MANDVIWALLA & ZAFAR
ADVOCATES

CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Tuesday, 08 September 2026

Upload Window: 5, 7 and 8 September 2026 — with a full sweep of 31 August to 4 September 2026

FCC: 2 judgments | SC: 2 judgments | LHC: 7 judgments | SHC: 4 judgments | IHC: no new entries

2	2	7	4	15
FCC	SC	LHC	SHC	TOTAL

Operative orders quoted verbatim. Legal principles extracted directly from judgment text.

TABLE OF CONTENTS

Federal Constitutional Court of Pakistan

Muhammad Faraaz Shaikh and another v. Javeria Shahani and others — Hague Convention on the Civil Aspects of International Child Abduction, 1980 Arts. 3, 4, 12, 16, 19; West Pakistan Family Courts Act, 1964 Sch. II cl. 6-A; Code of Civil Procedure, 1908 ss. 13, 44-A; Guardians and Wards Act, 1890 s. 19; Constitution of Pakistan, 1973 Art. 35

Bakhtullah Shah and others v. Government of Khyber Pakhtunkhwa through Chief Secretary and others — Khyber Pakhtunkhwa Anti-Corruption Establishment Rules, 1999 rr. 4(2)(b), 4(4)(b), 9; Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011; Code of Criminal Procedure, 1898 s. 561-A; Constitution of Pakistan, 1973 Art. 175-F(2)

Supreme Court of Pakistan

M/s. Crescent Spinning Mills Ltd. v. Citibank N.A., 308 Upper Mall, Lahore and others — Banking Tribunals Ordinance, 1984 s. 6(4); Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997 ss. 7(6)-(7), 15, 28; General Clauses Act, 1897 s. 6; Code of Civil Procedure, 1908 s. 152, O. II r. 2, O. VII r. 7, O. XLI r. 33

Pakistan Bait-ul-Mal through Managing Director, Islamabad v. Raj Ram and others — Pakistan Bait-ul-Mal Act, 1991 ss. 3, 4, 5A, 19, 24; Hindu Adoptions and Maintenance Act, 1956 ss. 20, 21; West Pakistan Family Courts Act, 1964 s. 5; Constitution of Pakistan, 1973 Arts. 35, 36, 37, 38

Lahore High Court

Muhammad Awais v. Federation of Pakistan, etc. — Constitution of Pakistan, 1973 Arts. 4, 10-A, 15, 175, 199(1)(a)

Baber Masih v. Cantonment Executive Officer, Sargodha and another — Constitution of Pakistan, 1973 Arts. 9, 10-A, 199; Punjab Civil Servants Act, 1974 s. 17 (second proviso)

Shahbaz Anwar v. The Province of Punjab, etc. — Punjab Employees Efficiency, Discipline and Accountability Act, 2006 ss. 5, 6, 7, 10, 13, 15; Punjab Civil Servants Act, 1974 s. 2(1)(b)(i); Constitution of Pakistan, 1973 Arts. 199, 212(2)

Muhammad Aslam v. Additional Sessions Judge/Ex-Officio Justice of Peace, etc. — Punjab Child Marriage Restraint Act, 2026 ss. 2, 5, 13; Code of Criminal Procedure, 1898 ss. 22-A, 22-B, 154, 164; Pakistan Penal Code, 1860 s. 365-B; Guardians and Wards Act, 1890

Ali Shahzad alias Shan Ali v. The State, etc. — Code of Criminal Procedure, 1898 ss. 173, 344, 497(1) (third proviso); Pakistan Penal Code, 1860 ss. 148, 149, 324; Rules and Orders of the Lahore High Court Vol. III Ch. 1 Pt. A r. 4, Pt. E r. 14, Ch. 11 Pt. B r. 10, Ch. 24 Pt. B r. 2

Lahore Electric Supply Company (LESCO) through its Company Secretary v. Federation of Pakistan through Secretary Ministry of Information and Broadcasting, and others — Right of Access to Information Act, 2017 ss. 3, 6(d), 7(a)-(c), 7(g), 11(5), 16(1)(a)(i), 16(1)(c), 16(1)(i)(iii), 17, 19(2)(e), 20(1)(e); Constitution of Pakistan, 1973 Art. 19A

Ghulam Ali Zahid Ch. and another v. Damas Jewellary LLC — Trademarks Ordinance, 2001 s. 117; Intellectual Property Organization of Pakistan Act, 2012 s. 19; Code of Civil Procedure, 1908 O. VII r. 10, O. XLIII r. 1

Sindh High Court

The Resources Group International Limited v. Muhammad Ziaullah Khan Chishti and others — Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 ss. 2(e), 3(3)(a), 6, 7; New York Convention, 1958 Arts. III, V, VII-1; Code of Civil Procedure, 1908 ss. 20(c), 35, 35-A, 44-A, O. VII rr. 10-11, O. XXI r. 11(2)

Sindh Revenue Board, Karachi v. M/s. Fumicon Services (Pvt) Ltd., Karachi (and three connected references) — Sindh Sales Tax on Services Act, 2011 ss. 8, 9, 17, 23, 30, 43, 44, 45, 63, 65(1)(b); Sales

Tax Act, 1990 ss. 33, 34; Sindh Sales Tax on Services Rules, 2011 rr. 13, 14

Mst. Najeeban v. Sartaj Ali — Family Courts Act, 1964 s. 17; Qanun-e-Shahadat Order, 1984; Constitution of Pakistan, 1973 Art. 199

Mir Hassan Ali Khan and others v. Province of Sindh and others — Constitution of Pakistan, 1973 Arts. 184(3), 199; Anti-Terrorism Act, 1997 ss. 2(i), 19(1); Code of Criminal Procedure, 1898 s. 173; Sindh Tribunals of Inquiry Ordinance, 1969

Coverage and exclusions: this issue closes the gap since the briefing of 29 August 2026 and therefore covers every working day from 31 August to 8 September 2026 rather than the usual three-day window. Thirty-three candidates were identified across the five courts (two Supreme Court, two Federal Constitutional Court, eighteen Lahore High Court, eleven Sindh High Court, nil Islamabad High Court); fifteen were curated for reporting. (a) The Lahore High Court items not carried forward are principally routine bail orders under section 497 Cr.P.C. and short service orders turning on their own facts — Crl. Misc. No. 2598-B of 2026 (Muhammad Shakeel), Crl. Misc. No. 2930-B of 2026 (Syed Tariq Hussain Bukhari), Writ Petition No. 44193 of 2022 (Muhammad Akram), Writ Petition No. 55244 of 2025 (Farah Hassan), Writ Petition No. 30572 of 2026 (Hafiz Ghazanfar Ali), Writ Petition No. 45728 of 2024 (Azim uddin Zahid), Writ Petition No. 17594 of 2020 (All Pakistan Markazi Union Pan), Writ Petition No. 21804 of 2020 (Dr. Rukhsana Kausar), Criminal Appeal No. 221 of 2025 (Muhammad Arsalan) and Criminal Appeal No. 572 of 2024 (Muhammad Azhar). All were read or previewed and remain on file; the tobacco-regulation petition (Writ Petition No. 17594 of 2020, All Pakistan Markazi Union Pan v. Federation of Pakistan) is a substantial constitutional judgment and can be digested separately on request. (b) Crl. Misc. No. 1313-B of 2026 (Muhammad Fazil v. The State), re-uploaded on 31 August under a fresh case identifier (2026 LHC 5385), was reported in the briefing of 29 August 2026 as 2026 LHC 5338 and is not repeated. (c) Sindh High Court items approved for reporting but not carried into this issue are Const. P. 538 of 2024 (Muhammad Saleem v. Ameer Hamza, 2026 SHC KHI 1648), Const. P. 73 of 2026 (Shahzado Saleem v. Federation of Pakistan, 2026 SHC MPK 1647), Const. P. 1708 of 2018 (M/s Bhombal & Co. v. Pakistan National Shipping Corporation, 2026 SHC KHI 1638), Const. P. 4139 of 2026 (Inayatullah Khan v. Government of Sindh, 2026 SHC KHI 1643), Const. P. 434 of 2025 (Muhammad Hussain Mansoori v. Mst. Farhat Noreen, 2026 SHC KHI 1631), Criminal Appeal No. 48 of 2024 (Murad @ Mann v. The State, 2026 SHC MPK 1632) and Criminal Appeal No. 553 of 2023 (Bilal Ahmed v. Laiba, 2026 SHC KHI 1640); each is available on request. (d) No Islamabad High Court judgment falling within the window met the reporting threshold — the court's public listing shows no reported upload after 18 March 2026. (e) The Sindh High Court has changed the URL scheme by which judgment PDFs are served (now caselaw.shc.gov.pk/caselaw/download-file.php); the links in this issue use the new form. (f) Two long-standing defects remain outstanding: C.A. 1443 of 2018 (Commissioner Inland Revenue, Lahore v. Sui Northern Gas Pipelines) is still served as an image-only scan carrying no extractable text, and Const. P. 875 of 2025 (National Bank of Pakistan v. Mirza Hamayun, 2026 SHC KHI 1583) is still served under a hash that returns an unrelated order sheet. Certified copies should be obtained for both.

Federal Constitutional Court of Pakistan

2 judgments

HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION, 1980 ARTS. 3, 4, 12, 16, 19; WEST PAKISTAN FAMILY COURTS ACT, 1964 SCH. II CL. 6-A; CODE OF CIVIL PROCEDURE, 1908 SS. 13, 44-A; GUARDIANS AND WARDS ACT, 1890 S. 19; CONSTITUTION OF PAKISTAN, 1973 ART. 35 — GUIDELINES FOR THE PAKISTANI COURTS ON CROSS-BORDER CHILD CUSTODY, AND THE LIMITS OF CONSTITUTIONAL JURISDICTION WHERE A FOREIGN CUSTODY ORDER HAS BEEN IMPLEMENTED AND ATTAINED FINALITY

Muhammad Faraaz Shaikh and another v. Javeria Shahani and others

PETITION CONVERTED INTO APPEAL AND ALLOWED; ORDER OF THE HIGH COURT OF SINDH SET ASIDE; APPROVED FOR REPORTING

F.C.P.L.A. No. 1183 of 2026 (converted into appeal), Federal Constitutional Court of Pakistan (against the order dated 16.03.2026 of the High Court of Sindh, Karachi in Const. Petition No. S-678 of 2022) · Bench: Amin-ud-Din Khan, CJ, Ali Baqar Najafi and Rozi Khan Barrech, JJ (judgment by Ali Baqar Najafi, J) · Decided: 16.07.2026 · Uploaded: 02.09.2026

FACTS

The petitioner and respondent No. 1 married in the United States in August 2017 and had a son, Rohaan, in January 2019; both parents and the child are United States nationals, the child having lived his whole life there. The couple separated in October 2021 and the General Court of Justice, District Court Division (State of North Carolina) made a temporary joint physical custody order in February 2022. In May 2022 the mother failed to appear at the usual exchange; she was traced, through airport surveillance, to have flown from JFK to Doha and then Karachi under her father's booking. She at once filed a guardianship petition at Karachi and sought Pakistani citizenship for the child. The North Carolina court made an ex parte emergency custody order, found her an unfit custodian on the testimony of the Council for Children's Rights attorney, held her in criminal contempt and issued warrants. The father moved the Sindh High Court; the Family Court at Karachi held on 18.01.2024 that custody having already been regulated by a foreign court, the child was to be handed over through the American Consulate, and that the mother's application was barred under section 19 of the Guardians and Wards Act, 1890. Her appeal was withdrawn, giving that order finality. The High Court directed handover on 25.01.2024 and the child was returned to the United States on 02.02.2024. The father then procured withdrawal of the contempt warrants. Two years later, on applications by the mother, the High Court recalled its own order of 25.01.2024, directed restoration of custody, ordered registration of an FIR for abduction if the child were not produced, and directed the Ministries of Foreign Affairs and Interior to secure his return.

LEGAL ISSUE

Whether the High Court could, in constitutional jurisdiction, recall an order of handover which had been fully implemented and had attained finality, and initiate contempt proceedings, where the underlying custody order of the foreign court was under appeal before that foreign forum to which the mother had herself submitted; and what principles govern the Pakistani courts where a child is removed from or retained away from a Contracting State under the Hague Convention.

HOLDING

The appeal was allowed and the High Court's order set aside. The Federal Constitutional Court held that the impugned order had proceeded without regard to two decisive facts: the Guardian Court's order had attained finality when the appeal against it was withdrawn from the Additional District Judge, and the mother had herself submitted to the jurisdiction of the North Carolina court by preferring an appeal there against the final custody order, which remained pending. Neither aspect was discussed in the impugned order, and its reliance on observations in F.C.P.L.A. No. 14 of 2025 was out of context. The Court then set out four guidelines for the courts and authorities dealing with the custody of a child removed from or retained away from a Contracting State, framed by reference to section 13 CPC and Articles 3, 12, 16 and 19 of the Hague Convention.

LEGAL SIGNIFICANCE

This is the Federal Constitutional Court's first structured statement on international parental child abduction, and it supplies the framework Pakistani courts have long lacked. It ties the Hague Convention scheme — habitual residence, wrongful removal or retention, the duty to return, and the bar on deciding custody on the merits until the return question is resolved — to the domestic test of conclusiveness of foreign judgments under section 13 CPC. For practitioners, three points matter: the guidelines are expressed as directions to 'courts and the concerned authorities' and so bind Family Courts and Guardian Courts as well as the High Courts; the Court reaffirmed that High Courts should interfere in custody matters only exceptionally and where there is real urgency, the Guardian Court retaining power to regulate interim custody; and a party who invokes the appellate machinery of the foreign forum cannot simultaneously ask a Pakistani court to undo what that forum has ordered.

LEGAL PROPOSITIONS (VERBATIM)

— while dealing with the dispute of custody of the minors between the parties of a different citizenship of countries the court shall consider the jurisdiction of the court which has given an order, whether on merits, and in the proceedings not against the rules of Private International law in which law of Pakistan was recognized, and the judgment was not procured against the principal of natural justice or by fraud,

— the removal or retention of a child would be wrong where it is in violation of law, judicial or administrative decisions or a lawful agreement of a State where the child was habitually residing immediately before removal or retention,

— unless the child is found settled, he is to be returned to the State where he was habitually residing, and

— after receiving such notice from the judicial or administrative authorities, the court shall not decide the case on merits on the rights of the custody unless it is determined that such child is not to be returned under the Convention on the Civil Aspects of International Child Abduction, 1980.

LEGAL PRINCIPLES EXPOUNDED

A removal or retention is wrongful under the Convention where it breaches rights of custody arising by operation of law, judicial or administrative decision, or lawful agreement in the State of the child's habitual residence, those rights having then been actually exercised.

Source: *Under Article 3, the removal or the retention of a child is to be considered wrong where it is in breach of rights of custody attributed to a person, either by operation of law, a judicial or administrative decision or a lawful agreement under the law of the State in which the child was habitually resident immediately before the removal or retention.*

Authority: *Articles 3 and 4, Hague Convention on the Civil Aspects of International Child Abduction, 1980; clause 6-A, Schedule II, West Pakistan Family Courts Act, 1964*

A foreign judgment is conclusive on the matters it directly adjudicates only where the enumerated statutory conditions are satisfied; those conditions supply the domestic test for recognising a foreign custody order.

Source: *a foreign judgment is conclusive on directly adjudicated matter between same parties only when the court had jurisdiction, judgment was given on merits, proceedings were founded on correct view of international law while recognizing the law of Pakistan and the judgment not procured against the principle of natural justice or obtained by fraud.*

Authority: *Section 13, Code of Civil Procedure, 1908*

The constitutional jurisdiction of a High Court in a child-custody dispute is reserved for exceptional and genuinely urgent cases; the Guardian Court's power to regulate interim custody and the availability of an alternate remedy must both be weighed.

Source: *Even otherwise High Court should interfere exceptionally, sparingly and in extra ordinary cases of real urgency keeping in view the Guardian Court's powers to regulate the interim custody of the minor. An alternate remedy must be taken into account while issuing a writ for the recovery of the minor.*

Authority: *Mst. Nadia Perveen v. Mst. Almas Noreen (PLD 2012 SC 758); Mst. Qurat-ul-Ain v. Station House Officer, Police Station Saddar Jalalpur Jattan, District Gujrat (2024 SCMR 486)*

OPERATIVE ORDER

For the foregoing reasons, this petition is converted into appeal and is allowed. The impugned order passed by the High Court of Sindh is set aside.

■ View Full Judgment

KHYBER PAKHTUNKHWA ANTI-CORRUPTION ESTABLISHMENT RULES, 1999 RR. 4(2)(B), 4(4)(B), 9; KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 2011; CODE OF CRIMINAL PROCEDURE, 1898 S. 561-A; CONSTITUTION OF PAKISTAN, 1973 ART. 175-F(2) — WHERE CRIMINAL LIABILITY DEPENDS ON A QUESTION ALREADY BEFORE A CIVIL COURT, THE CRIMINAL PROCEEDINGS MUST AWAIT THAT COURT'S DECISION

Bakhtullah Shah and others v. Government of Khyber Pakhtunkhwa through Chief Secretary and others

CIVIL PETITIONS FOR LEAVE TO APPEAL CONVERTED INTO APPEALS AND DISPOSED OF; CRIMINAL AND DISCIPLINARY PROCEEDINGS TO AWAIT THE CIVIL COURT'S DECISION ON THE GENUINENESS OF THE CERTIFICATES; APPROVED FOR REPORTING

C.P.L.A. Nos. 1560 and 1971 of 2025 (converted into appeals), Federal Constitutional Court of Pakistan (against the judgment dated 13.02.2025 of the Peshawar High Court, Bannu Bench in W.P. Nos. 152-B and 162-B of 2024) · Bench: Ali Baqar Najafi and Syed Arshad Hussain Shah, JJ (judgment by Ali Baqar Najafi, J) · Decided: 24.03.2026 · Uploaded: 02.09.2026

FACTS

Following an advertisement of 24.03.2010 for Theology Teacher and Arabic Teacher posts in the office of the District Education Officer (Female), Bannu, appointments were made in November 2011. Those appointments were challenged, and a Division Bench of the Peshawar High Court constituted a probe committee, whose report of 14.12.2015 exposed illegalities and irregularities. By judgment of 09.05.2017 the appointments were declared illegal, void and ineffective, and a direction was issued to proceed against the officials responsible. The Supreme Court, in appeals decided on 07.03.2018, directed the recruitment process to start afresh. Fresh tests and interviews followed in November 2018, but appointments were again questioned, and in December 2019 a Division Bench directed the aggrieved parties to approach the civil court to determine the genuineness of the certificates, holding that if the documents were found fake the appointees were to be terminated, salaries recovered, and administrative and criminal proceedings taken against the officials who had appointed them. Departmental proceedings under the 2011 Rules produced findings against several officers. On 17.01.2024 the Government of Khyber Pakhtunkhwa conveyed permission to the Director, Anti-Corruption Establishment for registration of an FIR and the arrest of the petitioners. Their writ petitions against that letter were dismissed by the Peshawar High Court, notwithstanding that paragraph 25 of the impugned judgment itself recorded that the FIR could only be registered if the civil court concluded that the appointments rested on bogus degrees.

LEGAL ISSUE

Whether criminal prosecution and departmental proceedings founded on the alleged use of forged educational certificates could be set in motion while the very question of the genuineness of those certificates was pending determination before a civil court seised of the matter under an earlier direction of the High Court.

HOLDING

The Court held that the writ petitions ought to have been disposed of in terms of the observations already recorded in paragraph 25 of the impugned judgment rather than dismissed. Since the genuineness or otherwise of the certificates is the hallmark of any possible criminal or disciplinary proceeding, and the civil court is already seised of that question, proceedings against the petitioners on either the criminal or the administrative side can be initiated only after that court has decided. The Court restated the settled position that although criminal proceedings are not ordinarily to be postponed pending connected civil litigation, they must be stayed where criminal liability depends on the outcome of the civil case or is so intimately connected with it that conflicting judgments would risk grave injustice.

LEGAL SIGNIFICANCE

The judgment consolidates half a century of authority on the stay of criminal proceedings pending connected civil litigation into a single, workable statement, and applies it in a context — public-sector recruitment scandals prosecuted through anti-corruption machinery — where the question recurs constantly. It is a useful

authority for any client facing an FIR whose essential ingredient (title, forgery, entitlement) is already the subject matter of a pending civil suit. Note the Court's careful qualification: the principle has no universal application, it depends on the identity of the subject matter in the two proceedings, and the court staying its hand must be satisfied on the material that the prosecution was launched for improper motives or that its continuance would abuse the process or defeat the ends of justice.

LEGAL PROPOSITIONS (VERBATIM)

— Similarly, when a title of property is in dispute, criminal court should not give its findings on the same question.

— Besides, during the pendency of the rival civil suits inter se regarding alienation of property, allowing criminal court to proceed before decision of the civil litigation is tantamount to putting the cart before the horse.

— Obviously, the object of a civil proceedings is to enforce civil rights and obligations while that of a criminal proceedings is to punish the offender for the commission of the offence.

— There is no universal application of this principle as it will depend on the identical nature of the two subject matters in two different types of proceedings where the dispute squarely fall within the domain of civil court, the criminal court ought to have waited until the decision is taken by the Civil Court.

LEGAL PRINCIPLES EXPOUNDED

Criminal proceedings should be stayed where criminal liability is dependent upon, or intimately connected with, the result of pending civil litigation such that conflicting judgments would work grave injustice.

Source: *Normally criminal proceedings should not be postponed pending the disposal of civil litigation connected with the same subject matter but where it is clear that the criminal liability is dependent upon the result of the civil litigation or is so intimately connected with it that there is a danger of grave injustice to either party due to conflicting judgment between the civil court and criminal court, the criminal court should stay its hands until the civil litigation is disposed of.*

Authority: *Muhammad Akbar v. The State and Maulvi Muhammad Yasin Khan (PLD 1968 SC 281); Muhammad Moosa v. The State (1987 SCMR 601); Akhlaq Hussain Kayani v. Zafar Iqbal Kiyani (2010 SCMR 1835); section 561-A, Code of Criminal Procedure, 1898*

Where the very fact on which criminal and disciplinary liability turns is already before a civil court, proceedings on both sides must await that court's decision.

Source: *Needless to observe that the genuineness or otherwise of the certificates presented for the appointments are the hallmark for any possible criminal or disciplinary proceedings and since the Civil Court is already seized with the matter which would adjudicate on the genuineness of the said certificates, therefore, after such decision the proceedings could be initiated against the petitioners.*

Authority: *Rules 4(2)(b), 4(4)(b) and 9, Khyber Pakhtunkhwa Anti-Corruption Establishment Rules, 1999*

A court staying a prosecution must confine itself to the material on record and be satisfied that the prosecution was launched for improper motives or that its continuance would abuse the process or defeat the ends of justice.

Source: *It is also trite law that while stopping the criminal proceedings, one should not be influenced by any extraneous material which is not germane to the issue and the court must be satisfied from the material available on record that the prosecution was launched for improper motives or that its continuance would be an abuse of the process of the court or would defeat the ends of justice.*

Authority: *Mirza Naseem Baig v. Muhammad Iqbal (1981 SCMR 315); Salman Ashraf v. Additional District Judge, Lahore (2023 SCMR 1292)*

OPERATIVE ORDER

We therefore, convert Civil Petitions for Leave to Appeal into Appeal and dispose it of by observing that proceedings against the petitioners, either criminal or administrative side, can only be initiated after the decision of the Civil Court on the veracity of the disputed documents that too in accordance with law. With the above observations, these petitions are disposed of.

■ **View Full Judgment**

Supreme Court of Pakistan

2 judgments

BANKING TRIBUNALS ORDINANCE, 1984 S. 6(4); BANKING COMPANIES (RECOVERY OF LOANS, ADVANCES, CREDITS AND FINANCES) ACT, 1997 SS. 7(6)-(7), 15, 28; GENERAL CLAUSES ACT, 1897 S. 6; CODE OF CIVIL PROCEDURE, 1908 S. 152, O. II R. 2, O. VII R. 7, O. XLI R. 33 — A DECREE MAY NOT BE AMENDED UNDER SECTION 152 CPC TO ADD MARK-UP WHICH WAS NEVER PRAYED FOR AND WHICH THE LAW IN FORCE WHEN THE SUIT WAS INSTITUTED DID NOT PERMIT

M/s. Crescent Spinning Mills Ltd. v. Citibank N.A., 308 Upper Mall, Lahore and others

CIVIL PETITION CONVERTED INTO APPEAL AND ALLOWED; THE JUDGMENT OF THE LAHORE HIGH COURT AND THE ORDER AMENDING THE DECREE SET ASIDE TO THE EXTENT OF MARK-UP

Civil Petition No. 1481-L of 2019 (converted into appeal), Supreme Court of Pakistan (against the judgment dated 07.02.2019 of the Lahore High Court, Lahore in R.F.A. No. 470 of 2000) · Bench: Muhammad Ali Mazhar, Musarrat Hilali and Irfan Saadat Khan, JJ (judgment by Muhammad Ali Mazhar, J) · Decided: 01.06.2026 · Uploaded: 02.09.2026

FACTS

Citibank filed a recovery suit against Crescent Spinning Mills before the Banking Tribunal in November 1995 under the Banking Tribunals Ordinance, 1984, claiming Rs. 76,241,234.68 together with liquidated damages. The prayer clause sought the principal, sale of the mortgaged and hypothecated security, liberty to obtain a money decree for any shortfall under Order XXXIV Rule 6 CPC, and liquidated damages — but no mark-up. During the pendency of the suit the 1984 Ordinance was repealed by the Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997, and the proceedings stood transferred to the Banking Court under section 7(6) of the new Act. On 15.10.1999 the suit was decreed for the principal, the claim for liquidated damages being declined. The Bank then moved C.M.A. No. 568-B of 2000 under section 152 CPC seeking amendment of the decree to add mark-up from institution of the suit until realisation, invoking section 15 of the 1997 Act. That application was allowed on 23.02.2001, the decree was amended, and the borrower's Regular First Appeal was dismissed by the Lahore High Court on 07.02.2019, the appellate Court holding that the omission to award mark-up was a curable oversight and that in any event Order XLI Rule 33 CPC would have permitted the appellate Court itself to add it.

LEGAL ISSUE

Whether a decree passed in a suit instituted under the Banking Tribunals Ordinance, 1984 — under which a decree could only be passed 'as prayed for in the plaint' and no mark-up had been claimed — could be amended under section 152 CPC so as to add mark-up under section 15 of the successor Act of 1997; and, more generally, whether the repeal of the 1984 Ordinance during the pendency of the suit displaced the law applicable at the date of institution.

HOLDING

Both the amendment of the decree and its affirmation in appeal were set aside to the extent of mark-up. Applying section 6 of the General Clauses Act, 1897, the Court held that the suit had to be proceeded with and decided within the parameters of the law prevailing when it was instituted, and that relief could be granted only as available under that law. Section 152 CPC is confined to accidental slips, clerical and arithmetical errors and typographical omissions; it cannot be used to add a new relief that was never claimed or to alter the substance of the judgment. Nor could Order XLI Rule 33 CPC assist: an appellate Court may mould relief on facts and evidence already on the record but cannot invent a new case or grant relief never pleaded. Because the plaint contained no prayer for mark-up, the relief was taken to have been abandoned under Order II Rule 2 CPC, and the boilerplate 'any other relief' clause could not supply the omission.

LEGAL SIGNIFICANCE

The judgment is the most careful recent statement of the boundary between correcting a decree and re-writing it, and it settles a recurring banking-litigation question: where a recovery suit was instituted under the 1984 Ordinance and decreed after the 1997 Act came into force, the substantive entitlement is fixed by the earlier law. Its treatment of the doctrines of infra petita, ultra petita and extra petita, and its insistence that a decree cannot travel beyond the prayer, will be relied on well beyond banking work — in every case where a decree-holder seeks to enlarge a decree after the event. Practitioners should note the express direction that the remedy for a judicial oversight is review or appeal, not an application under section 152 CPC.

LEGAL PROPOSITIONS (VERBATIM)

— The general rule in civil law is that a court cannot grant a relief that has not been explicitly claimed in the plaint.

— If a relief is not claimed, the Court deduces that it has been abandoned by the plaintiff under Order II, Rule 2 of CPC.

— Under Section 6 of the General Clauses Act, 1897, the baseline rule is that pending proceedings should be adjudicated according to the old law that was in force unless the new law unambiguously avers otherwise.

— Every litigant has a vested right in substantive law but no such right exists in procedural law.

— If a party on the face of it deems some errors arising out of intentional judicial decisions or oversights, the proper legal remedy is to file a Review Petition or an Appeal rather than seeking solutions by means of an application under Section 152 CPC.

LEGAL PRINCIPLES EXPOUNDED

An appellate Court's power to mould relief operates on the pleadings and evidence already on record; it cannot be used to create a new case or to grant relief that was never claimed.

Source: *The Appellate Court in the aid of above provision cannot grant any such relief that was never claimed. The principle of "moulding the relief" is structured on facts and evidence already on the record and not to create a brand-new case.*

Authority: *Order XLI Rule 33 and Order VII Rule 7, Code of Civil Procedure, 1908; Samar Gul v. Muhammad Firdos (PLD 1986 SC 35); Hindalco Industries Ltd. v. Union of India ((1994) 2 SCC 594)*

Section 152 CPC corrects the record; it does not reopen the decision. A court which has announced its judgment is functus officio and cannot use the provision to introduce a fresh legal outcome.

Source: *The overarching principle is that technical or clerical errors should never stand in the way of substantial justice but at the same time, Section 152 CPC cannot be expended to rehear a case or modify the fundamental rights of the parties.*

Authority: *Section 152, Code of Civil Procedure, 1908; Jayalakshmi Coelho v. Oswald Joseph Coelho (AIR 2001 SC 1084); State of Punjab v. Darshan Singh ((2004) 1 SCC 328)*

Where a statute is repealed while proceedings are pending, substantive rights and the relief available remain governed by the law in force at institution unless the repealing statute clearly provides otherwise.

Source: *Sanguine to the niceties of Section 6 of the General Clauses Act 1897, the case was to be proceeded and decided within the parameters and ambit of law prevailing at the time of institution of the suit before a competent forum and relief prayed and available under the law could only be granted in terms of law applicable at the time of institution of suit and cannot travel beyond the prevailing provisions of law.*

Authority: *Section 6, General Clauses Act, 1897; section 28, Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997; Shahida Bibi v. Habib Bank Limited (PLD 2016 SC 995)*

A change in procedural law operates retrospectively, but a law affecting or curtailing vested substantive rights operates prospectively only.

Source: *Individuals do not possess a vested right in any particular course of procedure, so for all intents and purposes, the change in the law of procedure operates retrospectively. However, laws affecting, curtailing or prejudicing vested rights shall be applied prospectively.*

Authority: *Muslim Commercial Bank Limited v. Punjab Labour Appellate Tribunal (2025 SCMR 303); Commissioner Inland Revenue v. Mekotex Pvt. Ltd. (PLD 2024 SC 1168)*

OPERATIVE ORDER

In the wake of the above discussion, this Civil Petition is converted into an appeal and allowed. As a consequence thereof, the impugned judgment dated 07.02.2019, rendered by the learned Lahore High Court in R.F.A.470/2000, and the Order dated 23.02.2001, passed by learned single Judge of the High Court (Banking Court) in C.M.A No.568-B/2000, are both set aside to the extent of allowing markup by means of amended decree.

■ **View Full Judgment**

PAKISTAN BAIT-UL-MAL ACT, 1991 SS. 3, 4, 5A, 19, 24; HINDU ADOPTIONS AND MAINTENANCE ACT, 1956 SS. 20, 21; WEST PAKISTAN FAMILY COURTS ACT, 1964 S. 5; CONSTITUTION OF PAKISTAN, 1973 ARTS. 35, 36, 37, 38 — A COURT MAY REFER A DESERVING PERSON TO BAIT-UL-MAL BUT MAY NOT FIX THE FORM, QUANTUM OR DURATION OF THE ASSISTANCE, WHICH THE STATUTORY AND POLICY FRAMEWORK ENTRUSTS TO THE INSTITUTION

Pakistan Bait-ul-Mal through Managing Director, Islamabad v. Raj Ram and others

APPLICATION FOR PERMISSION TO FILE ALLOWED; CIVIL PETITION DISMISSED WITH PROSPECTIVE GUIDANCE FOR FUTURE CASES; APPROVED FOR REPORTING

Civil Miscellaneous Application No. 1477 of 2023 in Civil Petition No. 5250 of 2023, Supreme Court of Pakistan (against the order dated 01.12.2022 of the High Court of Sindh, Circuit Court, Larkana in Const. P. No. S-56 of 2020) · Bench: Yahya Afridi, CJ, Naeem Akhtar Afghan and Miangul Hassan Aurangzeb, JJ (order by Yahya Afridi, CJ) · Decided: 24.08.2026 · Uploaded: 07.09.2026

FACTS

Mst. Shrimati Reeta, a Hindu widow, was married to Ravi Kumar in 2012; two daughters, Jasika and Sanika, were born of the marriage. Ravi Kumar died by suicide on 20.05.2017. Without any independent source of income, the widow sued the children's paternal grandfather, Ram Raj, for maintenance before the Family Court, Jacobabad. Ram Raj was himself aged, infirm, without income or a home of his own, and living in a dharamshala. The Family Court nonetheless decreed maintenance at Rs. 3,000 per month per child with a ten per cent annual increment, and the decree was maintained in appeal. In constitutional jurisdiction the Sindh High Court repelled Ram Raj's objection to the Family Court's jurisdiction over Hindu parties, but accepted his second objection, holding on sections 20 and 21 of the Hindu Adoptions and Maintenance Act, 1956 that a grandfather bears no personal obligation to maintain his grandchildren. Left with two children in need and no one before it able to provide for them, the High Court turned to Articles 35, 37 and 38 of the Constitution and directed Bait-ul-Mal to register the minors as regular beneficiaries and to pay each Rs. 10,000 per month with a ten per cent annual increase until marriage. Bait-ul-Mal challenged that direction — not the finding of hardship, and not the children's deservingness, but the manner in which the assistance had been ordered.

LEGAL ISSUE

Whether a High Court, having found that no private person was liable to maintain destitute minors, was justified in turning to Pakistan Bait-ul-Mal for their support; and whether it could direct that institution to register particular persons as beneficiaries and to pay a judicially fixed amount, with a fixed annual increase, for a fixed period.

HOLDING

The Supreme Court declined to interfere with the order in the case before it, particularly because Bait-ul-Mal had stated its willingness to assist the two minors. It held that there is nothing objectionable in a Court turning to Bait-ul-Mal where the circumstances disclose a need falling within the very sphere for which the institution was established, and that in fully discharging its judicial function a Court may look beyond the immediate legal question to the underlying predicament of the parties. But the form, quantum and duration of assistance must ordinarily be left to Bait-ul-Mal, which administers distinct programmes — Individual Financial Assistance, Schools for Rehabilitation of Child Labour and Pakistan Sweet Homes — each with its own eligibility criteria, verification and approval process, monetary ceilings and budgetary limits under section 19 of the Act. For future cases, the appropriate course is to refer the person concerned to Bait-ul-Mal for consideration under the applicable policy.

LEGAL SIGNIFICANCE

This is the first authoritative statement of how the courts and Pakistan Bait-ul-Mal are to interact, and it will govern the growing practice of routing destitute litigants to the welfare institutions of the State. It preserves the Court's power to bring a deserving case within reach of the institution established to answer it, while protecting the institution's statutory discretion over limited public welfare resources. The order is also notable for its treatment of minority status — the Court's observation that minority status is not merely one more vulnerability but shapes how every other vulnerability is experienced is likely to be cited in fundamental-rights litigation. Practitioners appearing in family and maintenance matters where no private obligor can be found

should now frame the prayer as a reference to Bait-ul-Mal rather than as a direction to pay a specified sum.

LEGAL PROPOSITIONS (VERBATIM)

— It is not infrequently that courts are faced with cases where resolution of the legal question at hand does not necessarily resolve the subsurface predicament of the parties.

— Minority status, therefore, is not merely another fact to be added to a catalogue of vulnerabilities; it, in fact, shapes the manner in which every other vulnerability is experienced.

— These are the means through which limited public welfare resources are administered amongst those seeking assistance.

— This course allows a Court to bring a deserving case within the reach of the welfare institution established to respond to it, without displacing the framework through which that institution is required to administer its assistance.

LEGAL PRINCIPLES EXPOUNDED

A Court may properly turn to Bait-ul-Mal where the need disclosed before it falls within the sphere for which that institution was established.

Source: *Given the express statutory purpose and intent underlying the Act, in our view, there is nothing inherently objectionable in a Court turning to Bait-ul-Mal where the circumstances before it disclose a need falling within the very sphere for which Bait-ul-Mal has been established.*

Authority: *Preamble and sections 3 and 4, Pakistan Bait-ul-Mal Act, 1991; Articles 35, 37 and 38 of the Constitution of Pakistan, 1973*

The form, quantum and duration of assistance are for Bait-ul-Mal to determine under its own policies; a Court that fixes them pre-empts the statutory assessment.

Source: *Thus, while there is no objection to a Court identifying a person who appears deserving of assistance and bringing such a case to the attention of Bait-ul-Mal, the particular form, quantum and duration of that assistance must ordinarily remain for Bait-ul-Mal to determine.*

Authority: *Sections 4, 5A, 19 and 24, Pakistan Bait-ul-Mal Act, 1991; Individual Financial Assistance Policy; Pakistan Bait-ul-Mal Sweet Home Policy, 2022*

Where recourse to Bait-ul-Mal appears warranted, the correct judicial course is a referral for consideration, not a mandatory direction to pay.

Source: *Accordingly, for future cases, where circumstances disclosed before a Court appear to warrant recourse to Bait-ul-Mal, the appropriate course would be to refer the case of the person concerned to Bait-ul-Mal for consideration.*

Authority: *Section 4, Pakistan Bait-ul-Mal Act, 1991*

OPERATIVE ORDER

In view of the foregoing, we see no reason to interfere with the impugned order insofar as it concerns the present case, particularly in view of the willingness expressed by Bait-ul-Mal before us to extend assistance to the two minors. The petition is, accordingly, dismissed. For future cases, however, recourse to Bait-ul-Mal shall be guided by the observations made hereinabove, leaving the nature and extent of assistance to be determined by Bait-ul-Mal in accordance with its applicable statutory and policy framework.

■ **View Full Judgment**

Lahore High Court

7 judgments

CONSTITUTION OF PAKISTAN, 1973 ARTS. 4, 10-A, 15, 175, 199(1)(A) — THE TERRITORIAL LIMITATION IN ARTICLE 199 IS A CONSTITUTIONAL RESTRICTION, NOT A PROCEDURAL TECHNICALITY; THE FEDERAL CHARACTER OF A RESPONDENT DOES NOT BY ITSELF CONFER JURISDICTION ON EVERY HIGH COURT

Muhammad Awais v. Federation of Pakistan, etc.

PETITION DISMISSED FOR WANT OF TERRITORIAL JURISDICTION, WITH LIBERTY TO APPROACH THE HIGH COURT HAVING TERRITORIAL JURISDICTION; APPROVED FOR REPORTING

Writ Petition No. 47831 of 2026, Lahore High Court, Lahore (2026 LHC 5579) · Bench: Munawar Iqbal Duggal, J · Decided: 07.09.2026 · Uploaded: 07.09.2026

FACTS

The petitioner was off-loaded on 17.07.2026 at Islamabad International Airport by officials of the Federal Investigation Agency and prevented from proceeding abroad. He invoked Article 199 before the Lahore High Court, contending that he held valid travel documents, that no written order or lawful justification was communicated to him, and that the action violated Articles 4, 10-A and 15. On jurisdiction he argued that the FIA performs functions in connection with the affairs of the Federation and may therefore be proceeded against before any High Court, that he resides in Punjab, and that the consequences of the action continue to affect him there, relying principally on Federal Government v. Ms. Ayyan Ali (2017 SCMR 1179). He also impleaded the Director/In-charge and the officer of FIA Immigration, Departure Control Counter at Allama Iqbal International Airport, Lahore. The Law Officer took a preliminary objection: the off-loading stamp on the passport showed the entire action was taken at Islamabad by officials posted there, the Lahore respondents had no role, and their impleadment was designed to attract the jurisdiction of the Court.

LEGAL ISSUE

Whether the Lahore High Court possesses territorial jurisdiction under Article 199 of the Constitution to examine an act of off-loading admittedly carried out by FIA immigration officials at Islamabad International Airport, where the petitioner resides in Punjab and Lahore-based FIA officials have been impleaded.

HOLDING

The Court held it lacked territorial jurisdiction and dismissed the petition. Article 199(1)(a) confers jurisdiction only in respect of a person performing, within the territorial jurisdiction of the Court, functions in connection with the affairs of the Federation, a Province or a local authority; that limitation is a constitutional restriction reinforced by Article 175, which envisages a High Court for each Province and for the Islamabad Capital Territory. Applying the 'dominant object' test reaffirmed in Taufiq Asif v. General (Retd.) Pervez Musharraf (PLD 2024 SC 610), the sole grievance was against a completed physical act at Islamabad — the petitioner presented himself there, his documents were examined there, the decision was taken and communicated there, and enforcement occurred there. Ayyan Ali was distinguished: there the challenge was to a continuing federal notification which took effect at Karachi where the respondent resided and intended to travel. Residence alone cannot confer jurisdiction over a localised act completed elsewhere, and the array of respondents cannot supply a nexus otherwise lacking.

LEGAL SIGNIFICANCE

This is a clear and up-to-date restatement of a question that arises daily in off-loading, Exit Control List, FIA and FBR litigation, and it is fortified by the Federal Constitutional Court's decision in Messrs D.G. Khan Cement Company Limited v. Federation of Pakistan (PLD 2026 FCC 168), which set aside a direction of the Islamabad High Court requiring the FBR to issue a countrywide instruction. The practical lesson for counsel is precise: where the client's grievance is a completed local act, impleading the Federation or a countrywide functionary will not create jurisdiction; where it is a continuing federal restraint that operates on the client where he resides, it will. The Court expressly warned that the contrary view would dilute Article 199 and encourage forum shopping.

LEGAL PROPOSITIONS (VERBATIM)

> *— The mere fact that an authority/person is federal in character does not, by itself, confer unrestricted territorial jurisdiction upon every High Court in Pakistan.*

— The Court must, therefore, look to the substance and dominant object of the grievance, identify the act or proceeding principally impugned, and determine the territorial nexus of such act with the jurisdiction invoked.

— But residence alone cannot confer jurisdiction over an otherwise localized act which was completed outside the territorial limits of this Court.

— Territorial jurisdiction is to be determined from the substance of the controversy and not from the description or array of respondents.

LEGAL PRINCIPLES EXPOUNDED

The territorial limitation in Article 199 is a substantive constitutional restraint on the exercise of writ jurisdiction, not a rule of procedure.

Source: *The territorial limitation embodied in Article 199, ibid, is, therefore, not merely a procedural technicality; rather, it constitutes a constitutional restriction upon the exercise of jurisdiction by a High Court. This constitutional scheme is further reinforced by Article 175 of the Constitution, which envisages a High Court for each Province and a High Court for the Islamabad Capital Territory, thereby defining distinct territorial spheres within which the respective High Courts exercise their constitutional jurisdiction.*

Authority: *Articles 175 and 199(1)(a), Constitution of Pakistan, 1973; Hassan Shahjehan v. FPSC (PLD 2017 Lahore 665)*

The dominant object of the petition — the principal grievance agitated and the ultimate relief sought — determines which High Court has territorial jurisdiction.

Source: *More importantly, the Supreme Court reaffirmed the "dominant object" test, observing that it is the principal grievance agitated and the ultimate relief sought in a constitutional petition which determine the territorial jurisdiction of a High Court.*

Authority: *Taufiq Asif v. General (Retd.) Pervez Musharraf (PLD 2024 SC 610); Sandalbar Enterprises (Pvt.) Ltd. v. Central Board of Revenue (PLD 1997 SC 334); Amin Textile Mills (Pvt.) Ltd. v. Islamic Republic of Pakistan (1998 SCMR 2389)*

The writ jurisdiction of a High Court cannot be extended beyond its territorial limits merely because the respondent authority is federal in character.

Source: *The judgment underscores that the writ jurisdiction of a High Court cannot, merely by reason of the federal character of the respondent authority, be extended so as to operate beyond the territorial limits prescribed by Article 199.*

Authority: *Messrs D.G. Khan Cement Company Limited v. The Federation of Pakistan (PLD 2026 FCC 168)*

Impleading officials who had no role in the impugned action cannot create a territorial nexus which is otherwise absent.

Source: *Their impleadment, in the absence of any pleaded or demonstrated involvement in the impugned action, cannot create a territorial nexus which is otherwise lacking.*

Authority: *Article 199, Constitution of Pakistan, 1973*

OPERATIVE ORDER

For the foregoing reasons, this Court lacks territorial jurisdiction to adjudicate upon the legality of the impugned action. The petition is, accordingly, dismissed for want of territorial jurisdiction. The petitioner remains at liberty to invoke the constitutional jurisdiction of the High Court within whose territorial limits the impugned act was undertaken, subject to all other legal requirements governing such proceedings. It is clarified that no opinion has been expressed on the legality or merits of the petitioner's alleged off-loading. Any proceedings, if instituted before the competent forum, shall remain open for determination independently and in accordance with law. There shall be no order as to costs.

■ **View Full Judgment**

CONSTITUTION OF PAKISTAN, 1973 ARTS. 9, 10-A, 199; PUNJAB CIVIL SERVANTS ACT, 1974 S. 17 (SECOND PROVISO) — BACK BENEFITS ARE THE NORM ON REINSTATEMENT AND THEIR DENIAL THE EXCEPTION; TREATING THE INTERVENING PERIOD AS EXTRAORDINARY LEAVE DOES NOT ANSWER THE QUESTION OF BACK BENEFITS

Baber Masih v. Cantonment Executive Officer, Sargodha and another

PETITION ALLOWED; ORDERS SET ASIDE TO THE EXTENT OF DENIAL OF BACK BENEFITS; MATTER REMITTED FOR FRESH DECISION WITHIN TWO MONTHS; APPROVED FOR REPORTING

Writ Petition No. 17945 of 2025, Lahore High Court, Lahore (2026 LHC 5569) · Bench: Justice Ms. Shireen Imran · Decided: 03.09.2026 · Uploaded: 04.09.2026

FACTS

The petitioner was appointed a Sanitary Worker on 06.10.2011 and regularised on 30.12.2011. He was implicated in FIR No. 655/2012 and remained in judicial custody, on account of which he was absent from duty; the department struck him off service on 12.02.2014. This Court acquitted him on 11.11.2021 in Criminal Appeal No. 166-J/2017. His departmental appeal was partly accepted on 13.12.2024 and by order of 10.01.2025 he was reinstated with effect from 26.11.2012, the date of dismissal — but his claim to back benefits was declined and the period of absence was treated as Extraordinary Leave. The departmental appellate authority itself recorded that his absence had been due to circumstances beyond his control, and no misconduct was found to survive against him. The respondents contended that no fundamental right had been infringed, that the petitioner had performed no work, and that no mala fide could be attributed to the authority.

LEGAL ISSUE

Whether an employee reinstated after acquittal, whose absence the competent authority itself found to have been beyond his control and against whom no misconduct survived, may be denied back benefits by treating the intervening period as extraordinary leave without pay.

HOLDING

The petition was allowed and the matter remitted. The Court first repelled the objection to maintainability, holding that the petitioner sought enforcement of rights under Article 10-A and of service rights arising from orders of the competent authorities, and that the absence of a specific finding against an authority does not preclude judicial review of the lawfulness of the impugned action. On the merits, once the authority had itself admitted that the absence was not intentional but due to circumstances beyond the employee's control, the request for back benefits had to be considered leniently, discretion being exercised justly and fairly. Applying Shafique Ahmed v. Provincial Police Officer, KP, The Province of Sindh v. Raj Kumar Lohana (2026 PLC (C.S.) 404) and Tahir Kazmi (2026 PLC (C.S.) 510), the Court held that grant of back benefits is the norm and denial the exception, requiring clear evidence that the employee was gainfully employed elsewhere — of which the respondents produced none. The direction to treat the period as EOL regulates the service record but cannot defeat the consequences of reinstatement.

LEGAL SIGNIFICANCE

The judgment draws a clean distinction, often blurred in departmental practice, between two separate questions: regularisation of the intervening period (which exists to keep the service record unbroken and protect pension, promotion and seniority) and the grant of back benefits (which restores the economic status quo ante). Treating absence as extraordinary leave answers the first and not the second. It also situates the discretion under the second proviso to section 17 within the 'culture of justification' articulated in Shafique Ahmed, so that an authority declining back benefits must demonstrate compelling reasons on the record rather than assert them. This is a useful authority for any employee reinstated after acquittal or after a dismissal set aside on appeal.

LEGAL PROPOSITIONS (VERBATIM)

— *It is trite law that discretion vested in an authority should be exercised justly and fairly.*

— *That regardless of the extent of financial benefits granted, the intervening period between a civil servant's removal and subsequent reinstatement must be regularized to maintain the continuity of service.*

— The reason for grant of extraordinary leave without pay or "leave of the kind due" is to ensure that the service record of the civil servant remains unbroken, thereby safeguarding eligibility for pension, promotion, seniority, and other ancillary service benefits.

— In these peculiar circumstances, mere fact that the petitioner did not physically perform his duties cannot constitute sufficient justification for denying him the back benefits upon reinstatement.

LEGAL PRINCIPLES EXPOUNDED

Where the competent authority itself finds the absence to have been beyond the employee's control, the claim to back benefits must be considered leniently and the discretion exercised justly and fairly.

Source: *Once the authority itself admitted that the absence of the petitioner was not intentional rather it was due to circumstances beyond his control, his request for grant of back benefits was to be considered leniently.*

Authority: *Second proviso to section 17, Punjab Civil Servants Act, 1974; Shafique Ahmed v. Provincial Police Officer, KP (Civil Petitions Nos. 1935 to 1938 of 2018, decided 03.12.2025)*

Grant of back benefits on reinstatement is the norm and denial the exception; departure must be justified by clear evidence that the employee was gainfully employed elsewhere in the intervening period.

Source: *This constitutional foundation finds affirmation in judicial precedent, most notably in Tariq Mahmood and Muhammad Sharif where this Court reaffirmed that the grant of back benefits is the norm and denial of service benefits to such reinstated employee is an exception. Any deviation from this must be justified by clear evidence that the employee was gainfully employed elsewhere during the intervening period.*

Authority: *Tahir Kazmi v. Inspector General of Police, Punjab, Lahore [2026 PLC (C.S.) 510]*

Regularisation of the intervening period as extraordinary leave addresses continuity of service only; it cannot be used, without lawful basis, to defeat the consequences of reinstatement.

Source: *The direction to treat the intervening period as EOL does not answer the question of back benefits. EOL may regulate the manner in which an absence is accounted for in the service record but it cannot, without lawful basis, be used to defeat the consequences of reinstatement where the competent authority has itself recognized that the absence was beyond the employee's control and that no misconduct remained against him.*

Authority: *Second proviso to section 17, Punjab Civil Servants Act, 1974*

Reinstatement means restoration to the former position with seniority, privileges and benefits previously lost, so that the person concerned is not unjustifiably penalised.

Source: *If we gaze it into the framework of employment, it characteristically ensues when a terminated, dismissed or laid off employee is sent back to his former occupation status which includes the reestablishing and protection of his seniority rights, privileges or other benefits that were previously lost.*

Authority: *The Province of Sindh through Chief Secretary v. Raj Kumar Lohana [2026 PLC (C.S.) 404]*

OPERATIVE ORDER

Accordingly, this petition is allowed. The impugned orders dated 13.12.2024 and 10.01.2025, to the extent of denial of back benefits, are set aside and the matter is remitted to respondent No.2 for decision afresh, in view of the observations made hereinabove, especially the observations of the Hon'ble Supreme Court of Pakistan, contained in paragraphs No.5, 7, 8, 11, 12 and 14 of Shafique Ahmed & three others (supra), The Province of Sindh through Chief Secretary, Government of Sindh and others (supra) and Tahir Kazmi and another (supra). This shall be done within a period of two (02) months, from the date of receipt of a certified copy of this judgment.

■ **View Full Judgment**

PUNJAB EMPLOYEES EFFICIENCY, DISCIPLINE AND ACCOUNTABILITY ACT, 2006 SS. 5, 6, 7, 10, 13, 15; PUNJAB CIVIL SERVANTS ACT, 1974 S. 2(1)(B)(I); CONSTITUTION OF PAKISTAN, 1973 ARTS. 199, 212(2) — A BORROWING ORGANISATION NEEDS NO PRIOR APPROVAL OF THE LENDING ORGANISATION TO SUSPEND A DEPUTATIONIST UNDER SECTION 6 PEEDA; SUSPENSION IS NOT A PENALTY AND A WRIT AGAINST IT IS PREMATURE

Shahbaz Anwar v. The Province of Punjab, etc.

WRIT PETITION DISMISSED IN LIMINE AS PREMATURE AND NON-MAINTAINABLE; APPROVED FOR REPORTING

Writ Petition No. 4833 of 2026, Lahore High Court, Bahawalpur Bench, Bahawalpur (2026 LHC 5439) · Bench: Muhammad Usman Ghani Rashid Cheema, J · Decided: 24.08.2026 · Uploaded: 02.09.2026

FACTS

The petitioner is an employee of the Pakistan Museum of Natural History, Pakistan Science Foundation, Ministry of Science and Technology, Islamabad, on deputation with the respondent department since 10.04.2023 and posted as Curator, Bahawalpur Zoo since 19.08.2025. He was issued a letter dated 15.08.2026 seeking his explanation for failing to report the death of 330 chicks of different species to the Deputy Chief Wildlife Ranger, Bahawalpur Region, which he answered. By order dated 16.08.2026 the competent authority placed him under suspension for ninety days under section 6 of PEEDA. His sole argument was that the borrowing organisation had not obtained the prior approval of the lending organisation, said to be mandatory under section 15(1)(a) and (b) before suspending a deputationist. On maintainability, he relied on section 2(1)(b)(i) of the Punjab Civil Servants Act, 1974 to say that a deputationist from the Federation is not a civil servant, so the bar in Article 212(2) did not apply. Confronted at the bar, counsel frankly conceded he could find no precedent supporting the petition.

LEGAL ISSUE

Whether a competent authority in a borrowing organisation must obtain the prior approval of the lending organisation before placing a deputationist under suspension under section 6 of PEEDA; and whether a writ petition lies against an order of suspension at all.

HOLDING

The petition was dismissed in limine. Reading sections 5, 6 and 15 harmoniously, the Court held that section 6 is a self-contained, stand-alone provision with no pre-requisite other than the competent authority's opinion that suspension is necessary or expedient, and that it is not made subject or subservient to section 15. The first proviso to section 15 imposes only a post facto obligation to inform the lending organisation 'forthwith' of the circumstances leading to suspension and the commencement of proceedings; the second proviso, which alone uses the words 'prior approval', is an ex-ante obligation confined to taking 'any action under this Act' against a deputationist in BPS-17 or above. The legislature's conscious omission of 'prior consent' from the first proviso is instructive. The heading of section 15 — 'Procedure of enquiry against officers lent to other governments' — confirms that it deals with enquiry, not suspension. Separately, suspension is not a penalty but a temporary measure, and a writ against an interlocutory order of that character is premature.

LEGAL SIGNIFICANCE

The judgment settles a point on which deputationists across the Punjab have been litigating, and does so with unusually close attention to drafting: two provisos to a single section, one silent on prior approval and one expressly requiring it, are held to address different subjects, and the silence is treated as deliberate. The Court's excursus on 'forthwith' — collecting Black's Law Dictionary and the Order XVII Rule 3 CPC line of authority to conclude that the word means 'with all reasonable celerity' rather than 'immediately', its content varying with the nature of the thing to be done — is separately useful wherever that word appears in a statute. The reaffirmation, on Mian Muhammad Hayat (PLD 1964 SC 321) and its successors, that suspension is not a penalty and does not violate any vested legal right, remains the short answer to most suspension petitions.

LEGAL PROPOSITIONS (VERBATIM)

> *— This power of the Competent Authority to issue a suspension order against an employee is derived from Section 6 ibid and is exercised if the suspension is necessary or expedient in the opinion of the Competent Authority at the time when the Competent Authority is proposing or contemplating to initiate any action against*

an employee under PEEDA.

— It is clear as day that the act of placing an employee under suspension precedes the initiation of proceedings under Section 5 of the Act and the passing of any adverse order in consequence thereof.

— The only extra step, added in the case of an employee on deputation, is that the Borrowing Organization shall forthwith inform the Lending Organization of the circumstances leading to the order of suspension and commencement of proceedings.

— Suspension is a temporary measure, effect whereof is to merely stop an official from performing his duties for the time being.

LEGAL PRINCIPLES EXPOUNDED

Section 6 of PEEDA is a self-contained power of suspension whose only precondition is the competent authority's opinion that suspension is necessary or expedient; it is not subject to section 15.

Source: *In Section 6, there is no concept of seeking permission, prior or later, for placing the name of an employee under suspension for 90 days. Section 6, unlike Section 15, does not have any controlling proviso, which makes it obligatory upon the Competent Authority to seek prior approval of the Lending Organization.*

Authority: *Sections 5, 6 and 15, Punjab Employees Efficiency, Discipline and Accountability Act, 2006*

The legislature's use of 'prior approval' in the second proviso to section 15 and its omission from the first is deliberate: no prior consent of the lending organisation is needed to suspend a deputationist or to begin an enquiry against him.

Source: *no prior approval, advance permission or previous consent of the Lending Organization is needed for placing an employee under suspension and for initiation of enquiry against a deputationist*

Authority: *Provisos to section 15(1), Punjab Employees Efficiency, Discipline and Accountability Act, 2006*

Apparently incongruent provisions of a statute must be read harmoniously so that no part of the enactment is rendered redundant or otiose.

Source: *When interpreting different, apparently incongruent, provisions of a statute, the first and the foremost duty of the Court is to read, explain and apply those provisions harmoniously in such a manner that no part of law made by the legislature is made redundant, rendered surplus or made otiose*

Authority: *Aftab Shahban Mirani v. Muhammad Ibrahim (PLD 2008 SC 779); Lucky Cement Ltd. v. Commissioner Income Tax (2015 SCMR 1494); Haji Tooti v. Federal Board of Revenue (2023 SCMR 1980)*

An order of suspension pending departmental enquiry is not a penalty and violates no vested legal right; a writ against such an interlocutory order is premature.

Source: *Thus, an order of suspension pending a departmental enquiry is not a penalty as it does not violate any legal right vesting in the suspended officer.*

Authority: *Mian Muhammad Hayat v. The Province of West Pakistan (PLD 1964 SC 321); Abdul Khaliq Bangash v. Secretary, Government of West Pakistan (1970 SCMR 103); Divisional Superintendent, Pakistan Railways, Lahore v. Muhammad Halim (PLD 2000 SC 55)*

'Forthwith' does not mean instantaneously; it imports all reasonable celerity, its content varying with the nature of the thing to be done.

Source: *So the judicial consensus is that the word 'forthwith' does not mean 'immediately' but 'with all reasonable celerity'. It has a relative meaning depending on the nature of the thing to be done.*

Authority: *Maulvi Abdul Aziz Khan v. Mst. Shah Jahan Begum (PLD 1971 SC 434); Lutfullah Virk v. Muhammad Aslam Sheikh (PLD 2024 SC 887); Muhammad Aslam v. Nazir Ahmed (2008 SCMR 942)*

OPERATIVE ORDER

Since the petitioner has only challenged the order of his suspension under Section 6 of the Act, whereas the Competent Authority is yet to initiate proceedings against him either through a regular enquiry under Section 10 or by dispensing with it under Section 7, let alone conclude the same, and the petitioner has other remedies available to him under the hierarchy of the Act as and when the enquiry proceeds, therefore, in the view of the aforementioned legal position, this petition is held to be premature, devoid of any merit and not deserving any interference by this Court at this stage. Hence, this Writ Petition is dismissed in limine.

■ **View Full Judgment**

PUNJAB CHILD MARRIAGE RESTRAINT ACT, 2026 SS. 2, 5, 13; CODE OF CRIMINAL PROCEDURE, 1898 SS. 22-A, 22-B, 154, 164; PAKISTAN PENAL CODE, 1860 S. 365-B; GUARDIANS AND WARDS ACT, 1890 — COHABITATION RESULTING FROM A CHILD MARRIAGE IS CHILD ABUSE IRRESPECTIVE OF CONSENT, AND THE CHILD'S PURPORTED CONSENT DOES NOT DETERMINE CUSTODY OR BAR REGISTRATION OF AN FIR

Muhammad Aslam v. Additional Sessions Judge/Ex-Officio Justice of Peace, etc.

PETITION ALLOWED; ORDER OF THE EX-OFFICIO JUSTICE OF PEACE SET ASIDE; SHO DIRECTED TO PROCEED UNDER SECTION 154 CR.P.C.; MINOR PLACED IN THE SAFE CUSTODY OF THE CHILD PROTECTION & WELFARE BUREAU; APPROVED FOR REPORTING

Writ Petition No. 46868 of 2026, Lahore High Court, Lahore (2026 LHC 5390) · Bench: Munawar Iqbal Duggal, J · Decided: 31.08.2026 · Uploaded: 31.08.2026

FACTS

The petitioner's daughter, Mst. Hina Aslam, went missing and he registered FIR No. 1121/2026 dated 20.05.2026 under section 365-B PPC alleging abduction. During investigation she appeared before the Area Magistrate and, in a statement under section 164 Cr.P.C. recorded on 29.05.2026, denied abduction or zina and said she had married respondent No. 5, Muhammad Luqman, of her own free will; the FIR was accordingly put up for cancellation. On learning of the Nikah the petitioner approached the Municipal Committee, Kasur, which certified on 23.06.2026 that no record of it existed. He then sought registration of an FIR alleging marriage with a minor in violation of the Punjab Child Marriage Restraint Act, 2026 and a forged Nikahnama. The SHO took no action; his application under sections 22-A and 22-B Cr.P.C. was dismissed on 06.08.2026, the Justice of Peace suggesting instead that he seek addition of offences in the existing FIR. Before the High Court, the NADRA Child Registration Certificate issued in 2017 recorded Hina Aslam's date of birth as 01.03.2011, making her approximately fifteen years and two months old at the date of the alleged Nikah of 18.05.2026; the respondents produced no contemporaneous document to the contrary and relied on her representation that she was nineteen.

LEGAL ISSUE

Whether, after the coming into force of the Punjab Child Marriage Restraint Act, 2026, the registration of an FIR alleging child marriage may be refused on the strength of the child's statement under section 164 Cr.P.C. that she married of her own will; whether Mst. Sughran Bibi v. The State (PLD 2018 SC 595) bars a separate FIR; and what protective order should be made pending investigation.

HOLDING

The petition was allowed. The Court held that the Act of 2026 — published on 11 May 2026 and commencing at once — materially altered the legislative landscape: it defines a child as a person under eighteen, defines child marriage to include a Nikah where either contracting party is a child, prohibits registration of such a marriage, penalises an adult who contracts it, and by section 5 declares that any cohabitation before eighteen resulting from a child marriage is 'child abuse', punishable with five to seven years and a fine of not less than one million rupees. The reasoning of the Federal Constitutional Court in Shahbaz Masih (F.C.P.L.A. No. 536 of 2025, decided 03.02.2026) — that the Act of 1929 criminalised child marriage without declaring it void — was held inapplicable to a Nikah solemnised after the new Act came into force. At the stage of sections 22-A and 22-B the only question is whether the information discloses a cognizable offence, and the prima facie material did. Sughran Bibi did not bar a separate FIR because the new allegations concerned a distinct transaction — the solemnisation of a child marriage and the alleged forgery of a Nikahnama — and not a counter-version of the alleged abduction.

LEGAL SIGNIFICANCE

This is, so far as we are aware, the first reported construction of the Punjab Child Marriage Restraint Act, 2026, and it will be the leading authority on it. Three points will be relied on repeatedly: the child's consent is legally irrelevant both to the commission of the offence under section 5 and to the question of custody or residence under section 13; the police cannot decline to register a case because the child says she is content; and Sughran Bibi does not preclude a second FIR where the later allegations relate to a distinct statutory offence arising from a distinct transaction rather than a rival version of the same occurrence. The Court's disposal is also a model of proportionality — declining to hand the girl to either the parental home or

the alleged husband, placing her in the safe custody of the Child Protection & Welfare Bureau with supervised contact on both sides, and leaving permanent custody to the Guardian Judge.

LEGAL PROPOSITIONS (VERBATIM)

— More significantly, Section 5 declares that any form of cohabitation, before attainment of eighteen years of age, with or without consent, resulting from a child marriage, constitutes "child abuse" under the Act, ibid.

— The statutory scheme thus represents a material departure from the earlier legislative framework.

— The limited question is whether the information furnished to the police discloses commission of a cognizable offence warranting registration and investigation.

— Whether the Nikahnama is forged, whether the marriage was in fact solemnized, who participated in or facilitated it, and what offences, if any, were committed are matters requiring investigation.

LEGAL PRINCIPLES EXPOUNDED

Under the Act of 2026 the purported consent of the child is not determinative of her residence, custody or protection where a prima facie case of child marriage is disclosed; the Court must independently assess her safety and best interests.

Source: *At the same time, under the express statutory scheme introduced by Section 13 of the Act, 2026, her purported consent cannot, by itself, be treated as determinative of her residence, custody or protection where the Court is confronted with a prima facie case of child marriage and the consequent risk of child abuse. The statute requires the Court to make an independent assessment of her safety, welfare and best interests.*

Authority: *Sections 5 and 13, Punjab Child Marriage Restraint Act, 2026*

The criminal law must be set in motion where the information discloses a cognizable offence; the child's willingness to reside with the adult contracting party is no answer.

Source: *The police cannot decline to set the criminal law into motion merely because the alleged child has expressed willingness to reside with the adult contracting party.*

Authority: *Section 154, Code of Criminal Procedure, 1898; Punjab Child Marriage Restraint Act, 2026*

The rule against a second FIR bars only another version of the same occurrence; it does not bar registration where the fresh allegations disclose a distinct statutory offence arising from a distinct transaction.

Source: *The law laid down in Sughran Bibi is that a second FIR is not permissible merely to place before the police another version of the same occurrence already reported. At the same time, the investigating agency remains under a duty to investigate all aspects of the occurrence and all versions brought before it.*

Authority: *Mst. Sughran Bibi v. The State (PLD 2018 SC 595)*

The reasoning that a child marriage remains valid despite penal consequences, developed under the Act of 1929, does not govern a Nikah solemnised after the Act of 2026 came into force.

Source: *The alleged Nikah in the instant case was solemnized on 18.05.2026, i.e. after the enactment and coming into force of the Act, 2026. The new enactment has materially altered the statutory landscape by prescribing eighteen years as the minimum age for both male and female persons, criminalizing an adult's marriage with a child, and, most importantly, expressly characterizing cohabitation with a child arising from such marriage as "child abuse", irrespective of consent.*

Authority: *Shahbaz Masih v. Additional Sessions Judge, Lahore (F.C.P.L.A. No. 536 of 2025, decided 03.02.2026); Mst. Bakhshi v. Bashir Ahmad (PLD 1970 SC 323)*

OPERATIVE ORDER

For what has been discussed above, the instant petition is allowed. The impugned order dated 06.08.2026 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Kasur, is set aside. Respondent No.4/SHO, Police Station B-Division, Kasur, is directed to proceed in accordance with Section 154, Cr.P.C., on the basis of the petitioner's application and, if the information discloses commission of a cognizable offence, record the same and proceed with investigation strictly in accordance with law. Needless to observe that the registration of the case shall not be construed as an expression of opinion regarding the guilt of any person. ... Consequently, and purely as a protective measure, Mst. Hina Aslam shall remain in the safe custody of the Child Protection & Welfare Bureau, Government of the Punjab, through its duly authorized officer, pending further orders of the competent forum. The Bureau shall ensure her safety, dignity, education, psychological well-being and access to appropriate counselling and shall not permit any person to exercise coercion or undue influence upon her. ... The instant Writ Petition is allowed in the above terms.

■ View Full Judgment

CODE OF CRIMINAL PROCEDURE, 1898 SS. 173, 344, 497(1) (THIRD PROVISO); PAKISTAN PENAL CODE, 1860 SS. 148, 149, 324; RULES AND ORDERS OF THE LAHORE HIGH COURT VOL. III CH. 1 PT. A R. 4, PT. E R. 14, CH. 11 PT. B R. 10, CH. 24 PT. B R. 2 — DELAY ATTRIBUTED TO AN ACCUSED MUST BE TRACEABLE TO A SPECIFIC ACT OR OMISSION RECORDED IN THE ORDER SHEETS; THE MERE PRESENCE OF UNEXAMINED PROSECUTION WITNESSES WILL NOT DEFEAT THE STATUTORY RIGHT TO BAIL

Ali Shahzad alias Shan Ali v. The State, etc.

POST-ARREST BAIL GRANTED ON THE STATUTORY GROUND OF DELAY; APPROVED FOR REPORTING

Crl. Misc. No. 43416-B of 2026, Lahore High Court, Lahore (2026 LHC 5543) · Bench: Ghulam Sarwar Nihung, J · Decided: 31.08.2026 · Uploaded: 03.09.2026

FACTS

The petitioner sought post-arrest bail in FIR No. 135 of 2025 dated 25.02.2025 under sections 324, 148 and 149 PPC registered at Police Station Syed Wala, District Nankana Sahib, the allegation being that he fired at the complainant's son, striking him on the left side of the chest. He was arrested on 03.03.2025. The report under section 173 Cr.P.C. was submitted only on 13.11.2025, a delay of approximately eight months and ten days from arrest, and the charge was framed on 02.03.2026, almost a year after arrest. Three earlier bail petitions had failed — one dismissed for non-prosecution, one on merits and one not pressed. The prosecution resisted on the ground that witnesses had been produced before the trial court but could not be examined or cross-examined because of the conduct of the defence, and the Magistrate's report recorded in general terms that the delay was attributable to the accused.

LEGAL ISSUE

Whether the statutory right to bail under the third proviso to section 497(1) Cr.P.C. is defeated where prosecution witnesses were produced before the trial court on certain dates but their evidence was not recorded, and the trial court's order sheets contain no speaking explanation identifying any specific act or omission of the accused.

HOLDING

Bail was granted. The Court held the successive petition competent because a fresh ground of statutory delay had accrued. The delay in submitting the challan was attributable to the prosecution and nothing showed the petitioner caused or contributed to it. As to the period thereafter, the relevant question is whether, on the dates counted against the accused, the witnesses were present and ready to depose, the prosecution was prepared to examine them, and recording was frustrated by a specific and unjustifiable act of the accused. No evidence of any prosecution witness was in fact recorded, and the order sheets disclosed no such instance; on several dates the prosecution's evidence was incomplete and on one occasion the Presiding Officer was absent, while adjournments were sought for the defence on only two occasions. Section 344 Cr.P.C. requires reasons in writing for every adjournment, and where present witnesses are returned unexamined without a speaking order, the resulting period is not excluded from the statutory computation.

LEGAL SIGNIFICANCE

The judgment supplies the analytical discipline that has been missing from many statutory-delay bail decisions: it is not enough for the prosecution to point to dates on which the defence sought adjournments, or for a trial court to certify in general terms that delay is attributable to the accused. The Court ties the requirement of a speaking order to section 344 Cr.P.C. and to four separate rules in the Rules and Orders of the Lahore High Court, and holds that omissions by the court or the prosecution are not 'acts or omissions of the accused' within the third proviso. Defence counsel should, on the strength of this decision, obtain the trial court's order sheets and test each date against the four requirements the Court identifies.

LEGAL PROPOSITIONS (VERBATIM)

> *— The prosecution cannot first allow the investigation to remain incomplete beyond the prescribed period and thereafter seek to rely upon the resulting delay against the accused.*

— Under Section 344, Cr.P.C., a Trial Court is mandated to record reasons in writing for any adjournment.

— Such omissions by the court or the prosecution are not considered "acts or omissions of the accused" under the third proviso to Section 497(1), Cr.P.C.

— The prosecution's allegations may be grave, but the gravity of an accusation, by itself, is unable to defeat a statutory entitlement where the prescribed conditions stand satisfied.

LEGAL PRINCIPLES EXPOUNDED

Delay may be attributed to an accused only where it is demonstrably traceable to a specific act or omission of his; a generalised assertion of attribution will not do.

Source: *The statutory exception contemplated by the third proviso to Section 497(1), Cr.P.C. cannot be invoked on the basis of a generalized assertion of attribution; the alleged delay must be demonstrably traceable to an act or omission of the accused or a person acting on his behalf.*

Authority: *Third proviso to section 497(1), Code of Criminal Procedure, 1898; Muhammad Usman v. The State (2024 SCMR 28)*

The mere production of prosecution witnesses who are then returned unexamined, unaccompanied by a speaking order-sheet explanation, does not deprive an accused of the statutory right to bail.

Source: *The mere presence of prosecution witnesses in Court, without recording of their evidence and without a specific order-sheet explanation as to why such evidence could not be recorded, is insufficient to deprive the petitioner of his statutory right.*

Authority: *Section 344, Code of Criminal Procedure, 1898; Rules and Orders of the Lahore High Court, Vol. III, Ch. 1, Pt. A r. 4 and Pt. E r. 14*

The right recognised under the third proviso is not discretionary; its accrual depends on the fulfilment of the conditions the proviso prescribes.

Source: *It has been held by this Court that the right recognized under the third proviso of section 497(1) Cr.P.C. cannot be denied to an accused on the basis of discretionary powers of the court to grant bail. The right has not been left to the discretion of the court, rather, its accrual is subject to the fulfillment of the conditions mentioned under the third proviso of section 497(1) Cr.P.C.*

Authority: *Muhammad Usman v. The State (2024 SCMR 28)*

Pre-trial detention may not be permitted to assume the character of punishment where the accused has been incarcerated beyond the statutory period and the trial is not likely to conclude soon.

Source: *Pre-trial detention cannot be permitted to assume the character of punishment, particularly where the accused has remained incarcerated beyond the statutory period and the trial is not likely to conclude in the immediate future.*

Authority: *Noor Agha v. The State (2025 SCMR 1679); Adnan Shafai v. The State (2024 SCMR 1543)*

OPERATIVE ORDER

Consequently, without commenting upon the merits of the case, lest it prejudice either party during the trial, the instant petition is allowed. The petitioner, Ali Shahzad alias Shan Ali, is admitted to post-arrest bail, subject to furnishing bail bonds in the sum of Rs. 1,00,000/- (one lac) with one surety in the like amount to the satisfaction of the learned Trial Court. The observations recorded herein are tentative in nature and shall not influence the learned Trial Court, which shall decide the case strictly on the basis of the evidence produced before it.

■ **View Full Judgment**

RIGHT OF ACCESS TO INFORMATION ACT, 2017 SS. 3, 6(D), 7(A)-(C), 7(G), 11(5), 16(1)(A)(I), 16(1)(C), 16(1)(I)(III), 17, 19(2)(E), 20(1)(E); CONSTITUTION OF PAKISTAN, 1973 ART. 19A — THE EXCLUSION OF MINUTES OF MEETINGS FROM PUBLIC RECORD LASTS ONLY UNTIL THE PUBLIC BODY TAKES ITS FINAL DECISION; THEREAFTER THE RECORD MUST BE DISCLOSED, SUBJECT TO SEVERANCE OF GENUINELY EXEMPT PORTIONS

Lahore Electric Supply Company (LESCO) through its Company Secretary v. Federation of Pakistan through Secretary Ministry of Information and Broadcasting, and others

PETITION DISMISSED; ORDER OF THE CHIEF INFORMATION COMMISSIONER UPHELD; NO ORDER AS TO COSTS; APPROVED FOR REPORTING

Writ Petition No. 33829 of 2026, Lahore High Court, Lahore (2026 LHC 5409) · Bench: Raheel Kamran, J · Decided: 01.09.2026 · Uploaded: 01.09.2026

FACTS

Respondent No. 3 sought certified copies of the minutes of LESCO's 144th HR Meeting of 27.02.2023 and its 261st Board of Directors Meeting of 04.05.2025, both concerning the promotion of an officer, Muhammad Ramzan Butt. LESCO did not furnish them. On appeal under section 17 of the Right of Access to Information Act, 2017, the Pakistan Information Commission held that the promotion decision had already been taken and acted upon, so that the exclusion in section 7(b) no longer operated, and by order dated 04.05.2026 directed LESCO to furnish the information within ten days. LESCO challenged that order, contending that section 7(a), (b), (c) and (g) excluded the record and that section 16 exempted it; that section 6(d) makes only the final decision public record and does not open the deliberations preceding it; that disclosure would invade the personal privacy of identifiable employees whose service records, ACRs and remarks were reflected in the minutes; and that the Commission had acted beyond its mandate in keeping the matter for implementation.

LEGAL ISSUE

Whether minutes of meetings continue to enjoy the exclusion in section 7(b) of the Right of Access to Information Act, 2017 after the public body has taken its final decision on the matter deliberated; and whether the exemptions in section 16 relating to the deliberative process and to personal privacy justify withholding such minutes in their entirety.

HOLDING

The petition was dismissed. Section 6 declares specified categories to be public record subject to section 7, and section 7 in turn excludes noting on files, minutes of meetings and intermediary opinions — but in each case expressly 'subject to a final decision by the public body'. The legislature created no absolute or perpetual exclusion; the duration of the exclusion is controlled by the condition attached to it. Once LESCO had taken and acted upon the promotion decision, that condition ceased to operate, and the contrary construction would render the qualifying words redundant. The exemptions in section 16 operate on a different footing and must independently satisfy their own statutory tests: a general apprehension that disclosure may inhibit frankness in future decision-making does not establish the likelihood of prejudice required by section 16(1)(i)(iii); and the fact that minutes concern an identifiable officer and his promotion does not make the whole record a matter of his personal privacy, section 16(1)(c) itself excepting information relating to the functions of a public official. Where part of a record is genuinely exempt, section 16(1)(a)(i) requires severance, not wholesale withholding. Section 11(5) forbids requiring an applicant to give reasons, and sections 19(2)(e) and 20(1)(e) empower the Commission to order disclosure and secure implementation.

LEGAL SIGNIFICANCE

This is the most careful judicial treatment yet of the conditional exclusions in section 7 of the federal Act, and it resolves a question the Islamabad High Court's decision in Pakistan Telecommunication Authority v. Pakistan Information Commission (2024 YLR 929) did not reach. For public bodies — including DISCOs, regulators and statutory corporations — it means that deliberative material cannot be shielded indefinitely: the shield is temporal and falls away with the final decision. For requesters it establishes that a claim of privacy over a promotion file must be particularised and, where made out, met by severance rather than refusal. The judgment also confirms the Commission's power to keep a matter for implementation, which had been

questioned.

LEGAL PROPOSITIONS (VERBATIM)

— The constitutional guarantee, therefore, does not render every piece of information held by a public body unconditionally accessible; at the same time, any restriction upon the exercise of the right must have the sanction of law and remain within the parameters prescribed by the law.

— Consequently, the exclusions and exemptions contained elsewhere in the Act cannot be construed independently of this overarching legislative policy.

— Section 6 declares, inter alia, final orders and decisions to be public record, but does so expressly subject to section 7.

— Section 11(5) of the Act of 2017 expressly provides that in no case shall an applicant be required to provide reasons for his request.

LEGAL PRINCIPLES EXPOUNDED

The exclusion of minutes of meetings under section 7(b) is conditional and temporal; it ceases to operate once the public body takes the final decision to which the deliberations relate.

Source: *Insofar as minutes of meetings are concerned, however, the Legislature has not created an absolute or perpetual exclusion; rather, it has expressly made the exclusion "subject to a final decision by the public body".*

Authority: *Sections 6(d) and 7(a)-(c), Right of Access to Information Act, 2017*

A construction which would leave the qualifying words 'subject to a final decision by the public body' without effect cannot be attributed to the legislature.

Source: *The petitioner's contention that the minutes continue to remain excluded merely because they contain deliberations which preceded the final decision would render the words "subject to a final decision by the public body" redundant, which cannot be attributed to the Legislature.*

Authority: *Messrs Pakistan Television Corporation Limited v. Commissioner Inland Revenue (2017 SCMR 1136); Searle IV Solution (Pvt.) Ltd. v. Federation of Pakistan (2018 SCMR 1444)*

The deliberative-process exemption requires proof of the likelihood of the specified prejudice; the presence of deliberations in a record does not by itself attract it.

Source: *The exemption, therefore, is not attracted merely because a record contains deliberations; the statutory test as to the likelihood of the specified prejudice must also be satisfied.*

Authority: *Section 16(1)(i)(iii), Right of Access to Information Act, 2017*

Information concerning a public body's decision-making about a public office is not converted into private information merely because it identifies an officer; where part of a record is exempt, it must be severed and the remainder disclosed.

Source: *The mere fact that the minutes concern an identifiable officer and relate to his promotion does not, however, make the entire record a thing of his personal privacy.*

Authority: *Sections 7(g), 16(1)(a)(i) and 16(1)(c), Right of Access to Information Act, 2017*

OPERATIVE ORDER

For the foregoing reasons, this Court finds no illegality, jurisdictional defect or misreading of the provisions of the Act of 2017 in the impugned order dated 04.05.2026. The petitioner's objections seek to sustain exclusions and exemptions beyond the scope prescribed by the Legislature and, therefore, do not warrant interference in constitutional jurisdiction. Consequently, the petition in hand is dismissed. There shall, however, be no order as to costs.

■ View Full Judgment

TRADEMARKS ORDINANCE, 2001 S. 117; INTELLECTUAL PROPERTY ORGANIZATION OF PAKISTAN ACT, 2012 S. 19; CODE OF CIVIL PROCEDURE, 1908 O. VII R. 10, O. XLIII R. 1 — AN EXCLUSIVE-JURISDICTION CLAUSE IN A FULLY PERFORMED SETTLEMENT AGREEMENT DOES NOT OUST THE INTELLECTUAL PROPERTY TRIBUNAL'S JURISDICTION OVER A SUBSEQUENT STATUTORY CLAIM FOR TRADEMARK INFRINGEMENT

Ghulam Ali Zahid Ch. and another v. Damas Jewellary LLC

FIRST APPEAL FROM ORDER DISMISSED; INTELLECTUAL PROPERTY TRIBUNAL DIRECTED TO CONCLUDE THE TRIAL PREFERABLY WITHIN SIX MONTHS; APPROVED FOR REPORTING

F.A.O. No. 244285 of 2018, Lahore High Court, Lahore (2025 LHC 8701) · Bench: Raheel Kamran, J · Decided: 13.10.2025 · Uploaded: 31.08.2026

FACTS

Damas Jewellary LLC sued the appellants before the Intellectual Property Tribunal, Lahore under section 117 of the Trademarks Ordinance, 2001 for declaration, injunction and damages for infringement of the registered mark 'DAMAS'. The parties had earlier settled a commercial relationship by a Settlement Agreement dated 28.09.2010 which covered use of the mark, the winding up of the joint venture Damas Toomban (Pvt.) Limited and financial consideration, and which contained an exclusive-jurisdiction clause (clause 6). The plaintiff's case was that clause 2 permitted the first defendant to use the mark only until the completion date; that following default an extension was granted; that during the grace period the defendant struck off the joint venture company on 27.07.2011 and got the mark registered in his own name by concealment and misrepresentation; and that all obligations, including the final payment, were fully discharged on 26.01.2017, whereupon the exclusive right to the mark reverted to the plaintiff, the subsequent use in Lahore being a fresh act of infringement. The appellants applied under Order VII Rule 10 CPC for return of the plaint, contending that the true lis was contractual and had to be resolved under clause 6. The Tribunal dismissed that application on 01.08.2018.

LEGAL ISSUE

Whether a suit for trademark infringement founded on conduct after the full performance of a settlement agreement is a contractual dispute governed by the agreement's exclusive-jurisdiction clause in favour of foreign courts, or a distinct statutory cause of action within the exclusive jurisdiction of the Intellectual Property Tribunal.

HOLDING

The appeal was dismissed. The narrow inquiry under Order VII Rule 10 CPC is jurisdiction, not the merits of the defence: the plaint may be returned only if the court lacks competence to try the suit as framed by the plaintiff. The plaintiff had specifically pleaded full performance of the Settlement Agreement by the final payment of 26.01.2017; the appellants did not specifically deny that assertion but pleaded acquiescence, a plea which the Court held reacted against them. A jurisdiction clause governs disputes about the terms, implementation, interpretation or validity of the contract; once the contract has been fully performed its life as an executory instrument terminates, and subsequent unauthorised use of the mark is a new and independent statutory tort. The Tribunal being a court of specialised jurisdiction under the Trademarks Ordinance, 2001, it retains jurisdiction over the enforcement of statutory rights notwithstanding the parties' prior contractual dealings. The defences of non-performance, estoppel and the appellants' own registration are matters of evidence for trial and cannot found a return of the plaint.

LEGAL SIGNIFICANCE

A valuable authority for intellectual-property and cross-border commercial practice. It marks the point at which a foreign exclusive-jurisdiction clause exhausts itself: performance. The judgment gives a workable test — ask whether the dispute concerns the terms, implementation, interpretation or validity of the contract, or a fresh cause of action arising after it was discharged — and warns that the contrary view would give a settled contract's jurisdiction clause perpetual operation over every future dispute between the parties. It is equally useful on the limits of Order VII Rule 10 CPC: a defendant with a strong substantive defence, including a competing registration, cannot convert that defence into a want of jurisdiction.

LEGAL PROPOSITIONS (VERBATIM)

— The narrow inquiry at the stage of Order VII Rule 10 CPC is jurisdiction, not the merits of the defence.

— The jurisdiction clause of a private contract is meant to govern disputes concerning the terms, implementation, interpretation or validity of that contract.

— The Tribunal rightly observed that the dispute no longer relates to the existence, validity, or termination of the Settlement Agreement, but is a dispute simpliciter for the enforcement of statutory trademark rights.

— The existence of a strong defence does not automatically extinguish the Tribunal's jurisdiction to hear the suit.

LEGAL PRINCIPLES EXPOUNDED

A contract fully performed by its own terms ceases to have life as an executory instrument, and its jurisdiction clause ceases to govern disputes arising afterwards.

Source: *Where a contract, by its own terms, has been fully performed, its life as an executory instrument terminates. The subsequent alleged unauthorized use of a trademark is not a dispute over the breach of the completed contract; rather, it constitutes a new, independent tort of infringement, which is governed by the Trademarks Ordinance, 2001.*

Authority: *Section 117, Trademarks Ordinance, 2001; Order VII Rule 10, Code of Civil Procedure, 1908*

A construction which would give a jurisdiction clause in a discharged contract perpetual operation over all future disputes is absurd and must be rejected.

Source: *To hold otherwise would imply that a jurisdiction clause in a settled contract operates in perpetuity, governing every future commercial dispute between the parties, regardless of the cause of action, which is an absurd proposition.*

Authority: *Order VII Rule 10, Code of Civil Procedure, 1908*

Where a statutory right is sought to be enforced, the special court constituted for that purpose retains jurisdiction notwithstanding prior contractual dealings, unless the contract explicitly and validly bars future statutory claims.

Source: *Where a statutory right is sought to be enforced, the special court constituted for that purpose maintains jurisdiction, notwithstanding prior contractual dealings between the parties, unless the contract explicitly and validly bars future statutory claims, which the Settlement Agreement does not appear to do.*

Authority: *Trademarks Ordinance, 2001; Intellectual Property Organization of Pakistan Act, 2012*

Complex factual defences raising mixed questions of fact and law are for trial; they cannot justify return of the plaint at the interlocutory stage.

Source: *The Tribunal cannot, at the interlocutory stage while deciding application under Order VII Rule 10 CPC, return the plaint merely because the defendant has raised complex factual defences. The power to return a plaint is based only on the ground that the court is not competent to entertain the suit, which is not the case here.*

Authority: *Order VII Rule 10, Code of Civil Procedure, 1908*

OPERATIVE ORDER

In view of the foregoing detailed discussion, this Court finds no infirmity, illegality or jurisdictional error in the impugned order dated 01.08.2018 passed by the Intellectual Property Tribunal, Lahore. Consequently, the appeal stands dismissed. No order as to costs. Before parting with this order, it has been noticed that the civil suit from which instant appeal has arisen out, was filed in the year 2017. To prevent further delay in decision of the matter, the Intellectual Property Tribunal is directed to conclude the trial of the suit expeditiously, preferably within a period of six months.

■ **View Full Judgment**

Sindh High Court

4 judgments

RECOGNITION AND ENFORCEMENT (ARBITRATION AGREEMENTS AND FOREIGN ARBITRAL AWARDS) ACT, 2011 SS. 2(E), 3(3)(A), 6, 7; NEW YORK CONVENTION, 1958 ARTS. III, V, VII-1; CODE OF CIVIL PROCEDURE, 1908 SS. 20(C), 35, 35-A, 44-A, O. VII RR. 10-11, O. XXI R. 11(2) — A FOREIGN ARBITRAL AWARD MAY BE ENFORCED WHEREVER THE AWARD-DEBTOR HAS ASSETS; A CONTRACTUAL SUBMISSION TO FOREIGN COURTS DOES NOT CONTRACT OUT OF THE CONVENTION, AND THE DOCTRINE OF ELECTION HAS NO APPLICATION

The Resources Group International Limited v. Muhammad Ziaullah Khan Chishti and others

APPLICATIONS ALLOWED AS BETWEEN THE APPLICANT AND RESPONDENT NO. 1; THE JAMS FINAL AWARD RECOGNISED UNDER SECTION 6 OF THE 2011 ACT AND TO BE TREATED AS A JUDGMENT OF THE COURT, WITH A DECREE TO BE DRAWN; APPLICATIONS DISMISSED AGAINST RESPONDENTS 2 TO 5; APPROVED FOR REPORTING

J.M. Nos. 05 and 23 of 2025, High Court of Sindh at Karachi; 2026 SHC KHI 1634 · Bench: Adnan Iqbal Chaudhry, J · Decided: 31.08.2026 · Uploaded: 31.08.2026

FACTS

The applicant, TRG International Limited, sought recognition and enforcement of an award of the Judicial Arbitration and Mediation Center (JAMS), New York, given in two stages against the respondent, arising from a Preferred Stock Purchase Agreement dated 04.10.2005 concerning shares in TRGIL and TRG Pakistan Limited. By an award of 27.01.2025 — reissued on 04.02.2025 as a 'Partial Final Award' — the arbitrator declared the respondent's pledges of TRG-P and TRG-I shares to be in breach of the transfer restriction in clause 8.6(a), enjoined future non-compliance, exempted shares purchased between 04.10.2005 and 10.10.2022, and required release of the existing pledges if and when the Pakistani court lifted its injunction. A Final Award of 22.04.2025 added attorney's fees and costs of USD 9,053,606.34 together with USD 1,798.57 in JAMS fees. The United States District Court for the Southern District of New York confirmed the Final Award on 20.06.2025 and dismissed the respondent's cross-petition to vacate and his subsequent motion to stay; the Supreme Court of Bermuda enforced it on 04.07.2025. The respondent resisted enforcement in Pakistan on ten grounds, including the exclusive-jurisdiction clauses of the SPA, want of territorial jurisdiction at Karachi, premature filing under Rule 24(k) of the JAMS Rules, the doctrine of election, misinterpretation of clause 8.6(a), the quantum of costs, and public policy.

LEGAL ISSUE

Whether a foreign arbitral award may be recognised and enforced in Pakistan where the underlying agreement submits the parties to the exclusive jurisdiction of the courts of New York; whether the High Court of Sindh has territorial jurisdiction; whether the applicant's parallel confirmation and enforcement proceedings in New York bar enforcement here on the doctrine of election; and whether the quantum of costs or an unrelated finding of this Court engages the public-policy exception in Article V-2(b).

HOLDING

Every objection was rejected and the award recognised. Clause 10.11 governs construction of the agreement and has no bearing on jurisdiction; clause 10.14 is expressly subject to the arbitration clause; and clause 10.16, which itself contemplates enforcement 'in any state or federal court having jurisdiction', deals only with enforcement proceedings in the United States. The parties nowhere agreed to forgo the jurisdiction of a Contracting State under the Convention. As to the character of the award, all that a Pakistani court need see is whether it falls within section 2(e) of the 2011 Act — an award made in a Contracting State — and the United States is one; nothing more is required. On territorial jurisdiction, section 3(3)(a) requires the CPC to be followed 'as nearly as may be', which signifies that its machinery serves the pro-enforcement scheme rather than impeding it; applying section 20(c), a cause of action arises at Karachi where the pledge exists, where the obligation to redeem may be pressed, and where the respondent's shareholding in a Karachi company constitutes a material asset. Premature filing was cured by the passage of time. The doctrine of election cannot be invoked against a Convention which contemplates enforcement in multiple jurisdictions, subject only to accounting for any recovery elsewhere. The objections to the arbitrator's interpretation and to the quantum of costs go to the merits and are beyond Article V; and the public-policy ground, construed narrowly, was not engaged.

LEGAL SIGNIFICANCE

This is the most comprehensive High Court treatment to date of the Recognition and Enforcement Act, 2011, and it will be the first port of call in any enforcement contest in Pakistan. Six points are of immediate practical use: an award may be a 'foreign arbitral award' here even if it is a domestic award where made; an exclusive-jurisdiction clause in favour of foreign courts is not a contracting-out of the Convention; the CPC applies to enforcement applications only 'as nearly as may be', and is not to be turned into an obstacle; territorial jurisdiction follows the situs of the assets or of the obligation sought to be enforced; parallel enforcement in several jurisdictions is a feature of the Convention scheme, not an abuse, subject to credit for recoveries; and a contractual costs entitlement is not to be measured against sections 35 and 35-A CPC. The Court's reaffirmation of the narrow public-policy exception, following Orient Power and Taisei, closes off the most commonly attempted line of resistance.

LEGAL PROPOSITIONS (VERBATIM)

— No-where did the parties agree not to invoke jurisdiction of a Court of a Contracting State pursuant to the New York Convention.

— From the standpoint of a Pakistani Court all that needs to be seen is whether the award falls within the definition of 'foreign arbitral award' in section 2(e) of the 2011 Act i.e. whether it is an award made in a Contracting State to the New York Convention or such other State as may be notified by the Federal Government in the official Gazette.

— The very scheme of the New York Convention is that enforcement proceedings may be brought in more than one jurisdiction.

— Costs under sections 35 and 35-A CPC are at the discretion of the Court, whereas costs awarded by the arbitrator to the Applicant are under clause 10.16 of the SPA, the contract between the parties.

LEGAL PRINCIPLES EXPOUNDED

The machinery provisions of the CPC apply to proceedings under the 2011 Act only 'as nearly as may be', and must be employed to further the pro-enforcement scheme rather than to obstruct it.

Source: *The words "as nearly as may be" in the above provision, in my view, signify that proceedings under the 2011 Act are not to proceed as a suit under the CPC, and the machinery provisions of the CPC are to be employed 'as nearly as may be' to further the pro-enforcement scheme of the 2011 Act and New York Convention rather than to become an impediment to it.*

Authority: *Section 3(3)(a), Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011; China International Water & Electric Corp. v. National Highway Authority (2023 CLD 1400)*

Territorial jurisdiction under section 20(c) CPC is established where the award may be pressed for recognition — where the pledge exists, where the obligation may be enforced, and where the award-debtor holds material assets.

Source: *The declarations and restraint issued by the award against the Respondent vis-a-vis breach of the SPA by pledging TRGP-shares, can be pressed by the Applicant for recognition at Karachi where that pledge exists. For the same reason, the obligation imposed by the award upon Respondent to redeem those shares, can also be pressed at Karachi.*

Authority: *Section 20(c), Code of Civil Procedure, 1908; section 3(3)(a), Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011*

The doctrine of election cannot be invoked against the Convention; multiple enforcement proceedings are contemplated, subject to credit for any recovery made elsewhere.

Source: *That is of course not to say that the Applicant may be unjustly enriched by way of multiple enforcement proceedings, for any recovery made under the award in any other jurisdiction will be taken into account while enforcing the award in this jurisdiction.*

Authority: *Article III, New York Convention, 1958; Karaha Bodas Co., LLC v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara, 335 F.3d 357 (5th Cir. 2003)*

The grounds of refusal in Article V are exhaustive and narrowly construed; objections going to the merits of the award are outside them, and the public-policy exception cannot be used to smuggle them back in.

Source: *The public policy ground cannot be used to examine the merits of a foreign arbitral award or to create more grounds of defence that are not provided for in the Convention, such as misapplication of the law of Pakistan by the arbitrator in making the award or the arbitrator's decision being contrary to the law of Pakistan.*

Authority: *Taisei Corporation v. A.M. Construction Company (Pvt.) Ltd. (2024 SCMR 640); Orient Power Company (Pvt.) Ltd. v. Sui Northern Gas Pipelines Ltd. (2021 SCMR 1728); section 7, Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011*

The Convention dispenses with double exequatur: recognition in a Contracting State does not depend on confirmation of the award in the country where it was made.

Source: *The New York Convention eliminated the requirement of "double exequatur" i.e. proceedings in a Contracting State for recognition and enforcement of a foreign arbitral award are not dependent upon obtaining a decision for confirmation of the award in the country where the award was issued (the first "exequatur"), neither on a decision for confirmation at the place of enforcement of the award (the second "exequatur").*

Authority: *Taisei Corporation v. A.M. Construction Company (Pvt.) Ltd. (2024 SCMR 640); Article III, New York Convention, 1958*

OPERATIVE ORDER

JM No. 05/2025 and JM No. 23/2025 are allowed as between the Applicant and Respondent, Muhammad Ziaullah Khan Chishti, as follows. The Final Award dated 22.04.2025, inclusive of the Partial Final Award dated 04.02.2025, reproduced in para 5 and 8 supra (the award), rendered by the Judicial Arbitration and Mediation Center (JAMS), New York, USA, is hereby recognized under section 6 of The Recognition and Enforcement (Arbitration Agreement and Foreign Arbitral Awards) Act, 2011. Consequently, the award shall be treated as judgment of this Court. A decree shall be drawn accordingly. ... To execute the award/decree, the Applicant may make an application under Order XXI Rule 11(2) CPC, as nearly as be, so as to specify the mode in which the assistance of the Court is required. The JMs shall be tagged to the execution application.

■ **View Full Judgment**

SINDH SALES TAX ON SERVICES ACT, 2011 SS. 8, 9, 17, 23, 30, 43, 44, 45, 63, 65(1)(B); SALES TAX ACT, 1990 SS. 33, 34; SINDH SALES TAX ON SERVICES RULES, 2011 RR. 13, 14 — PENALTY UNDER SECTION 43 REQUIRES PROOF OF MENS REA; DEFAULT SURCHARGE UNDER SECTION 44 DOES NOT. THE REFERENCE JURISDICTION DOES NOT EXTEND TO QUESTIONS OF FACT

Sindh Revenue Board, Karachi v. M/s. Fumicon Services (Pvt) Ltd., Karachi (and three connected references)

QUESTION OF LAW ANSWERED IN THE AFFIRMATIVE, IN FAVOUR OF THE RESPONDENTS AND AGAINST THE APPLICANT BOARD; REFERENCE APPLICATIONS DISPOSED OF WITH NO ORDER AS TO COSTS; APPROVED FOR REPORTING

Spl. Sales Tax Reference Applications Nos. 67 of 2019, 02 of 2024, 21 of 2024 and 158 of 2025, High Court of Sindh at Karachi; 2026 SHC KHI 1646 · Bench: Agha Faisal and Dr. Shah Nawaz Memon, JJ (judgment by Dr. Shah Nawaz Memon, J) · Decided: 04.09.2026 · Uploaded: 04.09.2026

FACTS

In four connected references the Sindh Revenue Board challenged orders of the Appellate Tribunal, Sindh Revenue Board deleting penalties imposed under Serial Nos. 2 and 3 of the Table to section 43 of the Act of 2011 — the one for failure to furnish returns by the due date, the other for failure to deposit tax due in time. Taking Reference No. 67 of 2019 as illustrative, the respondent, registered for fumigation services, was found not to have deposited Sindh sales tax of Rs. 109,299 for several tax periods and not to have e-filed returns for July to November 2016. By Order-in-Original of 23.06.2017 the Assistant Commissioner assessed the tax at Rs. 109,299 and imposed penalties of Rs. 1,315,654 and Rs. 412,329 — computed by multiplying the prescribed amounts by the number of months of default. The appeal was dismissed for non-prosecution. The Tribunal found that by then the respondent had deposited Rs. 255,488 against an assessed liability of Rs. 109,299 and had filed every return; that the defaults were attributed to the director's personal and health difficulties and the departure of the staff who operated the electronic filing; and that willfulness had nowhere been established. Before the High Court, counsel for the Board fairly conceded that mens rea is required, confining their argument to the facts.

LEGAL ISSUE

Whether, for the imposition of a penalty under section 43 of the Sindh Sales Tax on Services Act, 2011, the department must establish that the default of the registered person was willful, that is to say, attended by an element of mens rea.

HOLDING

The question was answered in the affirmative. Notwithstanding the concession, the Court decided the point on the merits because it governs many pending and future references. Applying the presumption in Hardcastle Waud (PLD 1967 SC 1) that mens rea is an ingredient of every offence unless excluded by express words or necessary implication, and the legislative history by which the Finance Act, 2005 inserted 'whether willfully or otherwise' into section 34 of the Sales Tax Act, 1990 but left section 33 untouched, the Court held that the Sindh legislature — legislating six years later with knowledge of that history — reproduced the amended section 34 in its section 44 including the critical words, and deliberately omitted them from section 43 in the very same Chapter. The internal features of section 43 point the same way: its heading and opening words speak the language of criminality; 'shall be liable to' confers a discretion; several entries escalate into prosecution and imprisonment; clause (c) of Serial No. 3 grades liability by blameworthiness by exempting a first miscalculation in a year; and there is no non obstante clause or self-executing formula. The two provisions serve different purposes — surcharge is compensatory, penalty punitive, and punishment presupposes blameworthiness. The Board's factual submissions were held to be outside the reference jurisdiction.

LEGAL SIGNIFICANCE

This is the answer to the question the Supreme Court expressly left open in Byco Petroleum when it remanded the section 33 issue, and it completes the scheme the same Bench began in Itecknologi (decided 21.08.2026) on section 44. The result is a clean two-part rule that applies equally to the federal and Sindh statutes: pay late innocently and you answer in surcharge; you answer in penalty only when the default is your fault. Three features make the judgment unusually useful. First, it identifies five internal indicia within a penalty provision from which the retention of mens rea may be inferred — a template for arguing the same point under other fiscal statutes. Secondly, it makes clear that the requirement does not disarm the assessing officer but structures his discretion, forbidding mechanical multiplication of monthly penalties without any assessment of the quality of the conduct. Thirdly, its restatement of the limits of the reference jurisdiction, collecting the authorities from Haji Ibrahim Ishaq Johri to Khudadad Heights and Abdul Karim, is the fullest recent treatment and will be cited far outside the sales tax field.

LEGAL PROPOSITIONS (VERBATIM)

— The differential treatment of two adjacent sections of one Chapter, drafted at one time by one hand, cannot be put down to inadvertence.

— A penalty compensates no one; it punishes, and it deters. Punishment presupposes blameworthiness.

— The number of defaults measures persistence; it does not, of itself, establish willfulness.

— The registered person who pays late but innocently answers to the exchequer in surcharge; he answers in penalty only when his default is his fault.

LEGAL PRINCIPLES EXPOUNDED

A penalty under section 43 of the Sindh Sales Tax on Services Act, 2011 cannot be imposed on the mere occurrence of default; the department must first establish culpability, whereupon the burden of explanation shifts to the registered person.

Source: *A penalty under section 43 of the Sindh Sales Tax on Services Act, 2011 may not be imposed upon the mere occurrence of a default. The department must establish, upon the record of the adjudication, that the default was willful, contumacious, dishonest or otherwise attended by mens rea; the burden lies in the first instance upon the department, and only upon its discharge does the registered person bear the burden of explanation.*

Authority: *Section 43, Sindh Sales Tax on Services Act, 2011; Pakistan v. Hardcastle Waud (Pakistan) Ltd. (PLD 1967 SC 1)*

Mens rea is presumed to be an ingredient of every offence, statutory offences included, unless the legislature has excluded it by express words or necessary implication.

Source: *Even in the case of a statutory offence the presumption is that mens rea is an essential ingredient unless the statute creating the offence by express terms or by necessary implication rules it out.*

Authority: *Pakistan through the Secretary, Ministry of Finance v. Hardcastle Waud (Pakistan) Ltd. (PLD 1967 SC 1); Hindustan Steel Ltd. v. State of Orissa (AIR 1970 SC 253)*

The requirement of mens rea structures rather than removes the officer's discretion: the penalty is to be imposed, proportionately, where the default is culpable and withheld where it is not.

Source: *What the requirement forbids is the mechanical imposition of the maximum, by mere arithmetic upon a tabulation of defaults, without any determination of the quality of the conduct*

Authority: *Section 43, Sindh Sales Tax on Services Act, 2011; Shamroz Khan v. Muhammad Amin (PLD 1978 SC 89); G. M. Pakistan Railways v. Muhammad Rafique (2013 SCMR 372)*

The Appellate Tribunal is the final fact-finding forum; in reference jurisdiction the High Court takes the facts as recorded and answers only questions of law.

Source: *It hardly needs any emphasis that as a final fact-finding body the Tribunal's finding of fact is conclusive, and the High Court cannot go behind it, unless it is shown that there was no evidence on which the Tribunal could properly arrive at its conclusions or the Tribunal misdirected itself in law.*

Authority: *Section 63, Sindh Sales Tax on Services Act, 2011; Messrs Squibb Pakistan Pvt. Ltd. v. Commissioner of Income Tax (2017 SCMR 1006); Haji Ibrahim Ishaq Johri v. Commissioner of Income Tax (1993 SCMR 287); Commissioner Inland Revenue v. Messrs Khudadad Heights (2025 SCMR 716)*

Default surcharge and penalty occupy distinct fields: the former is a strict compensatory liability attracted 'whether wilfully or otherwise'; the latter is punitive and requires culpability.

Source: *The two sections occupy distinct fields: default surcharge is a strict, compensatory liability, attracted upon the occurrence of default "whether wilfully or otherwise", in respect of which questions of intention are irrelevant; penalty under section 43 is a punitive liability, of which culpability is an essential ingredient.*

Authority: *Sections 43 and 44, Sindh Sales Tax on Services Act, 2011; Commissioner Inland Revenue v. M/s. Byco Petroleum Pakistan Ltd. (Civil Petitions Nos. 1221-K to 1257-K and 1290-K to 1299-K of 2022, order dated 05.07.2024); Messrs New Era Fabrics v. Appellate Tribunal Inland Revenue (2025 PTD 1519)*

OPERATIVE ORDER

For the foregoing reasons, the question framed in paragraph 2 above is answered in the affirmative, in favour of the respondents and against the applicant Board, in the following terms. A penalty under section 43 of the Sindh Sales Tax on Services Act, 2011 may not be imposed upon the mere occurrence of a default. The department must establish, upon the record of the adjudication, that the default was willful, contumacious, dishonest or otherwise attended by mens rea; the burden lies in the first instance upon the department, and only upon its discharge does the registered person bear the burden of explanation. The officer's power under section 43 is a discretion, to be exercised judicially: to impose a penalty, proportionate to the gravity of the offence, where the default is culpable; and to abstain where it is not. The learned Appellate Tribunal, having found as a fact in each of these references that willful default was not established, committed no error of law in deleting the penalties, and its orders do not call for interference in terms of section 63(5) of the Act, 2011. ... The reference applications stand disposed of in the above terms, with no order as to costs.

■ **View Full Judgment**

FAMILY COURTS ACT, 1964 S. 17; QANUN-E-SHAHADAT ORDER, 1984; CONSTITUTION OF PAKISTAN, 1973 ART. 199 — A REGISTERED NIKAHNAMA CARRIES A PRESUMPTION OF TRUTH EXTENDING TO ITS ENTRIES; A PLEA OF FORGERY NOT PLEADED CANNOT BE TRIED, AND THE RULES OF PRIMARY AND SECONDARY EVIDENCE DO NOT GOVERN FAMILY COURT PROCEEDINGS

Mst. Najeeban v. Sartaj Ali

PETITION ALLOWED; APPELLATE JUDGMENT SET ASIDE TO THE EXTENT OF DOWER AND THE TRIAL COURT'S DECREE RESTORED; MECHANISM PRESCRIBED FOR WORKING OUT THE DOWER DECREE; NO ORDER AS TO COSTS; APPROVED FOR REPORTING

C.P. No. S-101 of 2025, High Court of Sindh, Bench at Sukkur; 2026 SHC SUK 1670 · Bench: Arbab Ali Hakro, J · Decided: 07.09.2026 (heard 24.08.2026) · Uploaded: 07.09.2026

FACTS

The petitioner married the respondent, a serving member of the Pakistan Army, on 24.11.2014; a daughter was born of the marriage. Column No. 13 of the Nikahnama recorded the dower as 00-10 ghuntas of agricultural land in Deh Dato Dasti, Taluka Mirwah. The respondent divorced her by a deed on stamp paper on 08.07.2020, and she sued for maintenance, dowry articles and dower. His written statement admitted the Nikah, rukhsati and talaq, asserted that dower was fixed at Rs. 500 and paid at the Nikah, and claimed he owned no land — but nowhere pleaded that the Nikahnama was forged or interpolated. He produced a Nikahnama of his own showing dower of Rs. 500 only in the course of his evidence on 29.08.2023, and the plea that the petitioner's Nikahnama was 'false, fake and bogus' was raised for the first time in objections filed in the High Court on 24.08.2026. The petitioner produced her own Nikahnama, the identical Nikahnama of her sister married at the same ceremony before the same Nikah Khawan and witnesses, and the licensed Nikah Registrar, who deposed that the respondent had admitted 10 ghuntas in lieu of dower. The trial court decreed the suit; the Additional District Judge maintained maintenance and dowry articles but dismissed the dower claim for non-production of the original Nikahnama and non-examination of the marriage witnesses.

LEGAL ISSUE

Whether the appellate court could dismiss a claim to dower recorded in a registered Nikahnama on grounds of secondary evidence and non-examination of marriage witnesses, where forgery was never pleaded, where the Nikah Registrar proved the entry, and where the respondent's own admissions supported the claim.

HOLDING

The petition was allowed. The Court identified five infirmities. First, the dower issue was decided on a case never pleaded: an imputation of forgery must be specifically pleaded and particularised before it can be tried, and no issue as to genuineness was struck or sought. Secondly, the rejection of the Nikahnama under the rule of primary and secondary evidence was a patent error of law, section 17 of the Family Courts Act, 1964 excluding the Qanun-e-Shahadat, 1984 and the CPC from Family Court proceedings, and a Nikah Registrar being a public officer whose registered Nikahnama is a public document. Thirdly, the finding that the original was not produced was contrary to the record, the trial court having noted its production by statement of counsel without objection. Fourthly, material evidence went unnoticed, including the respondent's admissions that agricultural land was registered in his khata in 2018, that Survey No. 504 stands in his khata, and that his salary was Rs. 45,000 and not Rs. 20,000. Fifthly, absence of the survey number in Column No. 13 was no ground for dismissal, the deh being named and a mechanism being available on Dr. Asma Ali (PLD 2011 SC 221). The non-availability of the local council's copy was an official lapse not to be visited on the bride.

LEGAL SIGNIFICANCE

A carefully reasoned family judgment with wide application. It restates, and applies with precision, the presumption of truth attaching to a registered Nikahnama recently reaffirmed in Mst. Fakhra Jabeen v. Wasif Ali (PLD 2026 SC 20), and identifies with unusual clarity the four ways in which a husband who disputes the entries may prove his case — a certified copy from the local council, an application to the controlling authority to correct the register, confrontation of the Nikah Registrar with a specific case, or evidence in rebuttal — none of which was attempted here. Its holding that section 17 of the Family Courts Act ousts the Qanun-e-Shahadat, so that the primary/secondary evidence rule has no application before a Family Court, will be relied on constantly. The judgment also models the correct approach to constitutional jurisdiction in

family causes: interference only for misreading, non-reading, non-consideration of material evidence, erroneous assumption of fact or patent error of law, and no re-weighing of testimony.

LEGAL PROPOSITIONS (VERBATIM)

— The constitutional jurisdiction is neither a substitute for a second appeal nor a forum for the reappraisal of evidence in family causes.

— The first infirmity is fundamental. The dower issue was decided on a case that was never pleaded.

— Bare oral assertion cannot prevail over unrebutted documentary evidence.

— Property so recorded requires no separate deed and is not compulsorily registrable.

LEGAL PRINCIPLES EXPOUNDED

A registered Nikahnama is a public document carrying a presumption of truth which extends to the entries recorded in it.

Source: *a principle reaffirmed in the recent pronouncement that a presumption of truth attaches to the Nikahnama, which upon registration enjoys the status of a public document, the presumption extending to the entries recorded in it*

Authority: *Mst. Fakhra Jabeen v. Wasif Ali (PLD 2026 SC 20); Ashiq Ali v. Mst. Zamir Fatima (PLD 2004 SC 10); Zubaida Bibi v. Majidan (1994 SCMR 1978)*

Parties are bound by their pleadings; an allegation of forgery must be specifically pleaded and particularised, and evidence supporting an unpleaded case must be excluded.

Source: *Parties are bound by their pleadings; evidence adduced in support of a contention not pleaded is to be excluded, and the decision of a case cannot rest upon it*

Authority: *Combind Investment (Pvt.) Ltd. v. Wali Bhai (PLD 2016 SC 730); Sardar Muhammad Naseem Khan v. Returning Officer, PP-12 (2015 SCMR 1698); Essa Engineering Company (Pvt.) Ltd. v. Pakistan Telecommunication Company Ltd. (2014 SCMR 922)*

The Qanun-e-Shahadat and the CPC are excluded from proceedings before a Family Court, so the rule governing primary and secondary evidence has no application there.

Source: *The second infirmity is a patent error of law. The Nikahnama was rejected under the rule on primary and secondary evidence. That rule had no application.*

Authority: *Section 17, Family Courts Act, 1964; Dr. Asma Ali v. Masood Sajjad (PLD 2011 SC 221); Hammad Ali Khan v. Mst. Sadia Akbar (2024 MLD 1445)*

Once a registered Nikahnama is produced and its author examined, the burden shifts to the husband, who must rebut the entries with strong evidence.

Source: *He who contends that the entries are incorrect must rebut them with strong evidence, failing which the Court is bound to affirm them*

Authority: *Muhammad Aslam v. Suraya (PLD 2000 Lahore 355)*

Dower is the exclusive right of the wife, and an unconditional declaration of dower in the form of immovable property vests ownership in her upon execution of the Nikahnama.

Source: *Dower is the exclusive wife's right, and an unconditional declaration of dower in the form of immovable property vests her ownership upon the execution of the Nikahnama.*

Authority: *Mst. Fakhra Jabeen v. Wasif Ali (PLD 2026 SC 20); Faqraz Bibi v. Elahi Bakhsh (1994 SCMR 686); Hussana v. Ghufrania (2003 YLR 250)*

The loss of the local council's copy of a Nikahnama is an official lapse for which the Registrar and the council must answer; it cannot divest the document of the presumption which the law attaches to it.

Source: *The non-availability of the council's copy is an official lapse for which the Registrar and the council must answer; it cannot be visited upon the bride so as to divest a registered Nikahnama of the presumption which the law attaches to it, the more so when the remedy against a defective register lay with the respondent and was never invoked.*

Authority: *Muhammad Aslam v. Suraya (PLD 2000 Lahore 355); Mst. Nabeela Shaheen v. Zia Wazeer Bhatti (PLD 2015 Lahore 88)*

OPERATIVE ORDER

For the foregoing reasons, this petition is allowed. The judgment and decree dated 11.03.2025 passed in Family Appeal No. 48 of 2024 are set aside to the extent of dower, and the judgment dated 13.05.2024 and the decree

dated 18.05.2024 passed in Family Suit No. 133 of 2020 are restored to that extent. For clarification, without enlarging the relief granted by the learned trial Court, the decree for dower shall be worked out as follows: the learned Family Court shall requisition the revenue record and, if the respondent holds agricultural land in Deh Dato Dasti, Taluka Mirwah, shall direct the concerned revenue authority to transfer 00-10 ghuntas thereof in the name of the petitioner; failing which, it shall cause the average market value per ghunta of agricultural land in that deh to be determined through an officer of the revenue hierarchy not below the rank of Mukhtiarkar, and shall recover the value of 00-10 ghuntas as arrears of land revenue. The decree in respect of the maintenance of the minor and of the dowry articles is maintained. As the suit was instituted in July 2020, execution shall be taken up and concluded without further delay. There shall be no order as to costs.

■ View Full Judgment

CONSTITUTION OF PAKISTAN, 1973 ARTS. 184(3), 199; ANTI-TERRORISM ACT, 1997 SS. 2(I), 19(1); CODE OF CRIMINAL PROCEDURE, 1898 S. 173; SINDH TRIBUNALS OF INQUIRY ORDINANCE, 1969 — A HIGH COURT CANNOT DIRECT THE CONSTITUTION OF A JOINT INVESTIGATION TEAM OR SUPERVISE AN ONGOING CRIMINAL INVESTIGATION IN ITS CONSTITUTIONAL JURISDICTION

Mir Hassan Ali Khan and others v. Province of Sindh and others

PETITION DISPOSED OF IN TERMS OF THE DIRECTIONS RECORDED, WITH LIBERTY TO THE PETITIONERS TO AVAIL THEIR REMEDIES UNDER THE LAW; APPROVED FOR REPORTING

C.P. No. D-5400 of 2026, High Court of Sindh at Karachi; 2026 SHC KHI 1641 · Bench: Adnan-ul-Karim Memon and Muhammad Jaffer Raza, JJ (judgment by Muhammad Jaffer Raza, J) · Decided: 31.08.2026 · Uploaded: 31.08.2026

FACTS

The petitioners are the parents and sister of the deceased Mir Raza Ali Khan, in respect of whose disappearance and subsequent death FIR No. 795/2026 was registered at Police Station Ferozabad, Karachi under sections 365, 302 and 201 PPC. Dissatisfied with the ongoing investigation, they sought a direction to the respondents to constitute a Joint Investigation Team, relying on Sultan Ali v. Province of Sindh (C.P. No. D-1998/2025, Circuit Court Hyderabad) and the Supreme Court's orders in the Fake Bank Accounts matter (2018 SCMR 1851 and 2019 SCMR 332). By order dated 24.08.2026 the Court framed three questions: whether its constitutional jurisdiction can be invoked to direct constitution of a JIT; whether it can substitute, supervise or affect the statutory criminal investigation and the submission of a report under section 173 Cr.P.C.; and whether, absent a gazette notification under the Sindh Tribunals of Inquiry Ordinance, 1969, a case of interference is made out. The Advocate General and the Prosecutor General, while empathising with the petitioners, opposed both reliefs. During the hearing a gazette notification dated 24.08.2026 constituting a Single-Member Commission of Inquiry under the Ordinance was placed on record, and the Commission had commenced proceedings.

LEGAL ISSUE

Whether a High Court, in constitutional jurisdiction, may direct the constitution of a Joint Investigation Team, and whether it may supervise or interfere with an ongoing criminal investigation before a report under section 173 Cr.P.C. has been submitted.

HOLDING

Both questions were answered against the petitioners. On the first, the only statutory source cited was section 19(1) of the Anti-Terrorism Act, 1997, but the FIR contained no offence under that Act, and even if it had, constituting a JIT would remain the prerogative of the Government. Sultan Ali was distinguishable — it concerned alleged political victimisation and even there the Division Bench refused the relief — and 'institutional sabotage' could not be established without adverting to contested factual assertions, which is impermissible in writ jurisdiction. The Fake Bank Accounts orders did not assist, having been made by the Supreme Court in exercise of suo motu jurisdiction under Article 184(3). On the second, the Court held it settled that a High Court ought not to interfere with an ongoing investigation or assume the role of investigator, a propensity deprecated by the Supreme Court in Sughran Bibi. The third question was rendered inconsequential by the gazette notification constituting the Commission of Inquiry, whose Terms of Reference

largely covered the ancillary relief sought, and with whose proceedings the Court declined to interfere.

LEGAL SIGNIFICANCE

A clear and, in practice, much needed statement of the limits of Article 199 in criminal investigations, and one likely to be cited in every petition seeking a court-directed JIT. Three points are decisive. First, the power to constitute a JIT is statutory and executive: absent a provision conferring it, and outside the Anti-Terrorism Act framework where it belongs to the Government in any event, no such direction can issue. Secondly, orders made by the Supreme Court under Article 184(3) in suo motu proceedings are not a template for the exercise of High Court writ jurisdiction. Thirdly, supervising an investigation would require the Court to pronounce on contested facts and on the competence of the prosecution — an exercise both impermissible and liable to influence the investigation itself. The concluding paragraph, in which the Court expresses its condolences while declining to let empathy displace the mandate of the law, is a model of how to refuse relief in a case of genuine tragedy.

LEGAL PROPOSITIONS (VERBATIM)

— Even if the said FIR included offences under the Act of 1997, it would still be the prerogative of the government to constitute a JIT pursuant to the above-noted provision.

— The "institutional sabotage" referred to by the learned counsel cannot be established without adverting to contested factual assertions, which needless to mention, is impermissible in the Writ jurisdiction of this Court.

— For the same reason we have deliberately abstained from recording contested factual assertions presented by the respective counsels.

— We are extremely mindful of the agonizing loss experienced by them; however, we cannot allow our empathetic impulses supersede the established mandate of the law.

LEGAL PRINCIPLES EXPOUNDED

A court which supervises or monitors a criminal investigation assumes a role the law forbids.

Source: *Such an approach sets up the Courts as monitors or supervisors of the investigation, a role which the law forbids and the precedent loathes.*

Authority: *Sughran Bibi v. The State (PLD 2018 SC 959)*

Interference in an ongoing investigation would require the Court to pronounce on contested facts and on the competence of the prosecution, which is impermissible and liable to influence the investigation.

Source: *The said exercise would involve this court rendering its opinion on the alleged discrepancies and incompetence of the prosecution and deep dive into the factual aspects of the case, an exercise which is impermissible and likely to influence ongoing investigation.*

Authority: *Article 199, Constitution of Pakistan, 1973; Muhammad Hanif v. The State (2019 SCMR 2029); Shahnaz Begum v. The Hon'ble Judges of the High Court of Sind and Baluchistan (PLD 1971 SC 677)*

Orders made by the Supreme Court in exercise of suo motu jurisdiction under Article 184(3) do not furnish a basis for the exercise of a High Court's writ jurisdiction.

Source: *Further, reliance placed by the learned counsel on the judgments rendered in the case of Fake Bank Accounts (supra) does not advance his case as the noted judgements were rendered by the Hon'ble Supreme Court exercising their suo moto jurisdiction under Article 184(3) of the Constitution.*

Authority: *Article 184(3), Constitution of Pakistan, 1973; Human Rights Case No. 39216-G of 2018 (2018 SCMR 1851; 2019 SCMR 332)*

OPERATIVE ORDER

The investigation officer in this case has affected appearance before us and has very categorically stated that he has been making his best possible efforts to investigate the matter and shall use all resources at his disposal, including engaging with other law enforcement/investigative agencies if the law mandates, to conclude the investigation impartially, fairly and expeditiously. The Petitioners are at liberty to avail all remedies available to them under the law to ensure that the investigation is carried out in a manner which is fair, impartial, efficient and transparent. They may further avail their remedy in accordance with law, in case they are dissatisfied with the investigation upon its conclusion. ... Consequently, this petition is disposed of in terms of the directions contained in paragraph number 12 above.

■ View Full Judgment