served through various modes including publication, courier, and WhatsApp the petitioner failed to appear or file a written statement, leading to an ex parte decree on 10 November 2023. His subsequent applications under Sections 9(6) and 9(7) of the West Pakistan Family Courts Act, 1964, and Section 5 of the Limitation Act for setting aside the decree were dismissed by the Family Court on 6 May 2025, and his appeal met the same fate on 16 August 2025. He then filed this constitutional petition under Article 199, alleging defective service and violation of his right to a fair trial under Article 10-A of the Constitution.

Issue: Whether the petitioner was duly served in accordance with law and whether the concurrent findings of the subordinate courts upholding the ex parte decree suffered from any illegality or jurisdictional defect warranting interference under Article 199 of the Constitution.

Rule: Under Sections 8 and 9 of the West Pakistan Family Courts Act, 1964, valid service

includes substituted modes such as publication and electronic communication, and refusal to accept service constitutes effective service under Order V, Rule 10-A(2) CPC. The constitutional jurisdiction under Article 199 is supervisory, not appellate; it may only be invoked where the subordinate courts' findings are tainted by manifest illegality, jurisdictional error, or perversity.

Application: The Court found that the petitioner was duly served through all prescribed modes, including WhatsApp messages bearing blue-tick indicators and courier service that he refused to accept. His claim of ignorance of proceedings was contradicted by his own admission of knowledge after his arrest in October 2024. His applications to set aside the decree were filed belatedly, lacked affidavits, and bore inconsistent signatures, suggesting fabrication. The trial and appellate courts had therefore rightly dismissed them. The High Court held that the petitioner's conduct showed deliberate avoidance and misuse of process and that no illegality or procedural defect existed in the concurrent findings.

Conclusion: The High Court held that the petitioner was properly served and that both subordinate courts had exercised discretion judiciously. Finding no material irregularity, illegality, or jurisdictional error, the High Court dismissed the constitutional petition as devoid of merit, affirming the ex parte judgment and decree in favor of the respondent.

16. SINDH HIGH COURT

Criminal Bail Application No.2267 of 2025

Kiran Sohail wife of Sohail Applicant

Criminal Bail Application No.1810 of 2025

Dr. Mumtaz Nayani widow of Dr. Shoukat Nayai.... Applicant

Criminal Bail Application No.1777 of 2025

Yasmin Mawani widow of Wali Muhammad..... Applicant

Present: **Mr. Justice Muhammad Hasan (Akber)**

Source: **<https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MTQwY2Ztcy1kYzgZ>**
2025 SHC KHI 2662

Facts: On 9 June 2025, immigration authorities at Karachi airport intercepted applicant Kiran Sohail attempting to travel to Mozambique with a child named Zayaan, whom she falsely claimed as her biological son. Upon inquiry by the FIA, it was discovered that Zayaan was not her real child but had been procured through an organized network led by individuals including Hameeda alias Major Maan, Yasmin Mawani, Dr. Mumtaz Nayani, and Dr. Lubna Siddiqui. The group allegedly arranged the child's illegal transfer abroad for Rs.10–12 lakhs to one Sohail Ali in Mozambique,

who sought a child for his employer. A forged birth certificate was prepared by Dr. Mumtaz Nayani using a fake SSGC medical stamp, falsely listing Kiran Sohail as the mother, while Yasmin Mawani facilitated the child's custody, documentation, and financial transactions. Based on this fake certificate, a NADRA registration and passport were obtained to present Zayaan as Kiran's son for travel. The FIA concluded that the accused formed an organized criminal group engaged in child trafficking through falsified documents, leading to the registration of Crime No.191/2025 under Sections 3, 4, and 5 of the Prevention of Trafficking in Persons Act, 2018 (Amended 2025) and relevant PPC provisions, with the applicants' bail pleas initially rejected by the trial court and subsequently brought before the High Court.

- Issue:** The central issue before the Court was whether the applicants — Kiran Sohail, Dr. Mumtaz Nayani, and Yasmin Mawani — accused of offences under the *Prevention of Trafficking in Persons Act, 2018 (Amended 2025)* and various sections of the *Pakistan Penal Code (PPC)* relating to child trafficking, forgery, and criminal conspiracy, were entitled to post-arrest bail.
- Rule:** Under Sections 3, 4, and 5 of the *Prevention of Trafficking in Persons Act, 2018 (Amended 2025)*, human trafficking is comprehensively criminalized, especially when conducted by an organized criminal group or through the use of forged documents. Sections 419, 420, 468, 471, and 109 of the PPC punish cheating, forgery, use of forged documents, and abetment. Furthermore, Section 497(2) of the *Code of Criminal Procedure* allows the grant of bail when the case requires further inquiry. The Court, at the bail stage, is required to make only a tentative assessment of the material available on record and not a detailed evaluation of the evidence.
- Application:** Regarding applicant Kiran Sohail (CrI. Bail Application No. 2267 of 2025), the prosecution alleged that she was intercepted at Karachi airport while attempting to travel to Mozambique with a child named Zayaan, falsely claimed as her biological son. Investigations revealed that the child's documents, including the birth certificate and passport, were forged and prepared through coordination with other accused for the purpose of sending the child abroad. The Court observed that there was no evidence of malice by FIA officials and that the material collected showed her active participation in an organized transnational child trafficking network. Therefore, no case for further inquiry under Section 497(2) Cr.P.C. was made out. Her bail application was accordingly dismissed. As for applicant Dr. Mumtaz Nayani (CrI. Bail Application No. 1810 of 2025), the record showed that she issued the birth certificate of the victim child, falsely identifying Kiran Sohail as the mother, and affixed a fake official stamp of SSGC Medical Services despite having retired in 2016. This document served as the foundation for the subsequent forged records, including NADRA and passport documents. Although her role established a prima

facie link to the offence, the Court considered her old age, being a 69-year-old widow suffering from a heart ailment, and allowed bail purely on humanitarian grounds, subject to furnishing surety of Rs.100,000. Similarly, in the case of applicant Yasmin Mawani (Crl. Bail Application No. 1777 of 2025), the Court noted that she had participated in arranging the custody transfer of the child, facilitated payments for documentation and caretaker expenses, and acted as a link between local co-accused and international accomplices in Mozambique. While the evidence prima facie connected her to the offence, the Court took into account her age of 68 years, widowhood, and custody exceeding three months, and extended bail on humanitarian grounds with surety of Rs.100,000.

Conclusion: The Court concluded that Kiran Sohail’s bail application was to be dismissed due to strong prima facie evidence establishing her central role in the organized child trafficking operation, while the bail applications of Dr. Mumtaz Nayani and Yasmin Mawani were allowed solely on the considerations of advanced age, frail health, and prolonged custody. The Court directed that copies of the order be sent to the Chief Secretary, Secretary Health Department, and Secretary Social Welfare Department, Government of Sindh, to examine the involvement of public officials and NGOs in facilitating the trafficking activities. The observations were declared tentative and not binding on the trial court, which was instructed to independently adjudicate the matter on its merits.

17. SINDH HIGH COURT

Criminal Revision Application No.115 of 2025

Syed Muhammad Shabbar Zaidi V Syed Asad Hussain Rizvi and others

Criminal Revision Application No.116 of 2025

Omar Muhammad V Syed Asad Hussain Rizvi and others

Criminal Revision Application No.117 of 2025

Fahad Khan V Syed Asad Hussain Rizvi and others

Criminal Revision Application No.126 of 2025

Ali Ahsan V Syed Asad Hussain Rizvi and others

Present: **Mr. Justice Muhammad Hasan (Akber)**

Source: [https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1ODQzY2Ztcy1kYzgZ2025 SHC KHI 2707](https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1ODQzY2Ztcy1kYzgZ2025%20SHC%20KHI%202707)

Facts: The case arose from a Direct Complaint No.03/2025 filed by Syed Asad Hussain Rizvi, Unit Head Litigation at JS Bank Limited, alleging that Syed Muhammad Shabbar Zaidi, Omar Muhammad, Ali Ahsan, and Fahad Khan had committed defamation under Sections 499, 500, 501, 120-A, and 34 of the PPC by making derogatory remarks against Ali Jahangir Siddiqui, JS Group, JS Bank, and JS Global

Capital Ltd. in paragraphs of Judicial Companies Miscellaneous Petition No.01/2025 filed before the High Court of Sindh at Karachi against TRG Pakistan Ltd. and Muhammad Ziaullah Khan Chishti. The complainant asserted that he read the defamatory material at Thatta, where he worked, and thus claimed that the consequence of defamation occurred within Thatta's jurisdiction. The learned Sessions Judge recorded his statement, examined a witness, and took cognizance on 10 May 2025. The accused challenged that order before the High Court through Criminal Revision Applications, arguing that the alleged defamation, if any, occurred entirely in Karachi since the JCM was filed and existed only there, that the complainant was not an aggrieved person, and that merely reading the document in Thatta did not amount to publication or create jurisdiction.

Issue: The key legal issue before the High Court was whether the Additional Sessions Judge-II at Thatta had the territorial jurisdiction under Sections 177 and 179 of the Code of Criminal Procedure (Cr.P.C.) to take cognizance of Direct Complaint No.03/2025, alleging offences of defamation under Sections 499, 500, 501, 120-A read with Section 34 of the Pakistan Penal Code (PPC), filed by respondent Syed Asad Hussain Rizvi against the applicants.

Rule: Under Section 177 Cr.P.C., every offence shall ordinarily be tried by the court within whose local jurisdiction it was committed. However, Section 179 Cr.P.C. provides that when an offence involves both an act and its consequence, the trial may be held either where the act was done or where the consequence ensued. For the offence of defamation under Section 499 PPC, both the *making* and *publication* of defamatory material constitute the offence. Jurisdiction under Section 179 can only be invoked if the consequence (such as publication or harm to reputation) forms an *integral part of the offence*, not merely a subsequent or remote effect.

Application: The complaint alleged that the applicants had made defamatory statements about JS Group, JS Bank, and Ali Jahangir Siddiqui in a Judicial Companies Miscellaneous (JCM) Petition No.01/2025 filed before the High Court of Sindh at Karachi. Respondent Rizvi, serving as Unit Head Litigation at JS Bank, claimed to have read those statements at Thatta and thus filed the Direct Complaint No.03/2025 before the Sessions Court, Thatta, asserting that the consequence of defamation occurred there. The Court examined the nature of the alleged defamation and concluded that the offence, if any, was complete in Karachi, where the JCM was filed and the alleged defamatory content was presented. The material was not published or circulated in Thatta, nor intended by the accused to be read there. The complainant's act of merely reading the JCM in Thatta was held to be outside the ingredients of the offence, as defamation requires communication of the imputation to a third person. The High Court relied on several precedents — including *Chowdhry Riaz Ahmed v. State (PLD 1979 Karachi 119)*, *Banka Behari v. O.M. Thomas (AIR 1960 Orissa 126)*, and *C.S.*

Sathya v. State of Karnataka (1994 Crl.L.J. 1954) — to affirm that a court cannot assume jurisdiction merely because the complainant read or felt defamed at a different place. The alleged defamatory matter being filed and existing only in Karachi meant that Thatta Court had no jurisdiction under Section 179 Cr.P.C.

Conclusion: The High Court held that the Additional Sessions Judge-II at Thatta acted without jurisdiction in taking cognizance of the complaint. The impugned order dated 10 May 2025 was declared illegal and without lawful authority, and the proceedings in Direct Complaint No.03/2025 were quashed. The Court emphasized that the offence of defamation was complete at Karachi, where the alleged defamatory material was filed, and not at Thatta, where the complainant later read it. Accordingly, all four Criminal Revision Applications (Nos. 115, 116, 117, and 126 of 2025) were allowed, and the Thatta proceedings were set aside.

18. SINDH HIGH COURT

Criminal Miscellaneous Application No.1180 of 2024

Muhammad Javed Aslam & others V The State & others

Present: Mr. Justice Muhammad Hasan (Akber)

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MTQyY2Ztcy1kYzgZ>
2025 SHC KHI 2663

Facts: In this case, the complainant (Respondent No.4) alleged that in October 2022, the applicants—Muhammad Javed Aslam, Muhammad Omair, and Muhammad Naveed Aslam—partners in M/s Poultry International, visited his office, introduced themselves as poultry and egg traders, and entered into a business transaction involving the supply of corn worth Rs.88,00,000/-. As security, they and other associates issued three cheques: Rs.15,00,000/-, Rs.45,00,000/-, and Rs.4,00,000/-. When these cheques were presented, they were dishonoured due to insufficient funds. The complainant, after waiting due to business relations, filed an application before the Ex-Officio Justice of Peace, Karachi South, seeking registration of an FIR. On 11 November 2024, the Ex-Officio Justice of Peace directed the SHO to record the complainant's statement under Section 154 Cr.P.C. if a cognizable offence was made out. The applicants challenged this order before the High Court, contending that the cheque in question (No.12651786 for Rs.4,00,000/- dated 13 October 2023) had been presented after more than six months, making it a stale cheque, that the payment had already been made, and that the order was passed mechanically without proper consideration.

Issue: The main issue before the Court was whether the Ex-Officio Justice of Peace (Additional Sessions Judge-X, Karachi South) acted lawfully in directing the SHO

of P.S. Mithadar to register an FIR under Section 154 Cr.P.C. based on a complaint regarding the dishonor of a cheque, which had become stale (presented after more than six months of its issuance).

Rule: Under Sections 22-A and 22-B Cr.P.C., an Ex-Officio Justice of Peace may direct registration of an FIR if a cognizable offence appears to have been committed, but this discretion must be exercised judicially, not mechanically. In the context of dishonoured cheques, Pakistani jurisprudence—particularly cases such as *Noor Ahmad v. State* (2020 YLR 2064), *Muhammad Ashraf v. State* (2015 PCr.LJ 1050), and *Col. (R) Mukarram Ali Shah v. State* (PLD 2025 Sindh 63)—has established that a cheque presented after six months becomes “stale” and loses its enforceability under criminal law, as the offence of dishonor under Section 489-F PPC cannot arise from a stale instrument. The State Bank of Pakistan’s Banking Glossary also defines a “stale cheque” as one presented after more than six months, which a bank may lawfully refuse to honour.

Application: The complainant (Respondent No.4) alleged that in October 2022, the applicants—partners in *M/s Poultry International*—issued three cheques totaling Rs.88,00,000/- as security for a poultry business transaction. Two cheques were issued by one Muhammad Zeeshan Nawaz, while the third cheque, No.12651786 for Rs.4,00,000/-, was issued by the applicants’ firm and later dishonored on presentation due to insufficient funds. The complainant moved the Ex-Officio Justice of Peace for registration of an FIR, which was allowed on 11 November 2024. The applicants challenged this order, arguing that the cheque had been presented on 5 June 2024, over six months after its issuance on 13 October 2023, making it a stale cheque. They maintained that the amount had been repaid and receipts were available, and that the impugned order had been passed mechanically without judicial scrutiny. The High Court examined the record and confirmed that the cheque was indeed presented after more than six months. Referring to precedent, the Court held that once a cheque becomes stale, its dishonor cannot give rise to criminal liability under Section 489-F PPC, as the instrument has lost its legal validity. The Court also emphasized that an Ex-Officio Justice of Peace must exercise discretion with caution and not automatically direct registration of FIRs in stale cheque matters.

Conclusion: The High Court found that the Ex-Officio Justice of Peace had acted without due application of mind in directing registration of an FIR based on a stale cheque. Consequently, the Criminal Miscellaneous Application was allowed, and the impugned order dated 11 November 2024 was set aside to the extent of Cheque No.12651786 dated 13 October 2023. The Court reaffirmed that stale cheques cannot form the basis of criminal proceedings and cautioned against the mechanical exercise of jurisdiction under Section 22-A (6) Cr.P.C.

19. SINDH HIGH COURT
Constitution Petition No. D-3064 of 2025
Waliullah Bhutto V Province of Sindh and others

Constitution Petition No. D-3187 of 2025
Abdul Hafeez V Province of Sindh and others

Present: **Mr. Justice Muhammad Faisal Kamal Alam**
Mr. Justice Muhammad Hasan (Akber)

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MTM2Y2Ztcy1kYzgZ>
2025 SHC KHI 2660

Facts: The case arose from two connected constitutional petitions filed by Waliullah Bhutto and Abdul Hafeez challenging the transparency and legality of the procurement process conducted by the Works and Services Department, Government of Sindh, for the project titled “Establishment and Shifting of NAB Karachi Office to GPO Building, I.I. Chundrigar Road, Karachi.” The petitioners alleged that the bidding process was manipulated to favor M/s Global Builders (SMC) Pvt. Ltd., claiming that on the scheduled date the procuring agency’s office was closed, the tender opening did not occur publicly, and the Complaint Redressal Committee (CRC) decided their complaint without quorum as only the chairman signed the order dated 11 June 2025. They further asserted that the Review Committee’s order of 24 June 2025 was conditional and failed to address the alleged irregularities, while the contractor lacked the mandatory experience and tax record but was still awarded the contract, which was completed in just 15 days. The respondents, including the contractor and the government, contended that the process complied with the Sindh Public Procurement Rules, that 85% of work and 80% of payment had been completed, and that NAB had already shifted to the new premises, rendering the petitions infructuous.

Issue: Whether the procurement process and subsequent decisions of the Complaint Redressal Committee (CRC) and Review Committee under the Sindh Public Procurement Regulatory Authority Act, 2010 (SPPRA) concerning the project “Establishment and Shifting of NAB Karachi Office to GPO Building, I.I. Chundrigar Road” were lawful, transparent, and valid, given the petitioners’ claims of irregularities, non-transparency, and lack of quorum in the decision-making process.

Rule: Under the SPPRA Act, 2010 and Sindh Public Procurement Rules, 2010, public procurement must be transparent, competitive, and fair. Rule 31(1) mandates that the CRC must comprise three members, and a decision without quorum is coram non

judice (without jurisdiction). Rule 32A (2) requires that if mis-procurement is found, the matter must be referred to the competent authority for disciplinary or anti-corruption proceedings. The Supreme Court has consistently held (e.g., *Habibullah Energy Ltd. v. WAPDA* and *Khawaja Muhammad Asif v. Federation of Pakistan*) that contracts awarded through non-transparent or manipulated processes are illegal and void ab initio.

Application: The petitioners contended that the bidding process for shifting NAB Karachi's office was non-transparent, as the procuring agency's office was closed at the time of bid submission, no public opening occurred, and the CRC meeting lacked quorum. They argued that the CRC's order dated 11 June 2025, signed solely by its chairman, was invalid and that the Review Committee's conditional order of 24 June 2025 also failed to meet legal requirements. The respondents, including the contractor M/s Global Builders, maintained that the process was lawful, 85% of the work had been completed, 80% of payment made, and NAB had shifted to the new premises. The Court examined the record and found that the CRC decision was signed only by its chairman, in violation of Rule 31(1), rendering it coram non judice. The Grievance Committee also acted casually, failing to verify whether the work order was issued and neglecting to initiate action under Rule 32A(2) for mis-procurement. The judges emphasized that transparency is the soul of public procurement and that both committees failed to discharge their statutory obligations, leading to serious procedural irregularities. However, the Court declined to halt the ongoing NAB operations, since 80% of the work had already been completed and public interest demanded continuity of essential functions.

Conclusion: The High Court held that both the Complaint Redressal Committee and Grievance (Review) Committee had failed to exercise their lawful jurisdiction and had acted contrary to the SPPRA Rules. Their decisions were procedurally defective and legally unsustainable. The Court directed the Government of Sindh (Respondent No.1) to conduct an immediate inquiry, fix responsibility, and take disciplinary or anti-corruption action against all officials involved in the mis-procurement, including members of both committees. The petitions were disposed of with directions rather than annulment of the entire project, in order to avoid disruption of NAB's operations.

20. SINDH HIGH COURT
Criminal Misc. Application No. 345 of 2023
Muhammad Noman V The State & another

Present: **Mr. Justice Muhammad Hasan (Akber)**

Source: [https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MTUwY2Ztcy1kYzgZ2025 SHC KHI 2685](https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MTUwY2Ztcy1kYzgZ2025%20SHC%20KHI%202685)

Facts: In this case, the applicant had stood surety in the sum of Rs.100,000 for an accused, Salman Sharif, who had been granted bail by the Special Judge Anti-Corruption (Provincial), Karachi. On 18 April 2023, the accused appeared before the trial court but, due to illness and fasting, left the court premises around 1:15 p.m. while the presiding officer was absent. The following day, his absence was not condoned, his bail was cancelled, and notice under Section 514 Cr.P.C. was issued to the surety. Despite the applicant's explanation that the absence was unintentional, and that the accused soon obtained pre-arrest bail and reappeared before the court, the trial court, by order dated 15 May 2023, ordered forfeiture of the entire surety amount. The applicant challenged this order before the High Court, arguing that the default was neither deliberate nor willful and that the forfeiture was arbitrary, disproportionate, and passed without proper consideration of the circumstances.

Issue: Whether the trial court's order dated 15 May 2023, forfeiting the entire surety amount of Rs.100,000 under Section 514 of the Code of Criminal Procedure (Cr.P.C.), due to the accused's absence on one court date, was legal, proportionate, and justified in the circumstances.

Rule: Under Section 514 Cr.P.C., a court may order forfeiture of a surety bond if the accused fails to comply with bail conditions. However, this discretion must be exercised judiciously, keeping in view the nature and gravity of the default. The law requires that penalties be proportionate to the breach, distinguishing between willful abscondence and technical or minor lapses. The primary purpose of a surety is to ensure the accused's attendance—not to impose a punitive or revenue-generating measure. Courts have held (e.g., *2018 MLD 1857*, *2007 SCMR 575*, *1997 SCMR 1387*, *2011 SCMR 929*) that forfeiture must not be arbitrary and should reflect the degree of fault.

Application: In this case, the accused Salman Sharif had been granted bail on furnishing a surety bond of Rs.100,000 by the applicant. On 18 April 2023, he appeared before the trial court but left around 1:15 p.m. due to illness and fasting while the Presiding Officer was absent. His absence the next day led to cancellation of bail and a notice under Section 514 Cr.P.C. Despite the applicant's explanation, the Special Judge Anti-Corruption (Provincial), Karachi ordered full forfeiture of the surety amount. The High Court, upon review, found that the default was neither willful nor deliberate. The accused had in fact attended court, left only due to genuine reasons, and later obtained pre-arrest bail and reappeared before the court—indicating no intent to abscond or flout the judicial process. The forfeiture, therefore, was a disproportionate and hasty exercise of discretion. The judge emphasized that the trial court failed to

differentiate between a technical lapse and intentional non-compliance, thereby punishing the surety excessively for a minor breach.

Conclusion: The High Court held that the forfeiture of the entire surety bond was illegal and excessively harsh, as the accused's default was minor and properly explained. The impugned order dated 15 May 2023 was consequently set aside, restoring the surety bond. The Court reiterated that judicial discretion under Section 514 Cr.P.C. must be exercised with fairness, proportionality, and sensitivity, reserving full forfeiture only for willful or contumacious breaches.

21. SINDH HIGH COURT
Criminal Acquittal Appeal No.322 of 2020
SBCA V Muhammad Ramzan & others

Present: Mr. Justice Muhammad Hasan (Akber)

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MTY0Y2Ztcy1kYzgz>
2025 SHC KHI 2665

Facts: The Sindh Building Control Authority filed a private complaint against Muhammad Ramzan, Muhammad Shaukat, and Abid Aziz Ashrafi, alleging that they had carried out unauthorized construction on Plot No. A-140, Dream City, Deh Drigh, Malir, Karachi, without obtaining an approved building plan from the authority. It was claimed that despite notices issued to them, the respondents continued the construction, prompting the SBCA to request that utility providers like K-Electric, SSGC, and KW&SB withhold services and the Sub-Registrar refrain from executing any sub-leases of the property. The Judicial Magistrate/Special Judge, SBCA, Karachi East, took cognizance of the case under Section 19 of the Sindh Building Control Ordinance, 1979, framed charges, and proceeded to trial. During the proceedings, the only witness examined was the complainant himself, who admitted that his information came from a building inspector named Waqar Ali, who was never called to testify, and that no documentary evidence, photographs, or inspector's report were produced to substantiate the allegations. He also conceded that the Dream City Housing Scheme had a valid NOC in 2018 and that the accused were merely plot sellers, not the actual builders, as the construction was carried out by subsequent purchasers. Based on these deficiencies, the trial court found the prosecution's case unproven and acquitted the accused on 17 February 2020, leading the SBCA to file a criminal acquittal appeal before the High Court.

Issue: Whether the acquittal of respondents Muhammad Ramzan, Muhammad Shaukat, and Abid Aziz Ashrafi by the Judicial Magistrate/Special Judge, SBCA, Karachi East in Private Complaint No.1768/2018 under Section 19 of the Sindh Building Control

Ordinance, 1979 (SBCO) was justified, or whether the Sindh Building Control Authority (SBCA) successfully demonstrated that the trial court's decision was based on a misreading of evidence warranting interference by the appellate court.

Rule: The principles governing appeals against acquittal are well established: Presumption of innocence is doubled after acquittal — first, as a legal presumption, and second, as reaffirmed by the trial court's finding. Appellate courts are slow to interfere unless the acquittal judgment is perverse, arbitrary, illegal, or based on gross misreading of evidence (*State v. Abdul Khaliq*, PLD 2011 SC 554; *Ghulam Sikandar v. Mamrez Khan*, PLD 1985 SC 11; *Tariq Pervez v. State*, 1995 SCMR 1345). A reappraisal of evidence alone is insufficient to overturn an acquittal; the prosecution must demonstrate a grave miscarriage of justice or a wholly artificial or shocking conclusion.

Application: The Sindh Building Control Authority (SBCA) accused the respondents of carrying out unauthorized construction on Plot No. A-140, Dream City, Malir, Karachi, without obtaining prior approval, despite being served notices. The trial court, however, acquitted them due to lack of sufficient evidence proving unauthorized construction. On appeal, the High Court observed that the prosecution's case rested solely on the complainant's testimony, which was based on hearsay as he claimed to have been informed by Building Inspector Waqar Ali, who was never examined as a witness. The complainant further admitted that the Dream City Housing Scheme had a valid NOC in 2018 to advertise and sell plots, that he had not verified ownership records or obtained any documentation of plot sales, that the alleged notices and inspector's report were never exhibited in evidence, and that the photographs relied upon were neither taken by him nor supported by the testimony of the person who took them. It also emerged that the accused were merely plot sellers and not the actual builders, as the construction was carried out by subsequent purchasers who were not made parties to the case. Considering these deficiencies, the trial court concluded that the prosecution had failed to prove its case beyond reasonable doubt, and the High Court found no illegality or perversity in this finding, affirming that the trial court had correctly evaluated the weak and hearsay evidence before acquitting the respondents.

Conclusion: The High Court dismissed the appeal, holding that the acquittal of the respondents was based on sound reasoning and that the SBCA failed to identify any misreading, non-reading, or gross error warranting appellate interference. It reaffirmed the principle that an acquittal carries a double presumption of innocence, which can only be displaced by showing manifest illegality or perversity — neither of which was present in this case. The Court also appreciated the assistance of SBCA's counsel, Ms. Afsheen Aman, for her arguments.

22. SINDH HIGH COURT
Ameer Bux Gaad V Province of Sindh & others
Constitutional Petition No. D-4570 of 2025

- Present:** Mr. Justice Yousuf Ali Sayeed
Mr. Justice Abdul Hamid Bhurgri
- Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1NjIwY2Ztcy1kYzgZ>
2025 SHC KHI 2689, 2025 SHC KHI 2691
- Facts:** The petitioner, Ameer Bux Gaad, approached the High Court of Sindh seeking a direction to the respondents for issuance of the remaining challan amount concerning 15 acres of land situated in Scheme-33, Karachi. He claimed that following the approval of a summary on 15.08.2012, a partial challan (No.936 dated 22.11.2012) was issued and paid, but despite repeated requests, the remaining challan was never issued. He also disclosed that a civil suit on the same subject matter (Suit No.1612/2020) had previously been filed but was dismissed for non-prosecution, and no restoration was sought.
- Issue:** Whether the petitioner, after having previously elected to pursue a civil remedy and allowing it to lapse without restoration, can now invoke the constitutional jurisdiction of the High Court to seek the same relief?
- Rule:** The constitutional jurisdiction is available only to enforce vested rights, not to establish them. The doctrine of election, estoppel, and waiver precludes a party from re-agitating the same cause in a different forum after having elected and exhausted one remedy. Courts have consistently held that once a party has chosen a legal remedy and failed to pursue it diligently, they are barred from seeking the same relief through alternate judicial forums (as reiterated in 2025 SCMR 939, 2024 SCMR 518, PLD 2025 Sindh 264, and 2021 PTD 835).
- Application:** The Court found that the mere approval of a summary does not create an enforceable legal right. Moreover, the petitioner failed to explain a seven-year delay (2012–2019) in pursuing his claim, and crucially, did not disclose the dismissal of his earlier civil suit in the petition itself, which reflects a lack of candour. By choosing to file a civil suit and subsequently allowing it to be dismissed without seeking restoration, the petitioner invoked a remedy and abandoned it. This conduct squarely attracted the doctrine of election and estoppel, barring him from seeking the same relief through a constitutional petition. The Court rejected the petitioner’s attempt to switch forums after failing to diligently pursue his original legal course.
- Conclusion:** The petition was found to be legally and factually untenable, barred by the doctrine

of election and lack of enforceable rights under constitutional jurisdiction. Consequently, the High Court dismissed the petition in limine, along with all pending applications.

23. SINDH HIGH COURT

Rasool Bux Shar V Federation of Pakistan & others Constitutional Petition No. D-338 of 2023

- Present:** Mr. Justice Yousuf Ali Sayeed
Mr. Justice Abdul Hamid Bhurgri
- Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1NDI2Y2Ztcy1kYzgZ>
2025 SHC KHI 2686, 2025 SHC KHI 2687, 2025 SHC KHI 2688
- Issue:** The core issue before the Sindh High Court was whether the Petitioner, Rasool Bux Shar, is entitled to claim superannuation pension from the Port Qasim Authority (PQA) and gratuity from the Korangi Fisheries Harbour Authority (KFHA) after rendering a combined service of 35 years in both institutions, despite previously having litigated similar claims, and whether such reliefs are now barred by the doctrine of res judicata or procedural law.
- Rule:** The Court applied the doctrine of res judicata, enshrined under Section 11 of the Civil Procedure Code, 1908, and reinforced by the legal maxim “Interest reipublicae ut sit finis litium”, which mandates finality in litigation. Additionally, it relied on Order II Rule 2 CPC, which bars splitting of causes of action and prohibits raising omitted claims in subsequent proceedings. The Court also invoked the doctrine of estoppel due to the petitioner’s acceptance of gratuity, and referred to various Supreme Court precedents including 2023 SCMR 992, 2024 SCMR 766, and 2021 SCMR 1055, which highlight the importance of finality, procedural compliance, and qualifying service thresholds for pension eligibility.
- Application:** The Court found that the petitioner had already been granted relief in earlier litigation (C.P. No. D-628/2014), where the High Court had ordered proportionate pension from PQA for 14 years of service, a decision upheld by the Supreme Court in C.A. No.56-K/2019. Subsequent contempt proceedings were dismissed after PQA offered and the petitioner accepted gratuity. The current petition, which sought additional and new reliefs—such as cumulative pension, dual entitlement of CPF and gratuity, and compensation—was seen as an abuse of process and an attempt to reopen issues conclusively settled. The Court held that these reliefs should have been claimed earlier and cannot now be raised in a second round of litigation. Furthermore, the petitioner’s employment at KFHA post-1986 excluded him from the benefit of the 1986 Finance Division O.M. due to later policy clarifications.

Conclusion: The Court concluded that the petition was not maintainable as the matter had attained finality in prior litigation, and any further claims were barred by res judicata, Order II Rule 2 CPC, and the doctrine of estoppel. The petition was accordingly dismissed.

24. SINDH HIGH COURT

Ali Akbar V Province of Sindh & others

Constitutional Petition No. D-291 of 2010

Present: **Mr. Justice Yousuf Ali Sayeed**
Mr. Justice Abdul Hamid Bhurgri

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1NzI2Y2Ztcy1kYzgZ>
2025 SHC KHI 2690

Facts: The petitioner, Ali Akbar, claimed ancestral ownership of approximately 1,055 acres of agricultural land situated in various Dehs in District Dadu, Sindh, alleging possession for over forty years. He sought directions from the Court against various government officials (Respondents No.2 to 12) to stop alleged harassment, interference with his possession, and refusal to mutate or demarcate the land in his name. He also requested permanent injunction and compliance with forest and revenue officials for demarcation. The petitioner alleged that Respondents No.3 to 5, particularly the Divisional Forest Officer, were acting under political influence to prevent him from obtaining rightful mutation and demarcation. However, the respondents denied the petitioner's title, contending that the land in question forms part of notified forest land, based on Gazette Notifications and official records. It was further disclosed that the petitioner had earlier filed a civil suit (Suit No.49/2002) and a previous constitutional petition (C.P. No.559/2011), both concerning the same subject matter, but failed to disclose these proceedings in the present petition.

Issue: Whether the petitioner is entitled to constitutional relief under Article 199 of the Constitution of Pakistan for mutation and protection of possession over land claimed as ancestral, despite conflicting official records, previous litigation, and the Forest Department's assertion of state ownership?

Rule: It is a settled principle of law that constitutional jurisdiction under Article 199 cannot be invoked to resolve disputed questions of fact or title. Relief in writ jurisdiction is discretionary and may only be granted where there is a clear, undisputed legal right and a manifest violation of fundamental rights or statutory duty. Further, Gazette Notifications enjoy a presumption of correctness and can only be rebutted through strong and conclusive evidence. Suppression of material facts or concealment of prior litigation disqualifies a litigant from equitable relief.

- Application:** In the present case, the petitioner failed to substantiate his claim with any valid documentary proof of ownership or title. His reliance on ancestral possession, unaccompanied by mutation records or official revenue documents, was insufficient. In contrast, the respondents produced Gazette Notifications from 1883 and 1943, and land records which categorically indicated that the disputed land is forest land vested in the state. These official documents carry legal presumption and were unrebutted. Furthermore, the petitioner had previously pursued similar claims in civil and constitutional proceedings, which he failed to disclose in the instant petition, amounting to material suppression. The petition had also remained pending for an extended period without meaningful progress, and the petitioner and his counsel failed to appear on key dates. The Supreme Court’s precedents (e.g., Muhammad Waris v. Chief Conservator of Forests and Mst. Raj Bibi v. DFO) were cited to affirm that mere possession or entries in revenue records do not create title to forest or state land.
- Conclusion:** The High Court found that the petitioner had approached the Court with unclean hands, suppressed material facts, and failed to demonstrate any clear legal right to the disputed land. Given the disputed nature of ownership, lack of evidence, and binding precedent recognizing the land as notified forest property, the petition was held to be misconceived and an abuse of process. Consequently, the petition was dismissed, along with all pending applications.
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25. SINDH HIGH COURT

Constitutional Petition No. D–4353 of 2019

Tandlianwala Sugar Mills Ltd V Pakistan & others

- Present:** **Mr. Justice Adnan Iqbal Chaudhry**
Mr. Justice Muhammad Jaffer Raza
- Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1Nzg5Y2Ztcy1kYzgZ>
2025 SHC KHI 2705, 2025 SHC KHI 2706
- Facts:** The petitioner claimed entitlement to freight support (export subsidy) under ECC decisions (03.10.2017 and 07.12.2017) allowing export of 2 million metric tons of sugar. It claimed Rs. 537,063,232, contending SBP unlawfully withheld payment of an already sanctioned claim despite fulfilling the conditions of Circular dated 11.10.2017. SBP argued it was bound by government instructions to withhold payments due to pending litigation with TCP, while TCP alleged fraud by the petitioner and claimed outstanding dues.
- Issues:** Whether the Sindh High Court had territorial jurisdiction to hear the case. Whether SBP’s withholding of payment was lawful. Whether the Respondents could claim an

equitable set-off due to the pending civil suit. Whether any relief could be granted to the petitioner after the lapse of the fiscal year.

- Rule:** Article 199 of the Constitution – Writ jurisdiction. Section 21 of the SBP Act, 1956 SBP acts as banker to the Federal Government. Doctrine of Equitable Set-Off (PLD 1983 SC 5; 2009 SCMR 666). Article 84 of the Constitution and Section 23 of the Public Finance Management Act, 2019 – Lapse of supplementary grants at the end of the financial year.
- Application:** Jurisdiction: Since the cause of action (SBP’s refusal) arose in Karachi and SBP’s head office is located there, the petition was held maintainable. Entitlement: SBP had processed the petitioner’s claim and sanctioned Rs. 439,243,046 (out of Rs. 537 million). Legality of Withholding: SBP, acting as a banker for the federal government, was bound to comply with the Ministry of Commerce’s direction to withhold payment. Set-Off: The claim of “equitable set-off” by TCP was rejected because the civil dispute did not arise from the same transaction and was still pending. Availability of Funds: At the time of filing, the supplementary grant had lapsed (per Article 84 and Section 23 PFM Act), and the remaining subsidy funds were no longer available. Therefore, even if the petitioner’s claim were valid, the court could not direct payment through a writ.
- Conclusion:** The petition was dismissed. SBP’s act of withholding payment was lawful. TCP’s set-off claim was invalid. The subsidy grant had lapsed and could not be reissued via writ. No costs were awarded.
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26. HIGH COURT OF SINDH
Judicial Miscellaneous Application No. 11 of 2025.
Franzen Lanbouw C.V V TASCO

- Present:** Mr. Justice Muhammad Jaffer Raza.
- Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MDkzY2Ztcy1kYzgZ>
2025 SHC KHI 2656
- Facts:** The applicant sought enforcement of a foreign arbitral award dated 03.08.2016 passed by the RUCIP Arbitration Committee, Netherlands, under the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011, and the New York Convention (1958). The award ordered TASCO to pay €196,753.50 with 1% monthly interest and arbitration fees. TASCO had refused to participate in the arbitration proceedings despite multiple notices.
- Issues:** Whether the foreign arbitral award is enforceable under the 2011 Act and the New York Convention. Whether the respondent’s absence from arbitration and objection

to jurisdiction could prevent enforcement. Whether alleged discrepancies in documents filed by the applicant justified action under Section 476 Cr.P.C.

- Rule:** Section 62 of the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011. Article V of the New York Convention, which limits grounds for refusal of enforcement. The doctrine of “Pro-Enforcement Bias” emphasizing minimal court interference in recognizing foreign arbitral awards.
- Application:** The court reiterated that the “Pro-Enforcement Bias” requires courts to favor recognition of foreign awards unless clear grounds under Article V exist. The respondent failed to prove any ground under Article V (such as incapacity, improper notice, invalid agreement, or public policy violation). The argument of lack of privity was dismissed as the Deed of Assignment (01.06.2015) had transferred rights to the applicant before arbitration began. The respondent’s non-participation and later objections were deemed irrelevant. The allegation of forgery (Section 476 Cr.P.C.) was viewed as a delaying tactic and dismissed.
- Conclusion:** The foreign arbitral award dated 03.08.2016 was recognized and enforced as binding. The applicant was granted judgment for the award amount, enforceable as a decree of the court. The application under Section 476 Cr.P.C. was dismissed. Award enforced; decree to be executed.
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27. SINDH HIGH COURT

Second Civil Appeal No. 62 of 2023

Sultan Salahuddin Ahmed & another V Saeed Ahmed & another

- Present:** Mr. Justice Muhammad Osman Ali Hadi
- Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1OTM3Y2Ztcy1kYzgz>
2025 SHC KHI 2709
- Facts:** The case concerns an agreement to sell dated 19 February 2007 through which the appellants, Sultan Salahuddin Ahmed and Hafiz Ziauddin Sultan, claimed to have purchased one acre of land (Plot No. E-103, Chemical Area, Port Qasim Authority Economic Industrial Zone, Karachi) from the late Saeed Ahmed (Respondent No. 1). They instituted Civil Suit No. 136 of 2019 before the IVth Civil Judge, Malir, for specific performance of the sale agreement. The trial court decreed in their favor on 20 November 2020, directing the respondents to transfer the property. Respondent No. 1 then filed Civil Appeal No. 99 of 2020 before the District and Sessions Judge, Malir, who set aside the trial court’s decree on the grounds that the suit was barred by limitation, that prior permission of the Port Qasim Authority (PQA) had not been obtained, and that sub-division of plots was prohibited under PQA policy. The appellants filed the present second appeal under Section 100 CPC against that

decision. The appellants argued that the first appellate court had relied on a PQA Board Resolution dated 21 January 2021 (which barred sub-division of plots smaller than one acre) that did not exist when the suit was filed and therefore could not apply retrospectively. They contended that they were only claiming a 50% share and not a physical sub-division of the plot. They further alleged that the property had been illegally transferred in 2018 to Muhammad Tabish Khursheed and sought to invalidate that transfer. The respondents countered that no transfer was possible without PQA approval under Clause xxiv of its letter dated 18 December 2006; that the agreement was void; that the suit was time-barred under Section 65 of the Port Qasim Authority Act 1973; and that the property had already been sold to Khursheed before the filing of the suit, making specific performance impossible.

Issue: Whether the first appellate court erred in setting aside the trial court’s decree for specific performance and whether the appellants had met the statutory threshold to sustain a second appeal under Section 100 of the Code of Civil Procedure, 1908.

Rule: Under Section 100 CPC, a second appeal lies only on a substantial question of law and not on factual findings. The relief of specific performance under Section 22 of the Specific Relief Act 1877 is discretionary and may be refused if the contract is void, inequitable, or incapable of execution. Clause xxiv of the PQA’s letter of 18 December 2006 categorically provides that no transfer, wholly or partially, without prior permission of the Authority shall be recognized. An unregistered sale agreement confers no title under Section 17 of the Registration Act 1908. Relevant precedents included *Gulzar Ahmad v. Ammad Aslam* (2022 SCMR 1433), *Inayatullah Khan v. Shabbir Ahmad Khan* (2021 SCMR 686), *Rao Abdul Rehman v. Muhammad Afzal* (2023 SCMR 815), *Madan Gopal v. Maran Bepari* (PLD 1969 SC 617), and *Amjad Ikram v. Mst. Asiya Kausar* (2015 SCMR 1).

Application: The High Court found that the agreement to sell was void since the mandatory approval from PQA was never obtained, contrary to Clauses 2 and 5 of the agreement and Clause xxiv of PQA’s letter of 18 December 2006. The appellants’ argument that they sought only a half-share and not sub-division was rejected because their own plaint explicitly requested transfer of a “longitudinally half portion” of the plot, which clearly constituted sub-division barred by PQA policy. Their position was also self-contradictory: on one hand disclaiming sub-division, while on the other challenging the validity of the 2021 Board Resolution prohibiting it. The Court further held that the property had been sold to Muhammad Tabish Khursheed in 2018, prior to the filing of the suit, rendering specific performance impossible. Citing *Inayatullah Khan v. Shabbir Ahmad Khan* (2021 SCMR 686), it reiterated that specific performance cannot be granted once the property has already been transferred to a third party. Moreover, the agreement was unregistered and thus conferred no ownership rights (*Rao Abdul Rehman v. Muhammad Afzal* 2023 SCMR 815). Justice Muhammad Osman Ali Hadi observed that specific

performance is an equitable relief and not a matter of right; the appellants had neither shown readiness and willingness to perform their part nor complied with mandatory conditions imposed by PQA. The first appellate court had properly exercised its “power of correction” under Section 22 of the Specific Relief Act and Order XLI Rule 33 CPC to rectify the trial court’s error. No substantial question of law was made out to justify a second appeal under Section 100 CPC.

Conclusion: The High Court concluded that the first appellate court’s judgment was legally sound and free of error. The sale agreement was void for want of PQA approval, the suit was time-barred, and the property had been sold to a third party before the filing of the suit. The decree for specific performance was thus unsustainable. The second appeal was dismissed, and the judgment of the District Judge, Malir, was affirmed. Appeal dismissed; first appellate judgment upheld.

28. SINDH HIGH COURT
Najeebullah V The State
Criminal Bail Application No.1912 of 2025

Present: Mr. Justice Jawad Akbar Sarwana

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjgzNzM0Y2Ztcy1kYzgZ>
2025 SHC KHI 2592

Facts: The applicant, Najeebullah s/o Allah Muhammad, was accused in FIR No. 84/2024 registered at Police Station Mochko under Section 6/9-3(E) of the Control of Narcotic Substances (Amendment) Act, 2022 for allegedly supplying 23.78 kilograms of charas. He was named in the FIR as the supplier who had provided the narcotics from Quetta to the co-accused and had received Rs. 32,000 as fare. During the trial of the co-accused, three of them—Safeer Ahmed, Mst. Shahida, and Mst. Ayesha—were convicted and sentenced to twenty years’ rigorous imprisonment and fined Rs. 800,000 each, while one co-accused was acquitted. Najeebullah, however, remained absconding for over two and a half years and was declared a proclaimed offender on 17 July 2024. He was arrested only after the co-accused were convicted. In his post-arrest bail application, his counsel argued that his name was not mentioned in the FIR, he was not caught red-handed, no direct or circumstantial evidence linked him to the crime, and that abscondence alone should not bar bail. The prosecution opposed bail, arguing that his name appeared in the FIR, witnesses connected him with the offence, and his unexplained long abscondence disqualified him from any concession.

Issue:	Whether the applicant, a proclaimed offender accused of supplying a large quantity of narcotics and having remained absconding for an extended period, was entitled to post-arrest bail under Section 497 Cr.P.C?
Rule:	Under Section 497(2) Cr.P.C., bail may be granted if further inquiry into the accused's guilt appears necessary. However, established precedents from the Supreme Court, including <i>Awal Gul v. Zawar Khan</i> (PLD 1985 SC 402) and <i>Ibrahim v. Hayat Gul</i> (1985 SCMR 382), hold that prolonged and unexplained abscondence disentitles an accused from bail, as a fugitive loses certain legal rights. Although abscondence alone does not automatically bar bail, it remains a relevant and weighty factor, especially in serious offences like narcotics trafficking.
Application:	The Court found that the applicant's name was clearly mentioned in the FIR and supported by witness statements identifying him as the supplier. His abscondence for more than two years was unexplained, and he failed to participate in the investigation or trial. While the Court acknowledged that the evidence against him might warrant further inquiry, it concluded that his deliberate avoidance of the legal process, coupled with the serious nature of the offence and the conviction of his co-accused, outweighed any argument for leniency. The Court also noted that granting bail could increase the likelihood of him fleeing again or repeating the offence.
Conclusion:	The Court held that Najeebullah was not entitled to the concession of bail due to his noticeable abscondence, his role as the alleged supplier, and the gravity of the offence involving 23.78 kilograms of charas. Consequently, his bail application was dismissed, with the Court clarifying that the observations were tentative and would not prejudice the trial.

29. SINDH HIGH COURT

Muhammad Sachal & others V PO Sindh & others

Imtiaz Ali & others V Secretary Education & others

Constitutional Petition No. D-1264 of 2012

Constitutional Petition No. D-791 of 2012

Present:	Mr. Justice Muhammad Saleem Jessar Mr. Justice Nisar Ahmed Bhanbhro
Source:	https://caselaw.shc.gov.pk/caselaw/view-file/Mjg0NDAzY2Ztcy1kYzgZ 2025 SHC LAR 2610, 2025 SHC LAR 2612
Facts:	The petitioners were appointed in 2007 as Chowkidars and Naib Qasids in the Education and Literacy Department, District Shikarpur, allegedly after fulfilling due

process. In 2011, their services were terminated on the ground that their appointment letters were bogus and fabricated. Earlier, they had filed petitions seeking payment of salaries and challenging their termination, which were disposed of by the Court with directions to pay salaries up to the date of termination and liberty to challenge the termination orders. Instead of doing so, the petitioners again approached the Court seeking regularization of their services and to restrain the department from making fresh appointments.

- Issue:** Whether the petitioners, whose appointment letters were found to be fake and whose services were terminated in 2011, were entitled to regularization of their services and payment of salaries, and whether the respondents' fresh recruitment process was illegal.
- Rule:** Under the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, appointments to Grades 1–4 must be made through recommendations of the District Recruitment Committee. Any appointment without such recommendation is void. Relief under Article 199 of the Constitution can only be granted to those who approach the Court with clean hands and matters already adjudicated are barred by the principle of res judicata.
- Application:** The Court found that the petitioners' appointment letters were bogus, as their names were not in the list of 246 candidates recommended by the District Recruitment Committee. The education department had lawfully terminated their services and informed them in 2011. Despite earlier petitions, the petitioners never challenged their termination orders and again sought regularization on false grounds. The Court held that since their appointments were never genuine, they could not claim any legal right to regularization or salary. Their attempt to challenge new appointments was also hit by res judicata. The Court emphasized that equitable relief could not be granted to those who approached with unclean hands or on fabricated claims.
- Conclusion:** The Court dismissed both petitions as devoid of merit, holding that the petitioners' appointments were fake, their claims for regularization and salary untenable, and their petitions barred by res judicata, with no order as to costs.
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30. SINDH HIGH COURT

Abdul Khaliq & Another V The State

Criminal Jail Appeal No. D-153 of 2021

Confirmation Case No.33 of 2021

Present: **Mr. Justice Khadim Hussain Tunio**
Mr. Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1NzgxY2Ztcy1kYzgZ>
2025 SHC HYD 2701

Facts: The case arises from a dispute over a land boundary between neighboring fields in village Imam Bux Chandio, which escalated into a fatal shooting on 01.05.2014. According to the FIR lodged by complainant Amanullah Chandio, the appellants Abdul Khalique (armed with a Kalashnikov) and Majid Ali (armed with a gun), along with co-accused Sajjan and Muhammad Saleh, opened fire on the complainant's brother, Ubedullah, resulting in his death, while two others, Fida Hussain and Abid Ali, sustained injuries. The incident was reported after two days, attributed to the burial rites and medical treatment of the injured. Investigation led to the recovery of blood-stained earth and empty cartridges from the scene, and the appellants were later arrested and charged under Sections 302, 324, 337-F(iii), 337-H(ii), 504, and 34 PPC. During trial, eight witnesses, including the complainant and two injured eyewitnesses, testified, consistently identifying the appellants as the shooters. The trial court found the ocular testimony corroborated by medical and forensic evidence, held the appellants guilty of murder and attempted murder, and sentenced them to death under Section 302(b) PPC, along with concurrent imprisonment under other sections. The appellants challenged the conviction through the present criminal jail appeal, while the trial court's reference for confirmation of the death sentence was simultaneously placed before the High Court.

Issue: Whether the convictions of Abdul Khalique and Majid Ali for the murder of Ubedullah and the attempted murders of others (charged under 302(b)/34, 324/34, 337-H(ii)/34 PPC, etc.) were supported by legal and reliable evidence, and whether the death sentence imposed by the trial court should be confirmed.

Rule: A criminal conviction must be proved beyond reasonable doubt by credible ocular testimony corroborated, where available, by medical and forensic evidence. Delays in lodging FIRs are not fatal if satisfactorily explained. Investigative lapses may weaken prosecution material and are relevant to sentencing, but do not automatically vitiate conviction unless they cause a miscarriage of justice. Sentencing under Section 302(b) PPC allows death or life imprisonment; mitigating circumstances and defects in investigation may justify commutation of death to life.

Application: The Court found that the ocular account of the complainant and two injured eyewitnesses was consistent, natural, and fully supported by medical evidence showing two close-range firearm injuries on the deceased's chest. Although the defence pointed to contradictions regarding firing distance, sketch preparation, and discrepancies in weapon numbers, these were held to be minor investigative lapses that did not shake the core prosecution evidence. The delay in lodging the FIR was satisfactorily explained due to burial and treatment of the injured, and the defence failed to establish false implication. However, considering the investigative

irregularities, sketch defects, and doubts over ballistic evidence, the Court viewed these as mitigating factors affecting the degree of punishment, not the finding of guilt. Hence, while the convictions were upheld, the death sentence was reduced to life imprisonment.

Conclusion: Convictions under Sections 302(b)/34, 324/34 and 337-H(ii)/34 PPC were upheld as proved beyond reasonable doubt. However, exercising sentencing discretion in light of the mitigating factors and investigative irregularities, the High Court converted the death sentence to imprisonment for life (while maintaining other concurrent sentences, fines and statutory compensation awards). The murder reference (Confirmation Case No.33 of 2021) was answered in the negative (death sentence not confirmed). The Court ordered continuance of concurrent sentences with benefit of Section 382-B Cr.P.C., directed implementation steps (amendment of warrants, realization/disbursement of compensation under trial-court supervision), and permitted separate proceedings to continue against absconding co-accused without prejudice to observations made on ballistics.

31. SINDH HIGH COURT

Ghulam Mustafa Kori V The State

Criminal Jail Appeal No. D-33 of 2021

Criminal Confirmation No. D-27 of 2021

Present: **Mr. Justice Shamsuddin Abbasi**
Mr. Justice Ali Haider ‘Ada’

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MzI2Y2Ztcy1kYzgZ>
2025 SHC LAR 2681

Facts: The case arose from an incident in which the complainant alleged that Ghulam Mustafa and his accomplices, armed with weapons, attacked and killed the complainant’s brother over an old enmity. The incident allegedly occurred in broad daylight near a populated area, and an FIR was registered at Police Station Kamber under Sections 302, 148, 149, and 337-H(ii) PPC. After trial, the accused was convicted and sentenced to death by the Additional Sessions Judge, Kamber. He challenged the conviction through a criminal jail appeal before the Sindh High Court, asserting false implication, defective investigation, and lack of credible evidence.

Issue: Whether the prosecution had successfully proved the charge of murder against the appellant, Ghulam Mustafa, beyond reasonable doubt so as to justify his conviction and death sentence under Sections 302, 148, 149, and 337-H(ii) PPC.

Rule: In criminal jurisprudence, the prosecution is bound to establish its case beyond reasonable doubt through trustworthy, consistent, and corroborated evidence. Any

material doubt arising from contradictions, defective investigation, or unreliable witnesses must benefit the accused.

Application: The Court observed that the prosecution's case suffered from serious legal and factual deficiencies. There was an unexplained delay of about three hours in lodging the FIR, creating doubt about the authenticity of the prosecution version and suggesting deliberation. The ocular account was based solely on related witnesses, while no independent person from the locality was examined despite the incident occurring in a populated area, which weakened the credibility of the eyewitnesses. Material contradictions existed between the witnesses and the police record regarding the time of occurrence, lodging of the FIR, and removal of the dead body. The alleged motive of prior enmity was found to be a double-edged circumstance, equally capable of causing false implication. The investigation was defective and inconsistent, as several investigating officers handled the case over time with long unexplained gaps. The recovery of the weapon after nine years was held unreliable due to the absence of safe custody or proper chain of evidence, and the sending of empties and weapon together to the FSL after nine years rendered the report doubtful. The medical evidence also failed to corroborate the ocular version. The Court held that these material doubts and contradictions rendered the prosecution's case untrustworthy and entitled the accused to the benefit of doubt.

Conclusion: The Court held that the prosecution had failed to establish the guilt of the appellant beyond reasonable doubt. Extending the benefit of doubt, the Sindh High Court allowed the appeal, set aside the conviction and death sentence, and acquitted Ghulam Mustafa, ordering his release if not required in any other case.

32. SINDH HIGH COURT

Roshan ul Din & another V The State

Criminal Bail Application No. S-250 of 2025

Present: Mr. Justice Amjad Ali Sahito

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg0OTIzY2Ztcy1kYzgZ>
2025 SHC MPK 2639

Facts: The case arises from Crime No.153 of 2025 registered at Police Station Umerkot City, in which the complainant, Mst. Muqee-man, alleged that the applicants, Roshan-ul-Din and Moula Bux, along with others, unlawfully entered her house armed with weapons to forcibly dispossess her of the property. When the complainant and her daughter resisted, the accused allegedly assaulted them, during which Roshan-ul-Din fired a shot at the complainant and Moula Bux struck her daughter, Mst. Khadija, with a butt blow and dragged her outside, tearing her clothes and exposing her before others. The applicants denied the allegations, claiming false implication due to a

family property dispute and asserting that the complainant had fabricated the story to usurp a bungalow gifted to another family member. They further contended that medical evidence and witness statements did not support the prosecution version. However, the prosecution opposed bail, maintaining that the accused were specifically named with defined roles and that the offence under Section 354-A PPC was fully made out.

- Issue:** Whether the applicants, Roshan-ul-Din and Moula Bux, were entitled to the confirmation of pre-arrest bail in Crime No.153 of 2025 registered under various sections of the Pakistan Penal Code, including Sections 324, 354, and 511 PPC, on allegations of unlawful trespass, assault, and outraging the modesty of women.
- Rule:** Grant of pre-arrest bail is an extraordinary relief and not a substitute for post-arrest bail. It can only be allowed when the accused demonstrates mala fide intent, ulterior motive, or misuse of legal process behind their intended arrest. Reliance was placed on the case of 2019 SCMR 1129, wherein it was held that pre-arrest bail should be granted only to protect an innocent person from false and malicious prosecution, and not in routine cases where sufficient material connects the accused to the alleged offence.
- Application:** The Court examined the record and found that the applicants were specifically named in the FIR with defined roles—Roshan-ul-Din allegedly fired a shot at the complainant, while Moula Bux assaulted her daughter and tore her clothes, exposing her before others. The ocular version was corroborated by medical evidence, and the statements under Section 161 Cr.P.C. supported the complainant’s account. The Court observed that the investigating officer had wrongly deleted Section 354-A PPC and inserted Section 511 PPC despite the alleged offence being completed. Furthermore, the applicants failed to show any mala fide intention or ulterior motive on the part of the complainant. The contention of false implication due to property dispute was not substantiated by any convincing material. Therefore, prima facie sufficient evidence existed to connect the applicants with the offence.
- Conclusion:** The Court held that no case for confirmation of pre-arrest bail was made out, as the allegations were serious and supported by corroborative evidence. Consequently, the bail application was dismissed, and the interim pre-arrest bail granted earlier was recalled, with the observation that findings were tentative and would not affect the trial proceedings.
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33. SINDH HIGH COURT

Hafeezullah Shaikh V P.O Sindh & Others
Constitutional Petition No. D-480 of 2025

Present: Mr. Justice Zulfiqar Ali Sangi
Mr. Justice Riazat Ali Sahar

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg2MTI5Y2Ztcy1kYzgZ>
2025 SHC SUK 2719

Facts: The petitioner, Hafeezullah Shaikh, an Assistant Manager (Hardware & Network) BPS-16 at Khairpur Medical College, filed this constitutional petition seeking promotion or upgradation to the post of I.T. Manager (BPS-17) under the Finance Department Notification dated 12.05.2023. He contended that despite his Bachelor's and Master's degrees in Computer Systems Engineering and over ten years of unblemished service, he was being discriminated against, as other professionals in similar technical cadres were promoted to higher grades. The respondents admitted his upgradation from I.T. Assistant (BPS-14) to BPS-16 but maintained that there was no sanctioned post of I.T. Manager at Khairpur Medical College, and the petitioner could not claim promotion against a non-existent post or seek both upgradation and promotion simultaneously. They argued that he had already availed the one-time benefit of upgradation and had not completed the required service for promotion. The dispute thus centered on the petitioner's claim for promotion in the absence of a sanctioned post and his assertion of discriminatory treatment compared to other technical staff.

Issue: Whether the petitioner, already upgraded from I.T. Assistant (BPS-14) to Assistant Manager (Hardware & Network) BPS-16, is entitled to further promotion or upgradation to the post of I.T. Manager (BPS-17) under the Finance Department Notification dated 12.05.2023, and whether denial of such promotion amounts to discrimination.

Rule: The Supreme Court in Secretary Establishment Division v. Muhammad Ahmed Khan & others (2025 SCMR 434) held that upgradation is a policy-based administrative action to alleviate stagnation and does not amount to promotion. Promotion is a service right that depends on fulfillment of rules and existence of a sanctioned post. The Finance Department's Notification dated 12.05.2023 further stipulates that upgradation is a one-time benefit and employees are not entitled to double or triple upgradation.

Application: The court observed that the petitioner had already been granted upgradation from BPS-14 to BPS-16 in accordance with the provincial policy and Finance Department's Notification. The post of I.T. Manager (BPS-17), though sanctioned generally, had not been created or allocated for Khairpur Medical College, making promotion against it legally untenable. The petitioner's higher academic qualifications could not override the prescribed qualifications at the time of appointment. The court found no element of discrimination, as the upgradation

policy had been applied uniformly to all I.T. Assistants according to their existing scales. However, the court emphasized that upon creation of the sanctioned post and completion of the requisite service period, the petitioner's case for promotion should be considered by the Departmental Promotion Committee.

Conclusion: The petition was disposed of with directions that the petitioner's promotion case be considered in accordance with law and service rules once a sanctioned post of I.T. Manager (BPS-17) is created for Khairpur Medical College. The court found no discrimination or entitlement to immediate promotion, holding that the petitioner had already received the lawful upgradation benefit.

34. SINDH HIGH COURT

Naseer Khan & others V Executive Engineer & others.

R.A (Civil Revision) 163 of 2016

Present: Mrs. Justice Tasneem Sultana

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MTU4Y2Ztcy1kYzgZ>
2025 SHC HYD 2664

Facts: The applicants filed a suit seeking declaration, possession, and mesne profits regarding land bearing Survey No. 232, Deh Matli, District Badin, claiming it as their ancestral property. They alleged that the respondents had illegally occupied the land and constructed a Government Girls College there. The respondents contended that the land had been acquired by the government in 1952 for public purposes, specifically for constructing government buildings, and that the college was established in 1994 with funds provided by United Energy Pakistan. The applicants' revenue entries were later cancelled in 2011, leading them to file the present suit, which was dismissed by both the trial and appellate courts.

Issue: Whether the applicants had proved lawful ownership and entitlement to possession of land Survey No. 232, Deh Matli, District Badin, and whether the concurrent findings of the lower courts dismissing their suit were sustainable.

Rule: Ownership or title to land must be established through valid documentary evidence rather than mere revenue entries, which do not confer proprietary rights. Under Section 11 of the Sindh Revenue Jurisdiction Act, 1876, civil jurisdiction is barred where revenue remedies are available, and a suit filed beyond the prescribed limitation period is not maintainable. The Court referred to Rehmat Noor (2023 SCMR 1645) and Atta-ur-Rehman (PLD 2008 SC 663), emphasizing that no legal right can arise when the basic title is unproven.

Application: The Court observed that the applicants relied solely on revenue record entries to

claim ownership but failed to produce any documentary proof of title or ownership by their ancestors. The respondents, however, showed that the land had been acquired by the government in 1952 and that a Government Girls College had been constructed there in 1994 with official funding. The applicants neither challenged the cancellation of their entries through revenue forums nor filed the suit within the limitation period, waiting over two decades after construction of the college. Thus, their claim was legally and factually unsupported.

Conclusion: The High Court found no illegality or misreading of evidence in the concurrent findings of the lower courts. It held that the applicants had no valid title or cause of action, and their suit was time-barred and barred by jurisdiction. Consequently, the civil revision application was dismissed.

35. SINDH HIGH COURT

Mujahid @ Mujoo & another V The State

Criminal Jail Appeal No. S-123 of 2023

Criminal Jail Appeal No. S-124 of 2023

Present: Mr. Justice Khalid Hussain Shahani

Source [https://caselaw.shc.gov.pk/caselaw/view-file/Mjg2MDU3Y2Ztcy1kYzg2025 SHC SUK 2715](https://caselaw.shc.gov.pk/caselaw/view-file/Mjg2MDU3Y2Ztcy1kYzg2025%20SHC%20SUK%202715)

Facts: The case arose from the murder of Police Constable Aijaz Ali Khand, who, on 16.04.2023, was traveling on his motorcycle to Mehrabpur when four armed men—identified as Khursheed Ahmed Banbhan, Abid Ali @ Ajo Khaskheli, Mujahid @ Mujoo Chang, and Javed Nangore—allegedly intercepted him near village Fateh Ali Punjabi. The accused attempted to rob him of cash and his motorcycle, during which Khursheed fired a pistol shot that fatally injured Aijaz Ali, while the others assisted in the robbery before fleeing on two motorcycles. The complainant, Ghulam Murtaza (brother of the deceased), lodged FIR No.111/2023 at Police Station Mehrabpur. Subsequent arrests led to recovery of weapons and the deceased's motorcycle, and a separate FIR No.120/2023 was lodged against Mujahid for possession of an unlicensed pistol. After trial, both appellants were convicted and sentenced to life imprisonment, which they challenged through the present appeals.

Issue: Whether the prosecution successfully proved beyond reasonable doubt that appellants Mujahid @ Mujoo Chang and Abid @ Ajo Khaskheli were involved in the murder and robbery of Police Constable Aijaz Ali Khand, justifying their conviction and sentences under Sections 302(b), 392, 397, 337-H(ii) PPC and Section 23(1)(a) of the Sindh Arms Act, 2013.

Rule: Under criminal jurisprudence, the prosecution must prove guilt beyond reasonable

doubt through credible, independent, and corroborated evidence. Any material contradiction, procedural irregularity, or fabrication entitles the accused to benefit of doubt. Reliance was placed on *Altaf Hussain v. State* (2019 SCMR 274), *Ali Sher v. State* (2008 SCMR 707), *Khuda-A-Dad v. State* (2017 SCMR 701), *Qaiser v. State* (2022 SCMR 1641), and *Abdul Ghani v. State* (2019 SCMR 608).

Application: The Court found that the prosecution’s evidence was unreliable and riddled with contradictions. The main witnesses were close relatives of the deceased and admitted that all investigation memos were prepared at the police station instead of at the crime scene. Medical evidence contradicted the claimed firing distance, and no signs of close-range firing were found. The alleged police encounter killing the main accused appeared fabricated, as no officer sustained injuries. Forensic evidence was compromised due to delayed dispatch of empties and weapons to the FSL, destroying the chain of custody. Independent witnesses were not examined despite the incident occurring in a public area. The court held that these flaws created reasonable doubt, and the trial court failed to properly assess the evidence.

Conclusion: The High Court held that the prosecution had completely failed to prove the case beyond reasonable doubt. Both appeals were allowed, the convictions and sentences were set aside, and appellants *Mujahid @ Mujoo Chang* and *Abid @ Ajo Khaskheli* were acquitted of all charges with directions for their immediate release unless required in another case.

36. SINDH HIGH COURT

Badal, Hawa Bai, Bhorio & others V The State

Criminal Appeal No. S-27/2024, 28/2024, 29/2024 and 34/2024

Present: **Mr. Justice Khalid Hussain Shahani**

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg2MDU5Y2Ztcy1kYzgZ>
2025 SHC SUK 2716

Facts: The case arose from an incident in which the complainant alleged that the accused, including Badal, Bhorio, Khano, and Hawa Bai @ Horri, along with others, forcibly entered his house, committed theft, and abducted his daughter, Mst. Farzana. It was further alleged that the abducted girl was later subjected to rape. The FIR was lodged accordingly, and after investigation, the accused were charged under Sections 365-B, 376(2), 148, 149, and 382 PPC. The trial court convicted them; however, they filed criminal appeals challenging the conviction before the High Court of Sindh, Sukkur Bench.

Issue: Whether the prosecution had successfully proved the charges of abduction, rape, and theft against the appellants beyond a reasonable doubt.

- Rule:** Under criminal jurisprudence, the prosecution must establish guilt through credible, consistent, and corroborated evidence. Any material doubt must be resolved in favor of the accused. Precedents relied upon include *Tariq Pervez v. State* (1995 SCMR 1345), *Muhammad Mansha v. State* (2018 SCMR 772), and *Sardaran Bibi v. State* (2024 SCMR 1116), emphasizing that even a single reasonable doubt entitles an accused to acquittal.
- Application:** The Court found serious contradictions in the prosecution evidence. The name of appellant Badal did not appear in the FIR, initial statements, or the victim’s first account after recovery, surfacing only later in a delayed Section 164 Cr.P.C. statement without explanation. The medical evidence confirmed sexual intercourse but failed to link any specific accused, as no DNA or forensic report was produced. Key witnesses were not examined, and the testimony of the victim lacked consistency and independent corroboration. The trial court was found to have overlooked these material deficiencies and based conviction on weak and unreliable evidence.
- Conclusion:** The High Court held that the prosecution failed to prove its case beyond reasonable doubt. Extending the benefit of doubt, the convictions and sentences of all appellants were set aside, and they were acquitted of the charges.
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37. SINDH HIGH COURT

Mukhtiar Ali Chandio & others V Mst. Abida Parveen Chandio & others Civil Revision Application No. S-122 of 2024

- Present:** Mr. Justice Ali Haider ‘Ada’
- Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjg1MjYwY2Ztcy1kYzgZ>
2025 SHC LAR 2669
- Facts:** The case arose from a property dispute wherein the deceased plaintiff, Mukhtiar Ali, claimed ownership of an immovable property that was allegedly sold fraudulently by his daughter, Mst. Abida Parveen (Respondent No.1), through a disputed sale deed dated 1997. The plaintiff asserted that he never executed or authorized the sale and sought cancellation of the deed. The trial court decreed the suit in his favour, but the appellate court set aside the judgment and remanded the matter for re-trial, citing denial of cross-examination, failure to frame key issues—including limitation—and procedural irregularities. Aggrieved, the plaintiff’s legal heirs filed the present civil revision before the High Court.
- Issue:** Whether the appellate court rightly remanded the case for re-trial after finding that the trial court had failed to frame necessary issues and had denied the parties the right of proper cross-examination, thereby committing material irregularities.

- Rule:** Under Section 115 of the Code of Civil Procedure (CPC), the revisional jurisdiction of the High Court can only be invoked when a subordinate court has exercised jurisdiction not vested in it, failed to exercise jurisdiction vested in it, or acted with material irregularity. Furthermore, Order XLI Rule 23 CPC empowers the appellate court to remand a case where the trial court’s judgment is based on a defective or incomplete trial. The right to cross-examination and fair trial is guaranteed under Article 10-A of the Constitution of Pakistan, while Article 150 of the Qanun-e-Shahadat Order, 1984 regulates the procedure for cross-examining witnesses.
- Application:** The High Court observed that the trial court committed serious procedural lapses by not framing an essential issue of limitation despite the suit challenging a sale deed of 1997 being filed in 2020. It also recorded cross-examination of witnesses as “Nil” without justification, depriving the opposing party of the right to test their testimony. Furthermore, the plaintiff was improperly allowed to cross-examine his own witnesses without declaring them hostile, which was contrary to Article 150 of the QSO. Relying on *Lahore Development Authority through Director General vs. Arif Manzoor Qureshi and others* (2006 SCMR 1530), the Court held that omission to frame material issues vitiates the trial. Citing *Muhammad Bashir vs. Rukhsar and others* (PLD 2020 SC 334), it reiterated that denial of cross-examination constitutes a violation of the right to fair trial. Reference was also made to *Federation of Pakistan through Secretary Finance, Islamabad vs. E-Movers (Pvt.) Limited* (2022 SCMR 1021) to reaffirm that every litigant is entitled to a fair opportunity to present and challenge evidence. Applying these precedents, the Court found that the appellate court correctly exercised its jurisdiction to order a re-trial but had issued certain directions—such as compelling the production of specific witnesses and limiting additional evidence to one side—that exceeded its lawful authority.
- Conclusion:** The High Court upheld the appellate court’s decision to remand the case for re-trial, with minor modifications to ensure equal opportunity to both parties. The revision application was therefore dismissed, affirming that the remand was necessary to secure a fair and complete adjudication in accordance with law.
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