



HIGH COURT OF SINDH

Case Law Review



Fortnightly Bench Update



Published by:
**Legal Research Cell,
High Court of Sindh**

Volume 1 | Issue 1 | 01-Apr-2025 to 15-Apr-2025



FORTNIGHTLY BENCH UPDATE

(01-04-2025 to 15-04-2025)

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

NOTABLE JUDGMENTS

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**1. Supreme Court of Pakistan
ISHFAQ AHMED V MUSHTAQ AHMED, ETC.
C.P.L.A. No. 1010-L/2022**

Present: Mr. Justice Syed Mansoor Ali Shah Mr. Justice Aqeel Ahmed Abbasi
Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1010 1 2022.pdf

Facts: The petitioner, Ishfaq Ahmed, is the lawful owner of a residential property in Lahore, which he purchased through a registered sale deed in 1999. In 2016, the property was rented to Mushtaq Ahmed (the respondent), the petitioner's brother, under an oral tenancy agreement at a monthly rent of Rs. 35,000. The respondent defaulted on the rent payment starting from July 2016. Consequently, the petitioner-initiated eviction proceedings against the respondent in 2018. The respondent's right to cross-examine the petitioner's witnesses was struck off in 2019. The Special Judge (Rent) dismissed the eviction petition in 2021, but the appellate court later allowed the appeal in 2021. The respondent then invoked the constitutional jurisdiction of the Lahore High Court, which set aside the appellate court's judgment and dismissed the eviction petition. The petitioner, aggrieved by this judgment, filed a petition seeking leave to appeal in the Supreme Court.

Issue: Whether the High Court's judgment in setting aside the appellate court's ruling, which had allowed the eviction petition, was legally sound, considering the unchallenged evidence presented by the petitioner, including the status of the landlord-tenant relationship and the respondent's default in rent payment.

Application: 1. Nature and Purpose of Rent Proceedings:

The Court discussed the nature of rent proceedings as being summary in nature, designed for swift resolution of landlord-tenant disputes, particularly those involving rent defaults. The Court emphasized that delays in eviction cases, such as the one pending for over seven years, undermine the core purpose of rent laws, which aim to protect landlords' rights. These delays disrupt the balance between landlord rights and tenant stability, which, in turn, hampers economic growth. The Court urged for expedited procedures to ensure that rent laws are effectively enforced, safeguarding the interests of landlords while maintaining tenant protection.

2. Use of Artificial Intelligence (“AI”) to Enhance Judicial & Institutional Efficiency:

In this section, the Court explored the role of Artificial Intelligence (AI) in improving judicial efficiency and institutional productivity. AI can assist in tasks like legal research, drafting decisions, and case management, helping to process large amounts of legal data and offering timely access to relevant legal precedents. The Court noted that AI can streamline legal research, enabling judges to focus on

substantive analysis rather than administrative tasks. AI can also help alleviate the burden on overloaded courts by reducing case backlogs.

The Court highlighted the positive role of AI platforms like ChatGPT, Casetext CARA, and LexisNexis, which have already been integrated into judicial workflows in several countries. The Federal Judicial Academy (FJA) was recognized for its efforts in judicial innovation, such as introducing Judge-GPT, a Generative AI (GenAI) tool designed to assist judges in legal research, case management, and drafting judgments. However, the Court stressed that AI should remain an assistive tool, aligning with constitutional mandates of fair trial and due process, and must never replace human judgment or discretion.

3. Administrative Efficiency:

The Court emphasized the importance of administrative efficiency within the judicial system, particularly in case allocation. The Court noted that the manner in which cases are assigned can impact both the neutrality and effectiveness of judicial adjudication. AI-driven case allocation systems in countries like China, Kazakhstan, and Slovakia were referenced as examples that have improved transparency, impartiality, and efficiency in judicial proceedings. These systems ensure fair and random distribution of cases, reducing risks like partiality or judge shopping.

The Court recommended the adoption of similar AI-driven systems in Pakistan to enhance administrative efficiency and promote fairness in judicial case distribution. These systems have been beneficial in reducing case backlogs, ensuring judicial independence, and maintaining procedural fairness.

4. Gaps in the AI Systems – A Warning:

The Court issued a warning about the gaps and ethical challenges associated with the adoption of AI in the judicial system. The Court highlighted concerns about the lack of transparency in AI decision-making, as many AI systems operate as "black boxes", making it difficult to understand how and why they arrive at their conclusions. This lack of transparency could undermine accountability in judicial decisions.

The Court also pointed out the issue of hallucination in AI, where AI tools, such as Large Language Models (LLMs) like ChatGPT, might generate false or fabricated legal references, which could mislead judges and litigants. The Court emphasized that human oversight is essential to ensure that AI-generated outputs are reviewed for accuracy, biases, and errors before being used in the judicial decision-making process. Additionally, the Court warned against automation bias, where over-reliance on AI systems could lead to unjust outcomes, especially in sensitive judicial matters.

5. Artificial Intelligence (“AI”), Judging & Fair Trial:

The Court reaffirmed that AI should never compromise the right to a fair trial, a fundamental constitutional right under Article 10A of the Constitution of Pakistan. While AI can enhance efficiency and consistency, it cannot replace the discretion and judgment of human judges, who are responsible for interpreting the law in light of constitutional principles. The Court emphasized that AI must remain a support tool for judges, assisting with legal research and case management, but never supplanting human decision-making. Human judgment must always take precedence in ensuring a fair trial.

6. Judging with AI – A Note of Caution:

The Court issued a strong caution against over-relying on AI for judicial decision-making. Judging requires moral discernment, ethical reflection, and empathy, qualities that AI lacks. The Court stressed that while AI can assist with administrative tasks like organizing case files and drafting decisions, it should never replace the core judicial role of interpreting the law based on the facts of each case and the individual rights involved. Human judges must retain final responsibility for the decisions made, ensuring that justice is served.

7. The Future:

Looking to the future, the Court acknowledged the rapid advancement of AI and its potential to enhance judicial efficiency. However, it cautioned that human judges must always retain ultimate authority to interpret evolving legal and moral standards. The Court emphasized that due process protections, including the presumption of innocence and the right to confront evidence, must not be compromised by AI. The Court also noted that restorative justice and rehabilitation must remain priorities, with the purpose of punishment being societal healing, not mere efficiency.

The Court clarified that while AI’s capabilities grow, justice, fairness, and due process must serve as the guardrails guiding its integration. The Court called for vigilance to ensure that AI does not undermine core judicial principles, stressing the need to maintain human oversight in the face of technological progress. The future of the judicial system should balance innovation with the preservation of human judgment.

8. The Enduring Role of Mediation and ADR in the AI Era:

The Court recognized that AI can handle logical, repetitive tasks in the legal profession, but it cannot replace mediation and Alternative Dispute Resolution (ADR), which require human empathy, emotional intelligence, and the ability to de-escalate conflict. While AI can support legal work in areas like case

analysis, mediation and ADR remain critical fields where human professionals can add irreplaceable value. The Court encouraged lawyers to specialize in mediation and ADR, offering services that AI cannot replicate, especially in regions like Pakistan, where these skills offer a unique opportunity for growth.

9. Recommendations for the Future Integration of AI:

The Court recommended that the National Judicial Policy Making Committee, in collaboration with the Law and Justice Commission of Pakistan, develop guidelines for the responsible use of AI in the judiciary. These guidelines should ensure that AI is used as an assistive tool, helping to improve judicial processes without compromising human judicial autonomy or constitutional fidelity. The Court emphasized the need for clear regulations to govern the permissible uses of AI within the judicial system, ensuring that technology is applied in a way that enhances, rather than diminishes, the core principles of justice, fairness, and due process.

Conclusion: In conclusion, the Court highlighted the evolving role of Artificial Intelligence (AI) in the judicial system, recognizing its potential to enhance judicial efficiency, consistency, and access to justice. However, it stressed that AI must remain a supportive tool, complementing rather than replacing human judgment, which is essential for judicial decision-making. The Court emphasized that the rule of law, due process, and the right to a fair trial must always take precedence over technological advancements, ensuring that AI does not compromise the core principles of justice and fairness.

The Court acknowledged AI's growing role in administrative efficiency, particularly in case allocation, where it can reduce bias and improve transparency. It recommended adopting AI-driven systems in Pakistan, inspired by international examples, to address case backlogs and enhance court operations. However, the Court also cautioned against the risks associated with AI, such as the lack of transparency, the potential for inaccuracies, and automation bias. Human oversight was deemed crucial to verify AI-generated legal content and ensure it does not mislead the judiciary.

The Court reiterated the continuing importance of mediation and Alternative Dispute Resolution (ADR) in the AI era, emphasizing that human skills such as empathy and negotiation cannot be replaced by AI. Looking ahead, the Court called for clear guidelines on AI integration in the judicial system, stressing that technology should enhance, not overshadow, justice. Ultimately, it reaffirmed that human judgment and the rule of law must guide AI's responsible use in promoting justice.

2. Supreme Court of Pakistan
Sikandar Ahmed Ghouri vs. Syed Rafat Abbas Jafferri and others
Civil Petition No. 1220-K/2022

Present: Mr. Justice Munib Akhtar, Mr. Justice Syed Hasan Azhar Rizvi
Source: www.supremecourt.gov.pk/downloads_judgements/c.p. 1220 k 2022.pdf

Facts: The dispute in this case concerns the ownership of a built-up property located at Plot Number R-123, Block 'R', measuring 120 square yards, in Sector No. 38-E, Scheme No. 33, Rizwan Co-operative Housing Society, Karachi. The property had initially been leased by Respondent No. 2 (Rizwan Co-operative Housing Society) to Muhammad Hasan, who later transferred the property to Mrs. Raunaq Ara Afridi via a registered conveyance deed. Mrs. Afridi subsequently entered into an agreement of sale with Respondent No. 1. A dispute arose between Mrs. Afridi and the petitioner over ownership, and litigation ensued. The petitioner challenged the ownership in the matter, citing various legal instruments and agreements related to the disputed property.

The case history reveals that Mrs. Afridi filed a suit in 1997 (Civil Suit No. 219) asserting ownership and obtained a decree against the petitioner. However, the petitioner subsequently initiated arbitration proceedings under the Co-operative Societies Act, 1925, and obtained a favorable ex-parte award, which Respondent No. 1 later challenged in the High Court. The High Court set aside the arbitration award and declared the subsequent lease deed executed in favor of the petitioner as legally ineffective.

Issue: The primary legal issue in this case revolves around whether the dispute regarding ownership of the property "touches the business of the society" under Section 54 of the Co-operative Societies Act, 1925, thus determining the jurisdiction of the Registrar to entertain the matter. Additionally, the Court needed to determine if the arbitration award could override the judgment of a competent civil court, particularly when the dispute concerns property title.

Application: Section 54 of the Co-operative Societies Act, 1925, was central to the case. This provision allows for disputes between members and the society to be referred to the Registrar, provided they pertain to the society's business. The Court examined whether the dispute over ownership rights constituted a dispute touching the business of the society, as the petitioner had sought arbitration under this section. The Court emphasized that disputes concerning ownership and title of property are civil matters and fall within the exclusive jurisdiction of civil courts, not the Registrar. This is particularly true when a final judgment has already been rendered by a competent court. The Court relied on past judgments, including those from foreign jurisdictions like India and the UK, to highlight that disputes about property title do not typically fall under the jurisdiction of the Registrar.

Conclusion: The Court concluded that the arbitration award made under Section 54 of the Co-operative Societies Act was void as the dispute did not pertain to the "business of society." The judgment and decree of the civil court, which had previously ruled in favor of Mrs. Raunaq Ara Afridi, could not be overridden by the arbitration proceedings under the Co-operative Societies Act. The Court further held that the arbitration process violated natural justice by not involving all necessary parties and dismissed the petition, leaving the High Court's judgment intact.

3. Sindh High Court
M/s Simba Enterprises vs Federation of Pakistan & Another
Constitutional Petition No. D-1257 of 2025

Present: Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Mohammad Abdur Rahman

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjUyMTg2Y2Ztcy1kYzgZ>

Facts: The petitioner, the owner of M/s Simba Enterprises, sought to challenge the blocking of their user ID/NTN. The blocking was carried out based on a letter dated 11.03.2025 from Respondent No. 2, directing the Collector of Customs Appraisement (East), Karachi, to suspend the petitioner's user ID under Section 155F of the Customs Act, 1969. The petitioner contended that no notice was issued, nor was a reasonable opportunity for a hearing provided before the suspension, which led to the blocking of the user ID without lawful authority.

Issue: Whether the blocking of the petitioner's user ID/NTN by the respondent, without providing notice or a reasonable opportunity for a hearing, was done in accordance with the requirements of Section 155F of the Customs Act, 1969?

Rule: Section 155F of the Customs Act, 1969 outlines the conditions under which the Collector of Customs may cancel or suspend the registration of a registered user. It includes clauses for failure to comply with conditions of registration or security requirements, or if the user is convicted of an offense. However, the cancellation or suspension must adhere to due process, including giving notice and affording a reasonable opportunity for a hearing before suspension.

Application: The court examined Section 155F and concluded that the blocking of the applicant's user ID violated the statutory provision of Section 155F, which mandates that the Collector of Customs, in exceptional circumstances, may suspend a user's ID after providing notice and a reasonable opportunity for hearing. In the case at hand, no notice was issued, nor was a hearing provided, making the suspension of the user ID unlawful and without jurisdiction.

Conclusion: The petition was allowed, and the court declared that the blocking of the applicant's user ID was done without lawful authority and jurisdiction. As a result, the suspension of the user ID was set aside, and the user ID was restored. Pending proceedings under Section 155F were to continue in accordance with the law.

4. Sindh High Court
Muhammad Ayaz & another V. Rasheedan Bibi & others
H.C.A. No. 117 of 2020

Present: Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Muhammad Osman Ali Hadi

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjUyMDYzY2Ztcy1kYzgZ>

Facts: These Appeals have been filed against Judgment dated 20.03.2020 and Decree dated 02.04.2020 passed by the learned Single Judge in Suit No. 603/2005, which canceled the Appellants' ownership/title documents and granted declaration and possession in favor of Respondent No.1. The Appellants claim ownership over the property at Plot No. 795/M-I, measuring approximately 550 sq. yards in the Defence Officers Housing Society, Karachi. They purchased the property from Respondent No.2 in 1999, paid full consideration, and obtained possession. The Appellants contend they have legal title, supported by a Sub-Power of Attorney and other documents. Respondent No.1 claims ownership via a sale agreement with Respondent No.2's attorney.

Issue:

1. Whether the Appellants' ownership of the property should be upheld against the Respondent's claim of ownership based on an unregistered sale agreement?
2. Whether the second suit filed by Respondent No.1 is barred by res judicata, as the matter was already decided in the first suit?
3. Whether the second suit was time-barred due to the delay in filing, considering the period of limitation under the Limitation Act?

Rule:

1. The court must determine the legal implications of an unregistered sale agreement, especially its effect on the claim of ownership. The law requires that a sale agreement must be registered to convey title to immovable property.
2. Res judicata bars re-litigation of a matter that has been conclusively settled by a competent court. A party cannot re-agitate the same issues once a final decision has been made.
3. The Limitation Act 1908 provides that suits for specific performance of a Contract must be filed within three years from the date when the performance was due or when refusal occurred. A suit filed after the expiration of this period is time-barred unless the delay is excused.

Application: Res Judicata: The court found that the 1st Initial Suit filed by Respondent No. 1 in 2002 was rejected based on a lack of cause of action, and that Respondent No. 1 did not appeal the decision, making it final. The claim for declaration and

possession of the property had already been decided, and therefore, could not be re-litigated in the 2nd Suit.

Order II Rule 2 CPC: The court observed that the claim for declaration and possession made in the 2nd Suit was essentially a reassertion of the same claims that had been rejected in the earlier suit. Since Respondent No. 1 had not amended the original suit or appealed against it, the filing of the 2nd Suit was barred by Order II Rule 2.

Limitation: The claim for specific performance in the 2nd Suit was found to be time-barred, as it was based on a sale agreement from 1992. Respondent No. 1 failed to provide a reasonable explanation for the delay in filing the suit. The court held that the limitation period for filing the suit had expired in 1995.

Misreading of Evidence: The court criticized the impugned judgment for relying on inadmissible evidence, such as affidavits and inquiry reports that were not properly cross-examined. The court reiterated the principle that the burden of proof lies on the party making the claim, and that evidence should not be accepted without proper examination and cross-examination.

Conclusion: The court ruled that the 2nd Suit was barred by the principles of res judicata, as the issues regarding the declaration and possession of the property had already been decided in the 1st Initial Suit. Furthermore, the claim for specific performance was time-barred and could not be pursued. The court also held that the impugned judgment erred in its application of evidence and failed to properly assign the burden of proof. The appeals were allowed, and the impugned judgment and decree were set aside.

The decision highlights the importance of finality in litigation, limitation periods, and proper adherence to procedural rules such as res judicata and Order II Rule 2 CPC in ensuring that legal disputes are not prolonged unnecessarily.

5. Sindh High Court
Ibrahim Noor v Pakistan International Airlines corporation & others
CP. No. D-4002 of 2011

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

Source <https://caselaw.shc.gov.pk/caselaw/view-file/MjUyMjM0Y2Ztcy1kYzgZ>

Facts Ibrahim Noor, the petitioner, worked in the Finance Department of Pakistan International Airlines Corporation (PIAC) from 1976 until his dismissal in 2010. The petitioner was dismissed from service on August 9, 2010, following a departmental inquiry that found him responsible for various financial irregularities, leading to a loss of PKR 147 million. Despite reaching retirement age on November

30, 2010, he was not allowed to retire with the standard benefits. The petitioner challenged the dismissal, stating that his service record had been positive throughout his career, and he had been unfairly penalized. He also highlighted the case of other employees, such as Mrs. Amna Nazir, who was implicated in similar misconduct but was promoted and sent abroad, which the petitioner claimed was an example of favoritism. Furthermore, the petitioner relied on his acquittal in a criminal case under the National Accountability Bureau (NAB) Reference No. 20/2011, arguing that the acquittal should nullify the disciplinary action taken against him. As a result, he filed a constitutional petition under Article 199 of the Constitution, seeking to have his dismissal overturned and to be granted retirement benefits.

Issue Whether the acquittal of the petitioner in a criminal case related to similar charges could invalidate the disciplinary proceedings and entitlement to reinstatement and retirement benefits.

Rule The Court referred to precedents regarding departmental and criminal proceedings being distinct, where departmental inquiries operate on a balance of probabilities, while criminal proceedings require proof beyond reasonable doubt. The Court emphasized that acquittal in a criminal case does not automatically nullify the findings of a departmental inquiry. The Court also cited decisions such as *Dr. Sohail Hassan Khan v. Director General* (2020 SCMR 1708) and *Usman Ghani v. The Chief Post Master* (2022 SCMR 745) to highlight the principle that departmental inquiries and criminal cases are independent, and a writ under Article 199 is not the appropriate remedy in such cases, especially where the employee was given a full opportunity to defend himself.

Application: In applying the law to the facts, the Court noted that the petitioner's dismissal followed a thorough departmental inquiry that found him responsible for a number of financial irregularities. The petitioner had been given full opportunity to cross-examine witnesses and present his defense, but he failed to convince the department of his innocence. The Court emphasized that the acquittal in the criminal case was irrelevant to the departmental proceedings since the standards of proof and procedures were different. The inquiry committee had found the petitioner guilty of negligence in managing the finances and following PIAC's internal policies. The petitioner's reliance on his criminal acquittal was therefore misplaced, as departmental actions are based on a lower standard of proof. Additionally, the Court pointed out that the service regulations at PIAC were non-statutory, meaning the relationship between the petitioner and PIAC was governed by internal policies, not enforceable through constitutional jurisdiction under Article 199. Moreover, the petition was filed long after the dismissal and only after the petitioner had reached his retirement age, which further weakened his case.

Conclusion: The Court concluded that the petition was not maintainable.. The acquittal in the criminal case did not affect the validity of the departmental inquiry. The Court

dismissed the petition, affirming that the petitioner's dismissal stood and he was not entitled to the relief sought. The Court also noted the delay in filing the petition and the disputed factual questions, which further supported the decision to reject the petition.

6. Sindh High Court
Sarfarazuddin versus M/s Paras Commercial Company and others, C. P. No. S – 434 of 2023

Present: Mr. Justice Muhammad Faisal Kamal Alam
Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjUyNDI2Y2Ztcy1kYzgZ>

Facts: The case involves multiple petitions filed by Sarfarazuddin against M/s Paras Commercial Company and others. The petitioners challenge the Tentative Rent Orders passed under Section 16(1) of the Sindh Rented Premises Ordinance, 1979 (SRPO). The dispute primarily relates to the non-payment of rentals and arrears exceeding three years, which the petitioners argue is beyond the legal limit. The Rent Controller's order for the tenant to pay arrears beyond the three-year limit and the amount of arrears claimed by the landlord were contested by the petitioner. The landlord's counsel argued that the tenant was in default and should be evicted despite paying some rent under Miscellaneous Rent Cases.

Issue: The central issue in this case revolves around the legality of the Tentative Rent Orders passed by the Rent Controller, specifically concerning the requirement for the Petitioner (tenant) to deposit arrears of rent exceeding three years, and whether the default in payment of future rentals justifies eviction under the Sindh Rented Premises Ordinance (SRPO), 1979?

Rule: The relevant legal framework is the Sindh Rented Premises Ordinance, 1979, particularly Section 16(1), which governs Tentative Rent Orders. According to the Rent Law, arrears exceeding three years should not be included in the Tentative Rent Order. Additionally, Section 16(2) allows the Rent Controller to strike off the tenant's defense if they default in payment, potentially leading to eviction.

Application: The Petitioner argues that the Tentative Rent Orders are illegal because they require the deposit of rent arrears for more than three years, which contradicts the established rules. The Petitioner further asserts that rentals for the disputed period were already deposited in another Miscellaneous Rent Case (MRC), and thus, he should not be compelled to pay the same rent again. The Petitioner challenges the striking off of his defense under Section 16(2), citing technical rather than deliberate default.

The Respondent, the landlord, argues that the default is not merely technical but substantial, as the tenant failed to comply with the Rent Orders within the stipulated

period. They claim that despite the Petitioner's argument regarding the prior payment, the Rent Controller's decisions are within legal bounds. Additionally, the Respondent contends that the petitions are time-barred.

.Conclusion: In the Category A cases (C.P. No. S-390 and S-437 of 2023), the Court upheld the decisions of the Rent Controller and Appellate Court, finding no illegality in the orders passed. The Petitioner's default in paying rent on time was not condoned, and the petitions were dismissed. The Court affirmed that the default was not merely technical, and the tenant's defense was rightly struck off due to his failure to comply with the orders.

In the Category B cases (C.P. No. S-434, S-435, and S-436 of 2023), the Court found that the Tentative Rent Orders violated the Rent Law as they demanded arrears beyond three years. These orders were considered vague and lacked proper inquiry into the facts. The Petitioner's conduct in challenging the orders was viewed more leniently, as the mistake was on the part of the Rent Controller. The Court set aside the impugned orders and remanded the cases to the Rent Controller to be decided within six weeks.

The Court emphasized that judicial errors by the Rent Controller, such as mechanically passing orders without proper scrutiny, can cause undue hardship to tenants. Consequently, the Court found that the Tentative Rent Orders in Category B cases should be revisited, emphasizing fair treatment in accordance with the law.

**7. Sindh High Court
Bashir Akbar Ali VS. PSO Through Aamir Mansoob Qureshi, Advocate
Criminal Rev. Application No.25 of 2023**

Present: Mr. Justice Amjad Ali Sahito.

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjUyMDIxY2Ztcy1kYzgz>

Facts: The Applicant, Bashir Akbar Ali, was granted a license by Pakistan State Oil (PSO) in May 2001 to operate a petrol and diesel retail business. Later, in 2003, the Applicant obtained an additional license to establish a Compressed Natural Gas (CNG) station. On 12th October 2022, around 08:00 PM, the Applicant, along with his employees, was present at his petrol pump and CNG station, carrying out routine business operations when Respondents, including PSO officials and the Staff Welfare Organization (SWO), accompanied by 20 to 30 armed guards, forcibly entered the premises and unlawfully dispossessed the Applicant and his employees. The Respondents began dismantling petrol pump accessories, and despite warnings about the presence of hazardous materials, continued with their actions, risking an explosion. The Applicant immediately reported the incident to the police, which was witnessed by several employees. The Applicant had lawful agreements with

PSO for the operation of the business and had made substantial investments in the establishment of the CNG unit.

Issue: The main issue in this case is whether the Applicant was unlawfully dispossessed from his property by the Respondents, despite having valid agreements with PSO and SWO for the operation of his business. The Applicant claims that the dispossession was conducted unlawfully and without following due legal process, which violated his rights under the Illegal Dispossession Act, 2005?

Rule: The Illegal Dispossession Act, 2005 is a special enactment that protects lawful occupiers of immovable property from illegal dispossession. The Act defines an "occupier" as someone in lawful possession of property, and dispossession without legal authority is prohibited. The Court considered several key precedents in this case, including *Niaz Ahmed v. Aijaz Ahmed* (PLD 2024 SC 1152), which held that no one can unlawfully dispossess an occupier, even if civil litigation is pending. Other significant cases include *M. Ghani v. M. A. Mullick* (1973 SCMR 90), *Zulfiqar Ahmed Khan v. Station Commander* (2010 CLC 354), and *Muhammad Javed v. VIIIth Additional Sessions Judge* (2018 P Cr. L J 1522), all of which emphasize that no individual can be evicted from property without due process of law.

Application: The Applicant asserts that he had lawful possession of the property under the agreements with PSO and SWO, and that the forcible dispossession on 12th October 2022 was illegal. He argues that the actions of the Respondents were taken without following the legal procedures prescribed by the Illegal Dispossession Act. The Respondents, on the other hand, contend that the Applicant was merely a licensee and did not have proprietary rights over the property. They also claimed that the dispossession occurred through lawful procedures in accordance with their agreements. The learned trial court dismissed the Applicant's complaint based on a police enquiry report, which suggested the Respondents acted within their rights under the agreements. However, the Applicant's counsel emphasized that the court failed to consider the arbitration clauses in the agreements, which required disputes to be resolved through arbitration. The High Court, upon reviewing the case, found that the trial court had overlooked the relevant legal principles and the forceful dispossession was not justified.

Conclusion: The High Court concluded that the trial court had erred in dismissing the Applicant's complaint. The Court observed that the dispossession had occurred without following the due legal process, and the actions of the Respondents violated the law. As a result, the High Court set aside the impugned order and remanded the case back to the trial court with instructions to reconsider the matter and issue a reasoned decision. The Court emphasized the importance of adhering to legal procedures and ensuring that dispossession only occurs through lawful means.

**8. High Court of Sindh
Mst Sahib Khatoon (Petitioner) VS Province of Sindh & Others
(Respondent)
C.P. No.D-544 of 2025**

Present: Syed Fiaz ul Hassan Shah, J

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjUyMjg0Y2Ztcy1kYzgZ>

Facts: The petitioner, in this case, filed a constitutional petition challenging the registration of FIR No. 05 of 2025 at Police Station Manjhand, District Jamshoro. The FIR was registered under Sections 353 (assaulting or using criminal force to deter a public servant from his duty) and 324 (attempted murder) of the Pakistan Penal Code (PPC), alleging that the petitioner had committed these offences. The petitioner argued that the FIR was based on a false, fabricated, and manipulated story, and therefore, sought its quashing by the High Court. In addition to quashing the FIR, the petitioner also requested that the court suspend the FIR until the main petition was finally decided, providing protection to the petitioner and her family members from Respondent No. 3 (the complainant) and other police officials, who the petitioner claimed were targeting her unjustly. Furthermore, the petitioner sought a direction to prevent the lodging of any false FIRs against her and her family, and to ensure that the police would not arrest her or her family members. The FIR was registered by Respondent No. 3 under Section 154 of the Criminal Procedure Code (Cr.P.C.), which mandates the registration of a cognizable offence when the police are informed of an alleged crime. The petitioner's counsel argued that the case against the petitioner was baseless and requested the High Court to exercise its powers to quash the FIR. However, the High Court emphasized that such powers to quash FIRs should be exercised sparingly and only in exceptional cases, where it is clear that the FIR has no legal basis or involves a misuse of the judicial process. The court noted that the FIR had statutory backing, and therefore, the investigation into the matter should proceed in accordance with the law.

Issue: Whether adequate alternate remedies under criminal law bar constitutional jurisdiction? And Whether investigation by local police raises conflict of interest requiring independent inquiry.

Rule: High Courts can quash FIRs under Article 199 in exceptional cases, such as when they are malicious or unjustified. FIRs must be registered for cognizable offences (Muhammad Bashir v. SHO, 2007). Police encounter investigations Should be handled by an independent officer or JIT (Ali Sher v. The State, 2020). High Courts should not interfere without compelling reasons (Abdul Rehman Malik v. Sindh, 2010).

Application: The court examined the petitioner's request to quash an FIR under Article 199 of the Constitution, claiming it was false and fabricated. It emphasized that the police

are mandated under Section 154 Cr.P.C. to investigate cognizable offences once an FIR is registered. The court noted that it cannot quash an FIR unless there are exceptional circumstances, such as it being patently illegal or an abuse of process. It stated that disputed facts should be addressed during investigation or trial, not at the High Court stage. The petitioner had alternative remedies available, such as challenging the FIR during the trial. Given that there were no exceptional circumstances or legal basis for quashing the FIR, the court dismissed the petition, affirming that police investigations should proceed without interference at this early stage.

Conclusion: In conclusion, the petitioner's request for quashing the FIR was dismissed due to the lack of exceptional circumstances required to justify such an action under Article 199 of the Constitution. The Court reinforced the principle that quashing an FIR should be done sparingly and only in cases where the FIR is patently illegal or lacks legal justification. The Court also emphasized the availability of alternative remedies for the petitioner within the normal criminal procedure, which further limits the use of constitutional jurisdiction in this case. Moreover, in line with the Supreme Court's precedents, the Court acknowledged concerns regarding impartiality in investigations involving police encounters. To ensure a fair and unbiased investigation, the Court directed that the investigation be handled by a Joint Investigation Team (JIT) from outside the Jamshoro district. This decision underscores the importance of maintaining transparency and fairness in the investigative process, especially in cases where potential conflicts of interest may arise. Ultimately, while the petition was dismissed, the Court's directive for an independent investigation from a different district is a crucial measure to safeguard the rights of the parties involved and ensure that the investigation is conducted without bias or undue influence.

9. High Court of Sindh
Abdul Ghaffar S/o Sharf-u-Din through his Special Attorney
Abdul Sattar S/o Sharf-u-Din Versus Yasir S/o Abdul Haleem
Civil Revision Application No.S-274 of 2024

Present: Mr. Justice Dr. Syed Fiaz ul Hasan Shah.

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjUyMTMxY2Ztcy1kYzgZ>

Facts: The applicant, Abdul Ghaffar, through his special attorney Abdul Sattar, filed a suit claiming ownership of agricultural land measuring 25-03 acres located in Deh Sareji, Taluka Sanghar. He alleged that the land was purchased by him through a sale statement dated 16.11.1992, but the title was registered in the name of his minor nephew, Yasir (Respondent No.1), who he claimed was merely a benamidar. The applicant stated that he remained in possession of the land since its purchase and that the respondent attempted to dispossess him and sell the property unlawfully. The trial court dismissed the suit under Order XVII Rule 3 of the CPC

due to the applicant's repeated failure to produce evidence despite multiple directions. The applicant's subsequent appeal was also dismissed. In the written statement, Respondent No.1 admitted that the applicant purchased the land in his name but asserted that the funds used belonged to his (respondent's) father and that the purchase was made under his father's instructions. He denied the applicant's possession and right over the land. The applicant then filed a civil revision application challenging the decisions of the lower courts, arguing that the courts failed to consider the respondent's admission regarding the purchase and status as a benamidar and erroneously skipped the procedures under Order XII Rule 6 CPC.

Issue: Whether the trial court was justified in dismissing the suit under Order XVII Rule 3 CPC without considering the application of Order XII Rule 6 CPC (judgment on admission)? And Whether procedural laws, including Orders X, XII, XIV, and XV CPC, were properly followed by the trial court?

Rule: Order XII Rule 6 CPC allows the court to pronounce judgment based on admissions made in pleadings or otherwise, if they are clear, unequivocal, and unambiguous, even without a formal application. Order XVII Rule 3 CPC: Permits dismissal of a suit if a party, despite being given opportunities, fails to produce evidence. Order X, XIV & XV CPC: Provide for preliminary examination of parties, framing of issues, and immediate pronouncement of judgment where there is no dispute on material facts. Principle of binding pleadings: Parties are bound by their pleadings and cannot introduce new factual contentions or change their stance later.

Application: The Court found that the trial court erred by dismissing the suit under Order XVII Rule 3 CPC without first considering Order XII Rule 6 CPC, which mandates a judgment on admissions when clear and unequivocal. The trial court failed to assess whether the admission regarding the land purchase was sufficient to justify such a judgment, and the appellate court wrongly accepted new, unpleaded justifications from the respondent. The Court emphasized that even without a formal application, it has the power to act on clear admissions but remanded the case for the trial court to evaluate the clarity of the admission. Additionally, the Court stressed the importance of following procedural steps under Orders X, XII, XIV, and XV CPC, as bypassing them led to an improper dismissal. The Court concluded that judicial discretion should be exercised fairly and in accordance with established rules.

Conclusion: The High Court concluded that both the trial court and the appellate court had committed legal errors by failing to adhere to the mandatory procedural framework under the Civil Procedure Code. Specifically, the trial court was required to first examine the pleadings to determine whether a judgment could be passed on the basis of clear and unequivocal admissions under Order XII Rule 6 CPC, before resorting to dismissal under Order XVII Rule 3 CPC due to non-production of evidence. The appellate court compounded this error by misreading the pleadings and improperly

allowing a departure from them. As a result, the High Court set aside the concurrent findings of the lower courts and remanded the case back to the trial court. The trial court was directed to properly examine whether the respondent's admissions met the legal standard for a judgment on admission and to proceed in accordance with the law and procedural rules. The Court abstained from making factual findings and left the question of admission open for determination by the trial court.

10. Sindh High Court
Arshad Ali v/s Mst Uzma & others
CP. No. S-191 of 2024

Present: **Mr Justice Nisar Ahmed Bhanbhro**
Source <https://caselaw.shc.gov.pk/caselaw/view-file/MjUyNDk0Y2Ztcy1kYzgZ>

Facts The petitioner (Arshad Ali) and Respondent No.1 (Uzma) contracted marriage about 6 years ago and out of the wedlock they have one issue namely Shazaib aged about 5 years. The marriage between the parties was dissolved on the ground of Khulla in lieu of Judgment dated 27.01.2024 passed by the Court of Learned Family Judge-I, Mehar in Family Suit No.118 of 2022 titled Mst. Uzma versus Arshad Ali. After dissolution of marriage the Respondent No.1 contracted second marriage with one Anwar Ali Sohu (Respondent No.2) and out of the second marriage she mothered one baby girl. Petitioner filed Guardianship Application No.22 of 2023 seeking the custody of minor Shahzaib before the Trial Court. The application of the petitioner was granted, he was appointed as Guardian of the minor and Respondent No 1 was directed to hand over the custody of minor Shahzaib to the petitioner. The respondent No.1 filed Guardian and Wards Appeal No.05 of 2024 before the Court of Learned District Judge Dadu, which was assigned to the Appellate Court for its disposal in accordance with law. The Appellate Court through the impugned order set aside the order of the trial Court and ordered to retain the custody of minor with Respondent No.1 being real mother.

Issue The petitioner, Arshad Ali, before the Hon'ble High Court challenges the order of the Appellate Court which reversed the Trial Court's decision, granting him custody of his minor child, Shahzaib, and instead awarded custody to the child's mother, Mst. Uzma.

Rule Sections 7, 17, and 25 of **Guardianship and Wards Act, 1890** emphasize the welfare of the minor as the paramount consideration when deciding custody disputes. The court must consider the age, welfare, and environment in which the child will be raised.

Application: The **application of law** by the Court involves the **welfare of the minor** as the **central principle**, applying it to both the father's and mother's claims for custody. It acknowledges both parents' legal rights but ultimately bases its decision on the **child's best interests** rather than strictly adhering to any one parent's right to custody. The Court applies **guardianship law** (both statutory and personal law)

with the focus on ensuring the child's well-being is safeguarded in a balanced manner, considering the environment provided by both parents. The Hon'ble High Court relied upon the caselaw of the Honorable Supreme Court (Gul Sadem Khan Versus Mst Halima) reported in PLD 2025 Supreme Court 47, wherein it was held that the welfare of the minor remains the paramount consideration in determining the custody of a minor notwithstanding the right of the father to get the custody after seven years of age of the male minor child.

Conclusion: The Hon'ble High Court modified the Appellate Court's decision by ordering a joint custody arrangement: The minor shall spend three days a week with the father and the remaining days with the mother, until the child turns seven. The Hon'ble Court also directed that the child be enrolled in school at the father's expense and established visitation and custody rules. The petition was disposed of with these new terms, allowing the child to benefit from both parents' care while maintaining the welfare as the paramount consideration.

**11. Sindh High Court
Muhammad Sadiq v. Muhammad Hassan and another
Miscellaneous Appeal No. 23 of 2024**

Present: Mr. Justice Muhammad Jaffer Raza
Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MjUyNDk4Y2Ztcy1kYzg>

Facts: Suit No. 03/2023 was filed by the Appellant, Muhammad Sadiq, seeking relief for the alleged infringement of his rights over the 'Sufiyana Kalam' song titled 'Jaanam Fid-e-Haideri.' The Appellant claimed exclusive ownership of the song's copyrights and sought a permanent injunction, damages of PKR 10 million, and removal of the song from the Respondents' platforms (YouTube). The Respondents filed an application under Order VII Rule 11 CPC, seeking to reject the plaint on the grounds of concealment of facts and the Plaintiff's knowledge of an earlier agreement allowing the Respondents to use the song. The Intellectual Property Tribunal allowed the application, rejecting the plaint, claiming that the Plaintiff had concealed material facts and that the Respondent had been using the song with permission. The Appellant appealed this decision, arguing that the Tribunal had gone beyond the scope of Order VII Rule 11 CPC, which is meant to address only the legal sufficiency of the plaint, not disputed facts.

Issues: The issue in this appeal was whether the learned Tribunal properly allowed the application under Order VII Rule 11 CPC and rejected the plaint of the Appellant in the copyright infringement suit?

Rule: Order VII Rule 11 of the Code of Civil Procedure (CPC) provides for the rejection of the plaint in certain cases, such as when the plaint does not disclose a cause of action, is barred by law, or is improperly valued or stamped. The provision

mandates the rejection of the plaint if it 'appears' to be barred by any law, and courts are not permitted to consider the written statement of the Defendant at this stage. The case of Haji Abdul Karim v. M/s. Florida Builders Pvt. Ltd (PLD 2012 SC 247) was cited to explain the permissible scope of Order VII Rule 11.

Application: The Appellant filed Suit No. 03 of 2023, claiming copyright ownership over a song and seeking damages for its unauthorized use. The Respondent filed an application under Order VII Rule 11 CPC, arguing that the suit was based on a concealed fact regarding an earlier agreement between the parties, which the Appellant failed to disclose in the plaint. The Respondent contended that the Appellant had given permission to use the song, making the suit baseless. The Tribunal allowed the application, rejecting the plaint. The Appellant argued that the Tribunal overstepped by adjudicating disputed facts and considering the written statement, which is not permissible at this stage under Order VII Rule 11. The Court highlighted that the Tribunal improperly considered the facts of the written statement and went into an adjudication of disputed issues without recording evidence, which is not within the purview of Rule 11.

Conclusion: The High Court held that the Tribunal's order rejecting the plaint was beyond the permissible scope of Order VII Rule 11 CPC. The Court emphasized that at this stage, the Tribunal should only consider whether the plaint discloses a cause of action or appears to be barred by law, not the factual disputes between the parties. The Court set aside the impugned order and remanded the case back to the Tribunal for decision on merits, after recording evidence. The appeal was allowed, with no order as to costs.

12. Lahore High Court
Aamir Nawaz Minhas and others v. National Accountability Bureau and others
Writ Petition No.1027 of 2025

Present: Tariq Mahmood Bajwa J., Jawad Hassan J.

Source: <https://sys.lhc.gov.pk/appjudgments/2025LHC2125.pdf>

Facts: This writ petition was filed by the Petitioners, Aamir Nawaz Minhas and others, challenging the delay in the inquiry being conducted by the National Accountability Bureau (NAB) on their complaints. The Petitioners claim that NAB's inaction and delay in proceeding with their inquiry violate their statutory duties and rights under the Constitution. They request that NAB be directed to expedite the inquiry and ensure transparency by providing updates regarding the status of the proceedings in compliance with the right to information under Article 19A of the Constitution of Pakistan. The petition also challenges the practice of NAB initiating plea bargains or voluntary return arrangements and asks for a ruling that NAB can only consider such offers when made by accused persons.

- Issue:** The central issue in this case is whether the delay in the NAB inquiry constitutes a violation of the Petitioners' fundamental rights under the Constitution. The Petitioners also challenge NAB's authority to initiate voluntary return or plea bargain arrangements and seek a declaration that such arrangements should only be considered when initiated by the accused. Additionally, the Petitioners question the practice of referring NAB matters directly to the Division Bench rather than following the proper procedure under the High Court Rules.
- Rule:** The legal rules in this case are derived from the National Accountability Ordinance, 1999, and the Constitution of Pakistan, particularly Articles 4, 19A, and 10A. Article 199 of the Constitution grants the High Court jurisdiction to issue writs, including mandamus, certiorari, and prohibition, to enforce the fundamental rights of citizens. The case law discussed includes principles of expeditious justice, specifically the importance of avoiding delays in the judicial process, and the duty of investigative agencies such as NAB to adhere to statutory timelines and procedural rules.
- Application:** The Petitioners argue that the delay in the inquiry is unlawful and infringes upon their right to a fair trial and access to justice, as guaranteed under Articles 4, 37(d), and 10A of the Constitution. The Petitioners further contend that NAB's practice of initiating plea bargain arrangements, rather than considering offers from accused persons, is a violation of their statutory duties. They also seek to ensure that updates regarding the inquiry are made available to them under their right to information. The Respondents, particularly NAB, defend their actions by citing the long-standing practice of referring NAB matters directly to the Division Bench, although this practice is questioned in the petition.
- Conclusion:** The Court concluded that the Petitioners' request for expediting the inquiry and ensuring transparency was legitimate, as the delay in the proceedings violated their rights under the Constitution. The Court directed NAB to expedite the inquiry and ensure the Petitioners were kept informed about the progress. Regarding the procedural issue, the Court found that the practice of directly referring NAB matters to the Division Bench was not in line with the established High Court Rules. The Court emphasized that NAB matters should be placed before a Single Judge unless explicitly required to be heard by a Division Bench under the applicable laws. The case was remanded to be fixed before a Single Judge for proper adjudication.

**13. Lahore High Court
Muhammad Rizwan and another v. The State and others
Criminal Misc. No.1885-M of 2025**

Present: Muhammad Jawad Zafar J.
Source: <https://sys.lhc.gov.pk/appjudgments/2025LHC2033.pdf>

Facts: This petition concerns the challenge made by Muhammad Rizwan and another petitioner against the order dated 20.02.2025 passed by the learned Additional Sessions Judge, Khanewal, which set aside the Trial Court's order allowing petitioner Muhammad Rizwan to appear as a witness despite his name not being included in the witness list. The case originated from an FIR registered by Muhammad Imran against the respondents for criminal offenses, including threatening behavior. The petitioner Rizwan was men...

Issue: The main issue in this case is whether the Trial Court erred in allowing the petitioner, Muhammad Rizwan, to be included as a witness despite his name not being listed in the challan's calendar of witnesses. Additionally, the case involves the question of whether the powers under Section 540 of the Code of Criminal Procedure, 1898, can be invoked to summon a witness after formal charge has been framed, in order to ensure the delivery of justice and a fair trial.

Rule: The relevant legal provisions in this case are Section 540 of the Code of Criminal Procedure (Cr.P.C), which allows the court to summon any person as a witness at any stage of the trial if it is deemed necessary for ensuring a fair and just decision. Additionally, Section 244 of the Cr.P.C mandates that the magistrate must hear all evidence from both the prosecution and the defense. The principles of fairness in the trial process, as well as the duty of the court to elucidate facts and ensure jus...

Application: In this case, the learned Trial Court allowed the application of petitioner Muhammad Rizwan under Section 540 of the Cr.P.C, permitting him to appear as a witness despite his absence from the witness list. The court emphasized that the petitioner's testimony was crucial for the fair adjudication of the case, particularly regarding his role in making a call to the police helpline, which was an essential piece of evidence. The revision petition against this order was filed by the respondents, but the Appel...

Conclusion: The court concluded that the impugned order passed by the Additional Sessions Judge, which set aside the Trial Court's decision, was based on misapplication of the law. The court restored the Trial Court's order allowing the petitioner to testify as a witness, emphasizing the importance of the petitioner's testimony for ensuring justice. Furthermore, the court directed the Trial Court to conclude the trial within two months to avoid further delays. This decision underscores the court's role in ma.

**14. Peshawar High Court
Syed Taskeen Ali v. Mst. Syeda Sadaf Batool
WP No.L923-P|2020**

Present: Dr. Khurshid Iqbal J., Shohid Ali J.

Source: <https://www.peshawarhighcourt.gov.pk/PHCCMS/judgments/wp19232020.pdf>

Facts: The case involves a family dispute between Syed Taskeen Ali (the petitioner) and Mst. Syeda Sadaf Batool (the respondent). The parties, originally from Dera Ismail Khan, were married on 24th February 2010 in Peshawar and had two daughters at the time of filing the suit in 2016. The respondent filed a family suit against the petitioner, alleging physical and psychological cruelty and seeking dissolution of marriage, maintenance for herself and the minors, and the recovery of certain dowry items including 5 tola gold ornaments and a share of the petitioner's ancestral house as dower. The petitioner contested the claims, seeking restitution of conjugal rights. The trial court partially decreed the suit, and the appellate court made certain modifications regarding the maintenance and dower claims.

Issue: The main issues in this case revolve around the petitioner's obligations regarding dower and maintenance. Specifically, whether the share of the petitioner in the ancestral house should be considered as part of the dower, whether the petitioner's failure to provide sufficient maintenance for the minors is justified, and the interpretation of the nikahnama with respect to the dower.

Rule: The relevant legal rules are derived from the Family Laws Ordinance and the interpretation of nikahnamas. In particular, dower (mahr) as defined in the nikahnama is a legally binding obligation, and the maintenance of minors falls under the responsibility of the father. Case law such as PLD 2016 SC 613 (Ms. Yasmeen Bibi v. Muhammad Ghazanfar Khan) and 2024 SCMR 1078 (Muhammad Yousuf v. Huma Saeed) guides the court in interpreting the dower in its entirety and obligating the husband to provide maintenance for his children.

Application: In this case, the respondent provided evidence of the petitioner's cruelty, including his suspicion of her character and incidents of physical violence, which the petitioner did not sufficiently deny or rebut. Regarding the dower, the trial court and appellate court had conflicting views about the petitioner's share in the ancestral house being part of the dower. The courts reviewed the nikahnama's columns and determined that the petitioner had already fulfilled his dower obligations in other forms. The issue of maintenance for the minors was also contested, with the petitioner arguing that the amounts sought were excessive, while

the respondent argued for an increase considering the minors' needs.

Conclusion: The court concluded that the trial court's decision regarding the dower and the maintenance of the minors needed adjustments. It restored the petitioner's share in the house as part of the dower and increased the maintenance for the minors to Rs. 5,000 per child per month, with a 10% annual increase, to ensure their well-being and future needs. The court emphasized the father's responsibility to maintain his children, with additional provisions for paying the minors' school fees directly. The writ petition was dismissed, and the connected petition was partially allowed.

15. Indian Supreme Court
The State of Tamil Nadu vs. The Governor of Tamil Nadu
W.P. (C) No. 1239 of 2023.

Presents: J.B. Pardiwala, J. (as mentioned in the judgment)

Source: https://api.sci.gov.in/supremecourt/2023/45314/45314_2023_11_1501_60770_Judgement_08-Apr-2025.pdf

Facts: The petitioner, the State of Tamil Nadu, filed this writ petition under Article 32 of the Constitution, aggrieved by the Governor's actions regarding: 1. Withholding assent to 10 bills passed by the State Legislature. 2. Inaction on files seeking sanction for the prosecution of public servants involved in corruption. 3. Pendency of proposals related to the premature release of prisoners. 4. Delays in appointing members to the Tamil Nadu Public Service Commission (TNPSC). The Governor's actions were perceived as violating constitutional procedures and delaying essential governance actions.

Issues: The key issues considered by the court were: 1. Whether the Governor has the constitutional authority to withhold assent to bills indefinitely or must adhere to the prescribed procedure under Article 200. 2. Whether the Governor must act in accordance with the aid and advice of the State Council of Ministers in matters of assent to bills, prosecution, and appointments. 3. Whether the Governor's exercise of discretion in these matters is subject to judicial review, and what the scope of such review is.

Rule: The relevant constitutional provisions are: 1. Article 200 of the Constitution, which provides the Governor with the authority to either assent to, withhold assent, or reserve a bill for Presidential consideration. 2. The constitutional principle that the Governor must act in accordance with the aid and advice of the Council of Ministers, especially under Articles 163(1) and 200.

Application: The Court analyzed the Governor's discretionary powers under Article 200, emphasizing that the Governor is expected to follow the advice of the State Council of Ministers in most matters. The Court ruled that the Governor's failure to act on the bills for years, without any communication or reconsideration message as mandated by the first proviso to Article 200, was a violation of the constitutional framework. The Court further concluded that the Governor could not withhold assent to the bills indefinitely without following the prescribed procedure. It also discussed the unconstitutionality of the Governor's actions in reserving bills for the President after the bills were re-passed by the legislature.

Conclusion: The Court concluded that the Governor's actions in withholding assent, reserving bills for the President, and delaying decisions on key governance matters were unconstitutional. It held that such actions were in violation of the constitutional principles laid out under Article 200 and were subject to judicial review. The Court emphasized that the Governor must act in accordance with the advice of the Council of Ministers and must not act in a manner that undermines the legislative process. The Governor was directed to take prompt action in accordance with the constitutional procedures to resolve the pending matters.

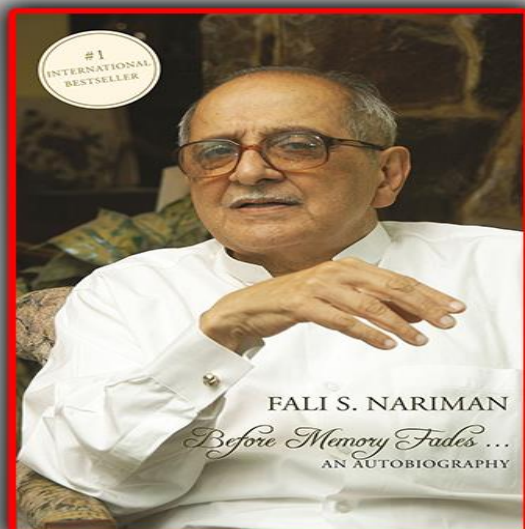
Book Review

Book: Before Memory Fades

Author: Fali S Nariman

By: Fathima Mehendi

<https://www.legalbites.in/book-review-before-memory-fades-fali-s-nariman>



BOOK REVIEW

Before Memory Fades...

By Fali S. Nariman



Before Memory Fades is the celebrated autobiography of **Fali S Nariman**, one of the greatest jurists India has ever produced, the book is an international bestseller and highly critically acclaimed. It traces Mr Nariman's life from his childhood and early career beginnings and the

hardships he faced in the course of his career to his glorious years as a constitutional law expert, his stint with being Additional Solicitor General of India, the dark hours of Emergency and some reflections post-emergency.

The autobiography also acquaints readers with some of the most important cases in the history of the Indian judiciary.

Introduction

Fali S Nariman was born on 10th January 1929 in Rangoon, Burma, to a Parsi Zoroastrian family of Persian Origin. He describes his early childhood as a single child, a ‘cloudlessly happy one’ to his parents. ‘Baba’ to his parents, he and his family had to leave Burma and take refuge in India when the Japanese bombed Rangoon in 1941. After arriving in India, he did his schooling in Shimla and attended the Government Law College, Bombay for his law degree, where he discovered his enduring love for the law.

In its early chapters, the book describes his career as a junior lawyer in the Bombay Bar. After working as a trainee for a year, he secured entry into one of the most prestigious chambers in Bombay – the chambers of Jamshedji Kanga, whom he considers his mentor and father figure. He describes the event as the essential prop to his professional career.

He fondly recalls his time at Kanga’s chamber, greatly admires his humility, and is immensely proud that he belonged to his chamber. It was Kanga who helped him to understand something very important to him:

“The art of advocacy – is to make simple what is complicated and vice versa”.

Nariman reflects on the idea of justice and says it is always a matter of perception on which opinions can genuinely differ. He states that justice is often elusive, sometimes unpredictable and often unsatisfying.

Nariman’s Account of His Early Career

Fali S Nariman recalls his early years wherein he did more watching and listening than pleading. He reminisces about a great deal of knowledge and information he gathered during that time. He also recounts how the judges during his time were kind, considerate and encouraging of young lawyers, especially Chief Justice M.C. Chagla.

He recollects one instance where his senior Mr. Nani Palkhiwala was unable to present a case before the division bench and how Nariman had to present the writ appeal. This provided a golden opportunity for him to prove himself, and he read the facts and the legal provisions. While he could see the solicitors and clients who were sitting behind him wringing their hands in despair, Nani arrived before the court just when the judgement had been delivered. Nani interrupted, but Chagla, who never liked interruptions when he was dictating judgments, said:

“I don’t think, Mr. Palkhiwala, you can add anything more to what Mr. Nariman has so well presented”.

Fali was astounded by his graciousness.

Nariman's Idea of Professionalism

In Chapter IV of the book titled “Lawyers & Legal Profession”, Nariman reflects on the importance of a lawyer in society and how they specifically find a place in our Constitution but he is of the opinion that practising lawyers today are found wanting, and there exists a deep distrust for the legal profession. He points out that one of the serious aspects facing the legal profession is that the legal education system in India seems to have lost its ethical content.

He quotes the famous American trial lawyer, Clarence Darrow, who says that the law provides that every defendant, regardless of the charges, is entitled to a lawyer to defend him, especially when the entire world is against him and adheres to this principle. This clearly depicts Nariman's understanding of what it means to be a professional lawyer. He reflects on the crucial role a lawyer plays in grave circumstances- constitutional or national. People look up to lawyers and how they react to these circumstances. They are the first ones to rise up and take action against injustice.

Nariman believes that it is his duty to defend any side, in any case, which approaches him, regardless of his own personal beliefs, the seriousness of the charges or the probability of his prospective client of winning or losing the case. This is evident from Chapter XVI of the book titled, “A Case I Won, But Which I Would Prefer to Have Lost”. In this case, irrespective of his personal beliefs on the matter, he fought and won the case for his clients.

He points out that the first five judges of the Supreme Court in terms of seniority are not necessarily the top five in terms of wisdom and knowledge and feels that the appropriate mechanism is to consult all the judges in the highest court when a proposal is made for the appointment of a high court judge (or an eminent advocate) to be a judge of the Supreme Court. He is of the opinion that the closed-circuit network of five judges should be disbanded.

Nariman: The Flawless Storyteller

This book showcases Nariman's talent as a flawless storyteller with his wit, humour and weaving of words to keep the reader interested throughout the book. The book, unlike so many other autobiographies, is not just a chronological depiction of the various stages of his life. He wields the words so beautifully, and his way of narration is very easy to understand. The book is an adequate reflection of Nariman's gentlemanly and decent nature wherein he wholeheartedly praises those whom he admires and has high regard but refrains from naming those about whom his opinion is less than satisfactory.

Nariman's unconditional love for his family and friends seeps into many pages of the book. Nariman recalls some of the most touching family sentiments when he was offered High Court Judgeship at the age of 38 but declined the honour for financial reasons. Thereafter his daughter Anaheeta told Bapsi (Nariman's wife):

“Mummy, please tell daddy to accept; I promise I will not spend too much money, and will cut down on chocolates and sweets because I would like him to be a judge”.

Years later, Anaheeta presented Fali a cartoon picture which cheekily reminds Nariman of the Judge he might have been.

Before Memory Fades is more than just an autobiography and rather a very insightful look into India's political and Constitutional history. It recounts some of the most important cases, such as Shankari Prasad (1951), Sajjan Singh (1965), Golaknath (1967), Keshavananda Bharti (1973), and Minerva Mills (1980), which laid the fundamental basis of the Indian Constitution. Nariman explains how the judiciary dealt with these amendments and held that Fundamental Rights form a part of the 'basic structure' of the Constitution, which can never be amended. This book is a wonderful piece of art which gives even a layman with no knowledge of law an insight into certain landmark events in India's constitutional history and the role of the judiciary vis-à-vis the executive and legislative functions of the state and the impact of these three arms of democracy in the life of a citizen.

Nariman: A Righteous Man with Strong Beliefs

Nariman strongly believes in protecting the Fundamental Rights of the citizens and takes a very emphatic stand in this regard. He has a firm belief that the freedom of the citizen is not bestowed by the Constitution of India, but guaranteed by it. Freedom is primary, and the Constitution is its safeguard; therefore, the fundamental rights of the citizen cannot be compromised on any count. This belief is so strong in him that he resigned from his post as Additional Solicitor General of India when National Emergency was declared in 1975 by Indira Gandhi, being the only public official in the country to have registered his protest against the suppression of civil liberties.

He also recalls how difficult it was for him to find accommodation in Delhi post his resignation, as people were reluctant to rent him houses for fear of going against Indira Gandhi.

Fali S Nariman acknowledges the contribution of a brave Judge, Justice H.R. Khanna, (the then second senior-most Judge), for his dissenting judgement in the case of ADM Jabalpur (1976). He recounts that Justice Khanna's attempt to hold that Right to Life and Liberty are Natural Rights, not rights bestowed upon men by a Constitution, but inherent to all men by virtue of them being humans, cannot be praised enough.

He praises Justice Khanna for being upright and not bowing down to the tyranny and obvious might of Indira Gandhi. He writes,

"Khanna knew, when he signed the dissenting judgment, that he was signing away his future chief justiceship".

Justice Khanna resigned "in a blaze of glory" when Justice Beg superseded him. He vehemently condemns Indira Gandhi's actions of promoting Justice Beg to the post of Chief Justice of India because he was close to him when clearly, Justice Khanna had the best and most natural claim to the post.

Moreover, he recalls the case when he was the standing counsel in the Supreme Court for the state of Gujarat in a PIL filed on behalf of the tribal who were displaced by the rising height of the

Narmada Dam in Gujarat. But when he found out that the Christians in the area were being attacked and copies of the Bible were being burned, he returned the brief and said:

"I would not appear for the state of Gujarat in this or any other matter."

Thus, it is evident that Nariman is someone with mighty willpower, not willing to bow down to anyone who is wrong and is not at all afraid to express his opinion on the same. He is a man who never compromises on his principles. His frank nature shines throughout the book and is not diplomatic like many others.

Conclusive Remarks about the Book

In *Before Memory Fades*, a career spanning over six decades has been beautifully woven by a master storyteller who attracts the readers by virtue of his simplicity, humility and brilliant candour. The factor which makes the book most attractive to its readers is the simple and clear language used throughout the book. For a law student or a person acquainted with the legal profession, this book is a must-read which is a testimony to the intellectual forces that went into the making of today's nation.

SELECTED ARTICLES

"THERE IS NO HONOR IN KILLING: UNDERSTANDING AND ERADICATING HONOR-BASED CRIMES"

By Saba Mehwish Memon, Advocate High Court of Sindh

The concept of honor killing is rooted in the belief that killing in the name of honor is morally wrong and unjustifiable. Honor killings are often associated with cultural practices, such as adultery or defiance of cultural norms. However, modern legal systems and human rights principles reject the idea of killing in the name of honor. Key legal and ethical principles include the right to life, the rule of law, gender equality, condemnation of cultural justifications, moral and ethical standards, and international law and human rights. These principles ensure that individuals have the right to life, are subject to justice, and are protected from harm.

Honor killings, also known as "honor-based violence," involve the act of killing a person, usually a woman, by family or community members due to perceived dishonor brought upon the family. The roots of honor killings can be traced back to ancient and medieval societies, especially those with patriarchal structures where women's behavior was closely monitored. In ancient Greece, Rome, and medieval feudal societies, family honor was highly valued, sometimes justifying violence to protect it, particularly concerning women's sexuality and conduct.

In contemporary times, honor killings persist in conservative societies, notably in parts of the Middle East, South Asia, and certain areas of Africa and Latin America. These acts are often fueled by cultural, religious, and patriarchal beliefs that link women's actions---such as engaging in premarital relationships or defying family expectations---with dishonor. Despite legal reforms and international human rights advocacy, the practice continues.

Honor killings are largely shaped by patriarchal systems, cultural and religious norms, social pressures, and gender inequality. Even with advancements in awareness and legal changes, honor killings remain a pressing human rights concern that demands ongoing attention and action. Honor

killings are frequently linked to Islam, yet they are not endorsed by Islamic teachings. Islam upholds the sanctity of human life, honors women's dignity, rights, and protection, and promotes modesty and justice. The Qur'an explicitly forbids murder and stipulates that those guilty of adultery or fornication must face a defined legal process. Honor killings cannot be justified as they bypass the necessary legal procedures and the requirement for four witnesses. Additionally, Islam forbids personal revenge and advocates for forgiveness, highlighting the importance of the rule of law and justice. The Qur'an and Hadith stress the importance of self-control in moments of anger, rather than exerting power over others. Honor killings motivated by personal grudges or rage contradict fundamental Islamic values of patience, restraint, and justice. Cultural misinterpretations of honor killings existed before Islam and stem from tribal and cultural customs in various societies. Islam's perspective on family matters includes marriage based on mutual consent, divorce, and safeguarding individuals from harm. Modern Islamic scholars and religious leaders have denounced honor killings as a misrepresentation of Islam, asserting that they distort Islamic teachings. Prominent Islamic institutions have issued fatwas against honor killings, and educational initiatives are underway to inform communities about women's rights, family dynamics, and justice.

Honor Killings: Global Cases and Impact

Qandeel Baloch (Pakistan, 2016)

A Pakistani social media star killed by her brother, Waseem Azeem, in July 2016.

The case highlighted the tension between modernity, social media, and traditional cultural values in Pakistan.

The murder sparked protests and debates on women's rights and the need for stronger laws against honor killings.

Zeenat Rafiq (Pakistan, 2016)

A Pakistani woman defied her family's wishes and married a man they didn't approve of.

The family justified her killing by saying she dishonored them.

The case further highlighted honor killings in Pakistan and led to more advocacy for women's rights.

Banaz Mahmood (UK, 2006)

A 20-year-old Kurdish woman from Iraq killed by her family after trying to leave her abusive relationship.

The case raised awareness about honor-based violence in immigrant communities in the UK.

Amina and Sarah Said (USA, 2008)

Two sisters of Egyptian descent killed by their abusive father, Yaser Said. The case highlighted the need for better law enforcement responses to domestic violence and honor-based crimes.

Shafiea Ahmed (UK, 2003)

A 17-year-old Pakistani-British girl killed by her parents, fearing she was bringing dishonor to the family.

The case has become one of the most high-profile honor killings in the UK.

Hina Saleem (Italy, 2006)

A 20-year-old Pakistani woman killed by her father, outraged by her behavior.

The case highlighted the challenges of integrating immigrant cultures with host-country values.

Noor Al-Maleki (USA, 2009)

An Iraqi-American woman killed by her father, Faleh Al-Maleki, in 2009, claiming it was an accident.

Faleh Al-Maleki was convicted of second-degree murder.

Sandeela Kanwal (Pakistan, 2016)

A young Pakistani woman married a man against her family's wishes.

Her father strangled her in 2016, claiming she had dishonored the family.

To effectively stop honor killings, both worldwide and in Pakistan, a comprehensive strategy is essential. This strategy should include legal reforms, educational initiatives, raising societal awareness, and engaging a range of stakeholders such as governments, religious leaders, civil society, and international organizations. Here are some important steps that need to be implemented to put an end to these tragic acts:

- 1) **Strengthening Legal Frameworks:** Tighten laws against honor killings and ensure effective enforcement. Reform legal provisions like Qisas and Diyat to prevent perpetrators from going free. Treat honor killings as premeditated murder with severe punishments. Train law enforcement officials on recognizing and prosecuting honor killings.
- 2) **Improving Access to Justice and Support for Victims:** Provide protection for victims at risk of honor killings (shelters, hotlines, legal aid). Empower NGOs and community groups to offer counseling, shelter, and legal support. Implement witness protection programs for those helping prosecute honor killings.
- 3) **Educational and Awareness Campaigns:** Raise public awareness to combat misconceptions and emphasize the immorality of honor killings. Challenge patriarchal norms and promote gender equality and women's autonomy. Educate communities on women's rights according to both human rights standards and Islamic teachings.
- 4) **Engaging Religious Leaders:** Have religious leaders publicly condemn honor killings as violations of Islamic principles. Promote community dialogues facilitated by religious leaders to shift attitudes.
- 5) **Strengthening Women's Empowerment and Gender Equality:** Improve women's access to education to empower them to make informed decisions. Promote women's economic independence to reduce their vulnerability to violence. Encourage women in leadership roles to shift power dynamics.

- 6) Community and Family-Level Interventions: Engage local leaders to educate families on conflict resolution and alternatives to violence. Offer culturally sensitive family counseling to prevent escalating disputes.
- 7) International Cooperation: Use global pressure from international organizations to compel governments to address honor killings. Foster cross-border collaboration to share information and best practices.
- 8) Media and Social Media Role: Encourage media campaigns that sensitize the public and challenge the normalization of honor killings. Utilize social media to raise awareness, mobilize communities, and promote women's rights.
- 9) Research and Data Collection: Prioritize data collection to better understand the scope and causes of honor killings. Conduct research on cultural norms and traditions contributing to honor killings and ways to shift them.

Pakistan has made notable progress in tackling honor killings, especially with the introduction of specific laws. Important legal measures concerning honor killings include the Anti-Honor Killing Law (2016), the Qisas and Diyat Law (1990), the Protection of Women from Domestic Violence Act (2012), the Pakistan Penal Code (PPC), the Women's Protection Bill (2006), and the Criminal Law (Amendment) Act (2004). These laws are designed to combat honor killings by classifying them as murder, ensuring that the accused cannot evade punishment through family pardons. Nonetheless, challenges in enforcement and cultural practices continue to complicate the situation. Social and cultural pressures, corruption, lack of accountability, and judicial reluctance pose significant obstacles to the effective implementation of these laws. The main issues revolve around enforcing existing legislation, addressing societal norms that sustain these crimes, and ensuring that the legal system operates fairly to protect victims. Ongoing advocacy for women's rights, legal reforms, and social transformation are crucial for eliminating honor killings from Pakistani society.

In the significant case PLJ 2024 Cr.C. 1083, the superior court delivered a strong message, stating that 'there is no honor in killing.' The court emphasized that the concept of honor should never be associated with violent acts, especially the taking of a human life. Such acts, often framed as a means to protect family honor, are both morally wrong and legally unacceptable. The ruling reinforced that true honor is found in upholding justice, respecting human dignity, and safeguarding life, while condemning any violence that attempts to justify the killing of individuals in the name of familial or societal honor.

CONCLUSION

In conclusion, honor killings represent a heartbreaking form of violence that stems from cultural, patriarchal, and social norms which view women as property. Although there have been advancements in legal reforms, such as Pakistan's Anti-Honor Killing Law (2016), significant challenges persist in the effective enforcement of these laws. Cultural pressures and societal expectations continue to fuel honor-based violence. To eradicate honor killings, a united effort from governments, religious leaders, civil society, and international organizations is crucial. This initiative should prioritize legal reforms, education, awareness-raising, and the empowerment of

women, while also ensuring the protection and support of victims. True honor is found in respecting human dignity and upholding justice, rather than resorting to violence.

LATEST LEGISLATION

- The Sindh Control of Narcotic Substances Act, 2024
- The Sindh Civil Servants (Amendment) Act, 2024
- The Sindh Institute of Physical Medicine & Rehabilitation (Amendment) Act, 2024

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