MANDVIWALLA & ZAFAR
ADVOCATES

CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Monday, 27 July 2026

Upload Window: 24-27 July 2026 (with 18 & 20 July Sindh stragglers)

SC: 1 judgment | LHC: 3 judgments | SHC: 4 judgments | FCC/IHC: no new entries

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

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Exclusions and coverage notes: Federal Constitutional Court — no fresh reportable uploads within the window; the latest FCC upload (22 July 2026) was carried in the issue of 23 July 2026. Islamabad High Court — the order-search portal returned no results for 24-27 July 2026. Sindh High Court — the SHC case-law portal, which was offline when the issues of 20 and 23 July 2026 were compiled, has since been restored; the stragglers recovered from that outage (H.C.A. No.102 of 2021 decided 20 July 2026, and the constitutional petitions announced on 18 July 2026) are reported in this issue. Suit B No.20 of 2022 (Bank Islami Pakistan Limited v. Hascol Petroleum Limited) is excluded, having already been reported in the issue of 20 July 2026. Constitutional Petition No. S-244 of 2025 (Muhammad Bilal Qureshi v. Muhammad Khurram Iftikhar, 2026 SHC KHI 1471), also announced on 18 July 2026, was screened and read in full but is not separately reported: it restates settled propositions on willful default after notice of change of ownership and on the supervisory scope of Article 199 in rent matters, which are covered by the two Sindh rent and family judgments reported below. No judgment in this window was excluded as a scanned image; every PDF extracted well above the 500-character threshold.

Supreme Court of Pakistan

1 judgment

NATIONAL ACCOUNTABILITY ORDINANCE 1999 SS.9(B), 32 & 32A; NATIONAL ACCOUNTABILITY (AMENDMENT) ACT 2026 (ACT XIV OF 2026); CONSTITUTION ARTS 175, 175F, 185 & 203F; CONSTITUTION (TWENTY-SEVENTH AMENDMENT) ACT 2025; CR.P.C. SS.426, 439, 496, 497 & 498; CPC SS.100, 101 & ORDER XXVII-A — TRANSFER OF THE ENTIRE APPELLATE JURISDICTION IN ACCOUNTABILITY MATTERS TO THE FEDERAL CONSTITUTIONAL COURT CARRIES WITH IT THE ANCILLARY POWER TO GRANT BAIL, SO THAT THE SUPREME COURT RETAINS NO RESIDUAL JURISDICTION OVER BAIL IN NAB CASES

Chairman, National Accountability Bureau through Prosecutor General Accountability, NAB, Islamabad v. Adeel Ahmed & another (heard with Aamir Mahmood v. The State through P.G. National Accountability Bureau, Islamabad)

JURISDICTIONAL OBJECTION UPHELD; BOTH CRIMINAL PETITIONS FOR LEAVE TO APPEAL (AND ALL LIKE PETITIONS AND APPEALS PENDING IN THE SUPREME COURT ARISING OUT OF THE NAO 1999) HELD TO STAND TRANSFERRED BY FICTION OF LAW TO THE FEDERAL CONSTITUTIONAL COURT; ANNOUNCED IN OPEN COURT AT ISLAMABAD ON 24.07.2026; APPROVED FOR REPORTING

Criminal Petition for Leave to Appeal No. 316 of 2018 & Criminal Petition for Leave to Appeal No. 1553 of 2025 · Bench: Muhammad Ali Mazhar, J. (authoring); Musarrat Hilali, J. (concurring note); Shahid Bilal Hassan, J. · Decided: 24.07.2026 · Uploaded: 24.07.2026

FACTS

Two criminal petitions for leave to appeal, both instituted before the Twenty-Seventh Constitutional Amendment, were heard together on a common jurisdictional question. In Crl. P.L.A. No. 316 of 2018 the Prosecutor General Accountability challenged the judgment dated 18.10.2017 of a Division Bench of the Peshawar High Court in Ehtesab Criminal Appeal No. 29 of 2010, whereby the accountability court's judgment of 30.10.2010 had been set aside and the respondent acquitted. In Crl. P.L.A. No. 1553 of 2025 the petitioner challenged the order dated 10.09.2025 of the Islamabad High Court in Crl. Misc. No. 1433-B of 2025 dismissing his post-arrest bail. When the matters were taken up on 02.04.2026, counsel for NAB objected that, following the National Accountability (Amendment) Act, 2026 (promulgated 05.03.2026), which substituted Section 9(b) and inserted Section 32A of the NAO conferring a right of second appeal to the Federal Constitutional Court, the Supreme Court no longer had jurisdiction in NAB matters. Notice was issued to the Attorney General for Pakistan under Order XXVII-A CPC. Counsel for the bail petitioner contended that, whatever the position on appeals, the Supreme Court could still entertain bail petitions of an under-trial prisoner, relying on the practice under Section 20 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 and on one bail order passed by the Court after the Amendment Act in which NAB had raised no jurisdictional objection.

LEGAL ISSUE

Whether, after the insertion of Article 175F of the Constitution by the Constitution (Twenty-Seventh Amendment) Act, 2025 and of Section 32A of the National Accountability Ordinance, 1999 by the National Accountability (Amendment) Act, 2026, the Supreme Court retains any jurisdiction in accountability matters — whether by way of appeal, or by way of the ancillary reliefs of post-arrest bail, pre-arrest bail, suspension of sentence and other interlocutory orders — or whether the whole of that jurisdiction now vests exclusively in the Federal Constitutional Court.

HOLDING

The Court held that jurisdiction is conferred only by the Constitution or by law and can neither be assumed nor abdicated. Article 185 now opens with the words 'subject to this Article and Article 175F', which impose a condition and establish a legal hierarchy, and the proviso to Article 185(3) expressly bars any appeal to the Supreme Court in cases to which Article 175F(1) applies. Section 32A of the NAO creates a substantive, unqualified and vested right of second appeal to the FCC, unencumbered by the preconditions that Sections 100 and 101 CPC attach to a civil second appeal, and the word 'decision' in Section 32A embraces both judgments and orders, including orders granting or refusing bail and orders on applications under Section 426 Cr.P.C. for suspension of sentence. The power to grant bail is ancillary and incidental to the principal appellate jurisdiction; a court without appellate jurisdiction has no legal hook on which to hang an order of bail, and could not in any event convert a petition into an appeal in order to grant it. Two parallel streams of jurisdiction over the same lis are impermissible, and forum shopping or forum convenience cannot supply jurisdiction. The right of second appeal, being a beneficial and remedial provision with retrospective effect on pending matters (though not on past and closed transactions), operates to transfer all pending NAB petitions and appeals to the FCC. The Federal Shariat Court analogy was rejected because Article 203F preserves the Supreme Court as the appellate forum for the FSC, whereas the amendments have removed that status in NAB matters. The earlier bail order passed without objection conferred no jurisdiction, since jurisdiction is regulated by law and not by consent or by the lapses of counsel. Musarrat Hilali, J., in a concurring note, added that Article 175(2) rejects any notion of inherent jurisdiction, that legislative silence is not an independent source of judicial power, that no casus omissus may be supplied, and that the maxim quando lex aliquid concedit concedere videtur et id sine quo res ipsa esse non potest vests all incidental powers in the FCC.

LEGAL SIGNIFICANCE

This is the Supreme Court's definitive ruling on the jurisdictional consequences of the Twenty-Seventh Amendment and the National Accountability (Amendment) Act, 2026 for accountability litigation, and it is of immediate practical importance to every practitioner with a NAB matter pending before the Supreme Court. It settles that the transfer of appellate jurisdiction to the Federal Constitutional Court is complete rather than partial, sweeping in bail (pre-arrest and post-arrest), suspension of sentence, transfer applications, review petitions and all miscellaneous applications; that petitions and appeals already pending stand transferred by fiction of law without further order; and that no litigant may elect the Supreme Court as a forum for interim relief while the substantive appeal lies elsewhere. The judgment also contains an extended restatement of the interpretive doctrines of 'subject to', harmonious construction, pith and substance and purposive interpretation, and a pointed judicial warning against populism, judicial overreach and the assumption of jurisdiction not conferred by law.

LEGAL PROPOSITIONS (VERBATIM)

— Two streams of parallel jurisdiction arising out of one and the same jurisdiction is not permitted in any law and is also against the judicial comity and discipline.

— The law disfavors forum shopping and cases without jurisdiction cannot be heard by this court on the preference and choices of litigants.

— Jurisdiction is not a matter of convenience or historical practice; it is a matter of constitutional allocation.

LEGAL PRINCIPLES EXPOUNDED

The power to grant bail is not free-standing but is tied to, and derived from, the court's constitutional or statutory appellate jurisdiction; where that appellate jurisdiction has been transferred to another forum, the court divested of it can neither intervene nor entertain bail petitions.

Source: *a court's power to grant bail is unswervingly knotted with constitutional or statutory appellate jurisdiction.*

Authority: *Article 175 and Article 175F of the Constitution read with Sections 32 and 32A, National Accountability Ordinance, 1999; doctrines of ancillary and incidental jurisdiction (Sindh Employees' Social Security Institution v. Adamjee Cotton Mills Ltd., PLD 1975 SC 32; ITO v. M.K. Mohammed Kunhi, AIR 1969 SC 430)*

One and the same lis cannot be split between two apex constitutional courts; parallel streams of jurisdiction over the same cause are unknown to law and offend judicial comity and discipline.

Source: *Two streams of parallel jurisdiction arising out of one and the same jurisdiction is not permitted in any law and is also against the judicial comity and discipline.*

Authority: *Article 175F read with Article 185 of the Constitution (as amended by the Constitution (Twenty-Seventh Amendment) Act, 2025)*

A litigant cannot choose his forum where the statute prescribes one; neither consent, nor the convenience of the parties, nor a prior lapse by counsel in failing to raise the objection, can confer jurisdiction on a court that the law has not vested with it.

Source: *The law disfavors forum shopping and cases without jurisdiction cannot be heard by this court on the preference and choices of litigants.*

Authority: *Article 175(2) of the Constitution; doctrine of coram non judice*

Article 175(2) requires the affirmative conferment of jurisdiction; jurisdiction cannot be inferred from the silence of a statute, and the Supreme Court cannot retain a jurisdiction merely because the transferring provision does not expressly mention the incidental relief sought.

Source: *The Supreme Court, therefore, cannot retain jurisdiction merely because a Statute is silent as silence is not an independent source of judicial power.*

Authority: *Article 175(2) of the Constitution; Padma Sundara Rao v. State of Tamil Nadu (2002) 3 SCC 533 (casus omissus) — per Musarrat Hilali, J. (concurring)*

Jurisdiction over post-conviction bail is not an independent head of jurisdiction but is incidental to the appellate jurisdiction, and therefore follows the appeal to the forum in which the appeal now lies.

Source: *jurisdiction to determine post-conviction bail is not independent but incidental to appellate jurisdiction.*

Authority: *Section 32A, National Accountability Ordinance, 1999 read with Articles 175, 175(2) and 175F of the Constitution; maxim quando lex aliquid concedit concedere videtur et id sine quo res ipsa esse non potest — per Musarrat Hilali, J. (concurring)*

OPERATIVE ORDER

The Court reached the finale that it has no jurisdiction to take cognizance in NAB cases in terms of Article 175F(a) of the Constitution read with Sections 32 and 32A of the National Accountability Ordinance, 1999. In consequence, all criminal petitions for leave to appeal and criminal appeals in which leave has been granted, pending in the Supreme Court and arising out of the National Accountability Ordinance, 1999, stand transferred by fiction of law to the Federal Constitutional Court. Musarrat Hilali, J. added, by way of concurring note, that bail petitions arising in proceedings in which appellate jurisdiction now vests in the Federal Constitutional Court under Section 32A of the NAO are not maintainable before the Supreme Court and lie before the Federal Constitutional Court, which by implication possesses all ancillary and incidental powers necessary for the effective exercise of its appellate jurisdiction. Announced in open Court at Islamabad on 24.07.2026. Approved for reporting.

■ **View Full Judgment**

Lahore High Court

3 judgments

CR.P.C. S.497; PPC SS.334, 337D, 337H, 337Q & 419 — INFIRMITY IS A DISTINCT AND INDEPENDENT STATUTORY GROUND OF BAIL, SEPARATE FROM BAIL ON MEDICAL GROUNDS, RESTING ON FUNCTIONAL INCAPACITY RATHER THAN ON DIAGNOSABLE ILLNESS

Iftikhar Ahmed v. The State, etc.

POST-ARREST BAIL ALLOWED ON THE GROUND OF INFIRMITY, ON BAIL BONDS OF RS.1,000,000 WITH ONE SURETY AND THREE CONDITIONS; APPROVED FOR REPORTING

2026 LHC 4824; Crl. Misc. No. 33164-B of 2026 · Bench: Muhammad Amjad Rafiq, J. · Decided: 23.07.2026 · Uploaded: 24.07.2026

FACTS

The petitioner, a doctor, performed the circumcision of the complainant's minor son. The procedure allegedly turned negligent, leading to infection, severe complications and a medical emergency that endangered the child's life. He was booked in FIR No. 2004 dated 24.05.2024 under Sections 334, 337D, 337H, 337Q and 419 PPC at Police Station Sabzazar, Lahore, and had been in continuous custody since 13.03.2025. He sought post-arrest bail under Section 497 Cr.P.C. resting his case not on the merits but solely on his failing health. A medical report prepared by the Superintendent, District Jail, Lahore, placed on record in obedience to the Court's directions, recorded that he suffers from Parkinsonism, a progressive degenerative disease of the brain from which full recovery is not expected; that he has difficulty in walking, slow speech and rigidity of limbs; that he had been sent repeatedly to Services Hospital, Lahore for neurological evaluation; and that he presently needs assistance for movement and for daily routine activities such as changing clothes and self-care, though he was said to be vitally stable. The Deputy Prosecutor General and counsel for the complainant opposed bail, urging that the injury to the child was grave and irreversible and that the jail report itself described the petitioner as vitally stable and adequately treated in custody.

LEGAL ISSUE

Whether 'infirmity' under the third proviso to Section 497 Cr.P.C. is a ground of bail distinct from bail on medical grounds; what test the Court must apply in assessing it; and whether a prisoner suffering from a progressive degenerative disease who is nonetheless described in the jail report as 'vitally stable' and under treatment in custody may be refused the concession on that account.

HOLDING

The Court held that Section 497 Cr.P.C. recognises infirmity as a separate and independent ground for bail even in heinous cases, and that the term 'infirm' is not confined to illness or disability in the narrow medical sense but extends to physical weakness, frailty or degeneration, whether from advancing age, congenital limitation or non-fatal disease impairing mobility. Infirmity is thus distinguished from bail on medical grounds, which requires demonstrable illness needing treatment: infirmity is a functional incapacity. The Court emphasised that the baseline living conditions of accused persons differ, that prison conditions — poor sanitation, contaminated water, overcrowding, chronic stress and inadequate diet — themselves generate infirmity, and that judicial assessment must take account of the effect of incarceration on the particular individual. It surveyed dictionary and lexical definitions in English and Urdu, the Quranic exemptions for the weak and sick from fasting and jihad, a line of Pakistani precedent on old age and infirmity, and comparative material from the United States (Eighth Amendment and the Federal Bail Reform Act), the United Kingdom (Bail Act 1976; PA v. Governor of HM Prison Lewes [2011] EWHC 704), India (Sanjay Jain v. Enforcement Directorate; Naresh Goyal v. Directorate of Enforcement) and the European Court of Human Rights (Kudla v. Poland). Bail in such cases is to be anchored in humanitarian considerations, equality before law and proportionality. Where a jail report confirming infirmity is on the record, the Court may grant bail without inquiring into the extent or severity of the condition; absent such a report, the Court must examine the prisoner itself. The petitioner's Parkinsonism placed him squarely within the category of an infirm person.

LEGAL SIGNIFICANCE

The judgment is a comprehensive and self-consciously doctrinal restatement of the infirmity ground under Section 497 Cr.P.C., a limb of the section that is frequently conflated in practice with bail on medical grounds. It supplies a workable test — functional incapacity to sustain ordinary pursuits, assessed against the individual's baseline and the realities of prison conditions — and lays down a clear evidential rule: a jail report confirming infirmity suffices, and the Court need not quantify the magnitude of the condition, while in the absence of a report the Court itself must see the prisoner. Its treatment of the prison environment as a generator of infirmity, and its framing of bail in such cases as a constitutional safeguard of dignity rather than an indulgence, gives practitioners a structured argument in cases involving elderly, degenerative or chronically debilitated accused, including in offences that are otherwise prohibitory in nature.

LEGAL PROPOSITIONS (VERBATIM)

— *Infirmity, by contrast, is a functional incapacity that undermines the accused's ability to endure incarceration without disproportionate suffering.*

— *In the legal discourse on bail, infirmity is not a mere medical condition but a constitutional concern.*

— *Thus, the prison environment itself becomes a crucible of infirmity, transforming detention into a punishment far harsher than the law intends.*

LEGAL PRINCIPLES EXPOUNDED

Infirmity under Section 497 Cr.P.C. is conceptually distinct from bail on medical grounds: the latter requires a demonstrable illness needing treatment, whereas infirmity is a functional incapacity which prevents the accused from bearing incarceration without disproportionate suffering.

Source: *Infirmity, by contrast, is a functional incapacity that undermines the accused's ability to endure incarceration without disproportionate suffering.*

Authority: *Third proviso to Section 497, Code of Criminal Procedure, 1898; PA v. Governor of Her Majesty's Prison Lewes [2011] EWHC 704; Sanjay Jain v. Enforcement Directorate (2023 DHC 4092)*

Infirmity in the bail context is not merely a clinical fact but a constitutional concern, engaging the guarantees of dignity and liberty and the prohibition on treatment that degrades the human

person.

Source: *In the legal discourse on bail, infirmity is not a mere medical condition but a constitutional concern.*

Authority: *Section 497, Code of Criminal Procedure, 1898; Kudla v. Poland (App. No. 30210/96, 35 Eur. H.R. Rep. 198 (2000))*

Conditions of detention — unhygienic food and water, overcrowding, contagion and chronic psychological stress — themselves produce infirmity, so that continued custody may inflict a punishment harsher than the law contemplates; the Court must therefore assess infirmity against the individual's own baseline of health and living conditions.

Source: *Thus, the prison environment itself becomes a crucible of infirmity, transforming detention into a punishment far harsher than the law intends.*

Authority: *Section 497, Code of Criminal Procedure, 1898; principles of humanitarian consideration, equality before law and proportionality*

Where a jail report is on the record confirming the prisoner's infirmity or illness, the Court may grant bail without inquiring into the extent or severity of the condition; where no such report exists, the Court must itself examine the prisoner and, if satisfied of infirmity, may grant bail without further medical investigation.

Source: *a jail report is placed on record confirming the infirmity or illness of the prisoner, the court may grant bail without delving into the extent or severity of the condition.*

Authority: *Section 497, Code of Criminal Procedure, 1898; Muhammad Nawaz v. The State (1998 P Cr. L J 166); Inshaullah v. The State (2024 YLR 1213)*

OPERATIVE ORDER

The petition was allowed on the ground of infirmity and the petitioner admitted to bail on furnishing bail bonds in the sum of Rs.1,000,000/- with one surety in the like amount to the satisfaction of the trial Court, subject to conditions that he shall not tamper with the prosecution evidence or threaten the prosecution witnesses; shall not leave the territorial jurisdiction of the Court without prior written permission from the investigating officer or trial court; and shall surrender his passport, if any, and make himself available for investigation and trial as and when required. Signed on 23.07.2026; approved for reporting.

■ **View Full Judgment**

PREVENTION OF SMUGGLING OF MIGRANTS ACT 2018 SS.3, 4, 6 & 7; EMIGRATION ORDINANCE 1979 SS.17 & 22; CR.P.C. S.497; ANTI-MONEY LAUNDERING ACT — RECEIPT OF FUNDS IN AN ACCOUNT NOT SHOWN TO BE OPERATED BY THE ACCUSED CANNOT, WITHOUT MORE, ESTABLISH PARTICIPATION IN MIGRANT SMUGGLING OR MEMBERSHIP OF AN ORGANISED CRIMINAL GROUP

Muhammad Tahir v. The State, etc.

POST-ARREST BAIL ALLOWED ON THE GROUND OF FURTHER INQUIRY, ON BAIL BONDS OF RS.500,000 WITH ONE SURETY AND THREE CONDITIONS; OBSERVATIONS DECLARED TENTATIVE; APPROVED FOR REPORTING

2026 LHC 4814; Crl. Misc. No. 41170-B of 2026 · Bench: Muhammad Amjad Rafiq, J. · Decided: 22.07.2026 (signed 24.07.2026) · Uploaded: 24.07.2026

FACTS

On the intervening night of 5 and 6 April 2026 a boat carrying migrants capsized off the Libyan coast, killing seventy-three persons including Ameer Hamza Shoukat. His brother lodged a complaint alleging that in 2025 Ameer Hamza had been deceived by one Luqman Hakeem, who held himself out as an overseas employment agent and contracted with the family for Rs.3.5 million to arrange travel to Italy. The family transferred Rs.200,000 to the account of Khurram Shahzad; Ameer Hamza was then sent to Libya via Saudi Arabia, where he was abducted and held in a confinement facility, his captors extracting a further Rs.440,000 to the account of Zohaib Haider, Rs.560,000 in instalments to AK Air Travels and Rs.900,000 to the account of Madina Traders, an entity in the name of the petitioner. FIR No. C-139 dated 09.04.2026 was registered under Sections 17 and 22 of the Emigration Ordinance, 1979 and Sections 3 and 6 of the Prevention of Smuggling of Migrants Act, 2018 at Police Station FIA CC, Gujrat. The inquiry itself concluded that the petitioner's accounts were not truly his own but were managed at the direction of one Akbar Ali of Gojra; yet the petitioner alone was singled out. He had been in custody since 19.04.2026 and no other offender had been arrested.

LEGAL ISSUE

What evidentiary threshold must an investigating agency meet to make out a prima facie case under the penal provisions of the Prevention of Smuggling of Migrants Act, 2018; and whether the transfer of funds into an account bearing the accused's name, in circumstances where the investigation itself records that the account was operated and controlled by another, is sufficient to deny bail.

HOLDING

The Court held that liability under Section 3 of the Act of 2018 turns on the word 'engage', which imports a deliberate and active role — direct (organising, transporting, facilitating) or indirect (financing, coordinating) — and not casual involvement, with 'attempts to engage' extending liability to substantial but incomplete efforts. It set out at length the investigative steps required to establish that participation: constitution of an authorised raiding party, search and seizure warrants, association of private witnesses, collection of registers, ledgers, receipts, devices, CNICs, travel documents and cheque books, electronic material including chats, images and bank statements, video recording of the accused's response when confronted, site inspection and verification of ownership or tenancy, similar-fact witness evidence, media material, agency licences and signboards, call detail records, and travel history together with correspondence with international agencies. Documents said to be forged cannot be treated as such unless verified by the issuing authority and the equipment used traced and demonstrated. Decisively, the Court held that the mere transfer of funds into an accused's account proves nothing unless directly connected to his involvement or to an organised group; the law permits no conviction on presumption and casts no obligation on an accused to justify every financial transaction. Here the investigators had established only that a sum was transferred to the account of Madina Traders and had themselves admitted that the account was operated and controlled by Akbar Ali, leaving the prosecution without evidence connecting the petitioner to an organised group or showing that the funds were received with his active knowledge. A case for further inquiry was made out. The Court criticised the failure to pursue the transnational dimension of the offence through mutual legal assistance and identified that omission, and the absence of any mechanism for it, as a gap in the law requiring amendment.

LEGAL SIGNIFICANCE

The order is significant for practitioners defending against the increasingly common practice of implicating account-holders in human smuggling and money-laundering prosecutions on the strength of a single financial transaction. It articulates the evidentiary minimum for a prima facie case under the Prevention of Smuggling of Migrants Act, 2018, provides a detailed investigative checklist against which the adequacy of an FIA inquiry may be tested, and lays down that an unexplained credit entry raises no presumption of complicity where the prosecution's own inquiry shows the account to have been under another's control. The judgment also contains a rare judicial call for the enactment of special rules of evidence and for legislative provision for mutual legal assistance in transnational organised crime.

LEGAL PROPOSITIONS (VERBATIM)

— Yet the principle remains clear that mere transfer of funds into an accused’s account is not sufficient proof unless it is directly connected to their involvement or linked to an organized group.

— The law does not permit conviction on presumption alone, nor does it compel the accused to justify every financial transaction.

— The evidentiary requirement demands that the prosecution establish the accused’s direct involvement through concrete proof, rather than relying solely on presumptions or suspicion.

LEGAL PRINCIPLES EXPOUNDED

A credit entry in an account bearing the accused's name is not, of itself, proof of participation in migrant smuggling; the prosecution must connect the transfer directly to the accused's own involvement or to an organised criminal group.

Source: *Yet the principle remains clear that mere transfer of funds into an accused’s account is not sufficient proof unless it is directly connected to their involvement or linked to an organized group.*

Authority: *Sections 3, 4, 6 and 7, Prevention of Smuggling of Migrants Act, 2018*

The burden of proof does not shift to the accused merely because a transaction is unexplained; criminal liability cannot rest on presumption, and no accused is obliged to account for every financial transaction passing through his account.

Source: *The law does not permit conviction on presumption alone, nor does it compel the accused to justify every financial transaction.*

Authority: *Sections 3 and 6, Prevention of Smuggling of Migrants Act, 2018; Section 497, Code of Criminal Procedure, 1898 (further inquiry); Hamid Ali v. The State (2009 SCMR 734); Akhtar v. Khawas Khan (2024 SCMR 476)*

Under Pakistan's anti-smuggling laws the investigating agency bears the burden of proving direct involvement by concrete, admissible material; suspicion and presumption are not substitutes for proof, and the evidentiary requirement is to be found in the penal provisions of the statute itself.

Source: *The evidentiary requirement demands that the prosecution establish the accused's direct involvement through concrete proof, rather than relying solely on presumptions or suspicion.*

Authority: *Section 3, Prevention of Smuggling of Migrants Act, 2018; Application by Hussain Nawaz Sharif (PLD 2019 Supreme Court 196)*

A document said to have been produced by an accused to facilitate smuggling cannot be treated as forged unless its authenticity is disproved by the issuing authority and the means of its preparation are traced and demonstrated.

Source: *In the course of investigation, documents produced by the accused to facilitate smuggling cannot be treated as forged unless their authenticity is verified by the issuing authority.*

Authority: *Section 4, Prevention of Smuggling of Migrants Act, 2018*

OPERATIVE ORDER

The petition was allowed and the petitioner admitted to post-arrest bail on furnishing bail bonds in the sum of Rs.500,000/- with one surety in the like amount to the satisfaction of the trial Court, subject to conditions against tampering with prosecution evidence or threatening witnesses, against leaving the territorial jurisdiction of the Court without prior written permission, and requiring surrender of his passport and availability for investigation and trial. The observations were declared tentative and without bearing on the merits at trial, with liberty to the trial Court to proceed in accordance with law, including cancellation of bail, in the event of misuse or of deliberate delay attributable to the petitioner. In parting, the Court urged the enactment of special rules of evidence framed with the counsel of all stakeholders in the criminal justice system. Signed on 24.07.2026; approved for reporting.

■ **View Full Judgment**

PPC S.376; CR.P.C. SS.340(2), 342, 382-B & 544-A — THE ABSENCE OF THE OFFENDER'S DNA FROM THE EPITHELIAL (NON-SPERM) FRACTION DOES NOT DIMINISH THE PROBATIVE VALUE OF A MATCHING PROFILE OBTAINED FROM THE SPERM FRACTION

Manazir Ali v. The State & another

APPEAL AGAINST CONVICTION DISMISSED; CONVICTION UNDER SECTION 376 PPC AND SENTENCE OF TWENTY-FIVE YEARS' RIGOROUS IMPRISONMENT WITH RS.500,000 COMPENSATION MAINTAINED; APPROVED FOR REPORTING

2026 LHC 4807; Criminal Appeal No. 31263 of 2022 · Bench: Syed Shahbaz Ali Rizvi, J.; Muhammad Amjad Rafiq, J. · Decided: 08.07.2026 (signed 23.07.2026) · Uploaded: 24.07.2026

FACTS

The appellant was convicted by the Additional Sessions Judge, Kot Momin, District Sargodha, by judgment dated 20.04.2022 in FIR No. 236 dated 02.07.2020 registered under Section 376 PPC at Police Station Midh Ranjha, District Sargodha, and sentenced to twenty-five years' rigorous imprisonment with a direction to pay Rs.500,000 to the victim as compensation under Section 544-A Cr.P.C., recoverable as arrears of land revenue, in default of which he was to undergo six months' simple imprisonment; the benefit of Section 382-B Cr.P.C. was extended. The allegation was that on 02.07.2020 at about 2:00 p.m. he raped the complainant's daughter while she was alone in her house. The prosecution produced nine witnesses, including the medico-legal officers, the complainant, a witness who reached the spot on hearing the victim's cry, the victim herself and the investigating officer, and tendered the Punjab Forensic Science Agency DNA report. The medico-legal report recorded tear, swelling and hyperaemia on the victim's private parts with a freshly ruptured hymen, and spermatozoa were identified on the internal and external vaginal swabs. The DNA profile from the sperm fraction of the external swab matched the appellant; the profile from the sperm fraction of the internal swab was a mixture of at least three individuals from which the appellant could not be excluded. In his statement under Section 342 Cr.P.C. the appellant denied the allegation and pleaded false implication arising from his father's earlier enmity with a relative of the complainant; he led no defence evidence and did not make a statement on oath under Section 340(2) Cr.P.C.

LEGAL ISSUE

Whether the failure of the forensic report to attribute the appellant's DNA to the epithelial (non-sperm) fraction of the external vaginal swab, that fraction being a mixture of at least four individuals from which no conclusion could be drawn, undermines the probative value of the matching DNA profile obtained from the sperm fraction; and whether the plea of false implication founded on a prior acquittal in an unrelated hurt case could be sustained.

HOLDING

The Court explained the science of differential extraction, by which a sexual assault sample is separated into a sperm fraction and an epithelial or non-sperm fraction, the latter being ordinarily dominated by the victim's own cells and therefore commonly described as the female fraction. Presence of an offender's DNA in the epithelial fraction is supportive but cannot by itself establish intercourse, ejaculation or penetration; recovery of his DNA from the sperm fraction, by contrast, is consistent with his being the source of the sperm cells recovered. Relying on the United States National Institute of Justice and John M. Butler's Advanced Topics in Forensic DNA Typing Methodology, the Court held that no forensic principle requires an offender's DNA to be present in both fractions, and that a profile from the sperm fraction alone may constitute strong forensic evidence provided validated methods and quality assurance standards were observed and the result is read with the whole body of evidence. On the facts, the medico-legal findings taken with the presence of spermatozoa established that rape had occurred, and the DNA match from the sperm fraction substantiated the charge. The defence of enmity was rejected because the acquittal relied upon was passed in 2021, after the FIR of 02.07.2020, and because a father would not be expected to stigmatise his young unmarried daughter merely because a hurt case registered by a cousin had failed.

LEGAL SIGNIFICANCE

This is a valuable statement of principle on the forensic interpretation of DNA evidence in sexual offence prosecutions, an area in which defence arguments increasingly fasten on the absence of the accused's profile from one of the two fractions produced by differential extraction. The Division Bench, drawing on international forensic authority, establishes that the two fractions serve different evidential purposes and that a sperm-fraction match is not weakened by a non-informative epithelial fraction. It gives trial courts a principled basis for evaluating partial and mixed DNA profiles and forecloses a line of attack that has hitherto been advanced without scientific foundation.

LEGAL PROPOSITIONS (VERBATIM)

> *— According to the United States National Institute of Justice (NIJ) and John M. Butler’s Advanced Topics in Forensic DNA Typing Methodology, there is no forensic principle requiring an offender’s DNA to be present in both , the sperm fraction and the epithelial (non-sperm) fraction.*
>
> *— A DNA profile obtained from the sperm fraction alone may constitute strong forensic evidence, provided that validated laboratory methods were followed, quality assurance standards were met, and the results are interpreted in the context of the entire body of evidence.*
>
> *— However, by itself, DNA detected in the epithelial fraction cannot establish that sexual intercourse, ejaculation, or penetration occurred.*

LEGAL PRINCIPLES EXPOUNDED

> **There is no forensic requirement that an offender's DNA appear in both the sperm fraction and the epithelial (non-sperm) fraction of a sexual assault sample; the two fractions are produced by differential extraction for different purposes and a non-informative epithelial result does not**

detract from a sperm-fraction match.

Source: *According to the United States National Institute of Justice (NIJ) and John M. Butler's Advanced Topics in Forensic DNA Typing Methodology, there is no forensic principle requiring an offender's DNA to be present in both , the sperm fraction and the epithelial (non-sperm) fraction.*

Authority: *United States National Institute of Justice; John M. Butler, Advanced Topics in Forensic DNA Typing: Methodology; Section 376, Pakistan Penal Code, 1860*

A DNA profile obtained from the sperm fraction alone is capable of constituting strong forensic evidence, subject to the use of validated laboratory methods, satisfaction of quality assurance standards and interpretation in the context of the entire body of evidence.

Source: *A DNA profile obtained from the sperm fraction alone may constitute strong forensic evidence, provided that validated laboratory methods were followed, quality assurance standards were met, and the results are interpreted in the context of the entire body of evidence.*

Authority: *Punjab Forensic Science Agency DNA report; Section 376, Pakistan Penal Code, 1860*

DNA detected in the epithelial fraction is supportive of the offender's contact with the sample but cannot, standing alone, prove intercourse, ejaculation or penetration; recovery from the sperm fraction, conversely, is consistent with the offender being the source of the sperm cells recovered.

Source: *However, by itself, DNA detected in the epithelial fraction cannot establish that sexual intercourse, ejaculation, or penetration occurred.*

Authority: *Principles of differential extraction in forensic DNA typing; Section 376, Pakistan Penal Code, 1860*

Where the offender's DNA is recovered from the sperm fraction, that result is consistent with his being the source of the sperm cells recovered from the evidence sample, and is properly treated as substantiating the charge when read with the medico-legal findings.

Source: *Conversely, recovery of the offender's DNA from the sperm fraction is consistent with the offender being the source of the sperm cells recovered from the sample.*

Authority: *Punjab Forensic Science Agency DNA report (Exh.PJ); medico-legal examination report (Exh.PD)*

OPERATIVE ORDER

The Division Bench held that the prosecution had proved its case beyond a shadow of reasonable doubt and that the reasoned judgment of conviction required no interference. Criminal Appeal No. 31263 of 2022 was dismissed and the case property directed to be dealt with in accordance with law. Signed on 23.07.2026; approved for reporting.

View Full Judgment

Sindh High Court

4 judgments

LIMITATION ACT 1908 ARTS 19, 22, 23 & 57; QANUN-E-SHAHADAT ORDER 1984 ART 46-A; ELECTRONIC TRANSACTIONS ORDINANCE 2002 — WHERE THE EMPLOYER ITSELF LINKS RELEASE OF RETIREMENT DUES TO THE CONCLUSION OF PENDING PROCEEDINGS, LIMITATION DOES NOT RUN FROM THE DATE OF RETIREMENT, AND AN UNCERTIFIED COMPUTER-GENERATED STATEMENT CANNOT FOUND A COUNTER-CLAIM

Pakistan National Shipping Corporation and another v. Ashiq Ali and another

APPEAL DISPOSED OF; DECREE OF THE LEARNED SINGLE BENCH MODIFIED AS TO MEDICAL ALLOWANCE AND AS TO DEDUCTION OF SUMS ALREADY PAID, BUT OTHERWISE MAINTAINED, INCLUDING DAMAGES OF RS.2.5 MILLION AND MARK-UP AT TEN PERCENT PER ANNUM; PARTIES TO BEAR THEIR OWN COSTS

High Court Appeal No. 102 of 2021 (D.B.) · Bench: Muhammad Faisal Kamal Alam, J. (authoring); Sana Akram Minhas, J. · Decided: 20.07.2026 · Uploaded: 20.07.2026

FACTS

The respondent was a regular employee of Pakistan National Shipping Corporation, last serving as Manager Accounts / General Manager (Internal Audit). He was arrested in FIR No. 3 of 2000 registered by the FIA over alleged misappropriation in the Contributory Provident Fund, and six accountability References were filed against him. He was convicted in Reference No. 29 of 2003 on 19.05.2004 but acquitted by the High Court in Criminal Accountability Appeals Nos. 6 and 7 of 2004 by judgment dated 07.11.2005, which the Supreme Court maintained by order dated 18.05.2006 refusing leave in Criminal Petition No. 79-K of 2006; he was acquitted in the remaining References, the last such order being of 03.03.2009. Meanwhile PNSC had retired him with effect from 24.06.2002 by letter dated 23.05.2002, which stated that his dues would remain withheld until pending court proceedings concluded and disciplinary action could be taken. No disciplinary proceedings were ever concluded. He filed C.P. No. D-2163 of 2009, which he withdrew on 07.09.2010, and instituted Suit No. 1456 of 2010 on 22.09.2010 for salaries and allowances during suspension, retirement dues, medical reimbursement, mark-up and damages of Rs.10 million. PNSC resisted and filed a counter-claim of Rs.46,187,862 founded on two unsigned computer statements showing debit balances of Rs.10,374,647.19 and Rs.35,216,755. The learned Single Bench decreed the suit; PNSC appealed. During the appeal the respondent withdrew Rs.2,353,992 with profit of Rs.839,519 pursuant to an order dated 06.03.2025.

LEGAL ISSUE

Whether the suit was barred by limitation under Articles 19, 22 and 23 of the Limitation Act, 1908; what effect the acquittal in the accountability appeals had upon the employer's allegations of misappropriation and upon its counter-claim; whether the respondent was entitled to pre- and post-retirement dues, medical reimbursement and damages; and whether PNSC's counter-claim founded on unsigned computer-generated statements was maintainable and within time.

HOLDING

On limitation, the Court held that PNSC's own retirement letter had linked release of the retirement benefits to the culmination of the court proceedings rather than to the date of retirement, so that the objection could not be sustained without examining the parties' subsequent conduct; the respondent having continuously pursued his claim through the accountability proceedings ending on 03.03.2009 and the constitutional petition disposed of on 07.09.2010, the cause of action subsisted throughout and, the last legal notice being of 29.06.2010, the suit filed on 22.09.2010 was within time. On the effect of the acquittal, the Court held that the argument of a merely technical acquittal was untenable because the High Court had determined, after exhaustive discussion of the evidence, that the prosecution had failed to prove misappropriation; the respondent's affirmative answer in cross-examination that he had been given the benefit of the doubt could not bind him on a question of law and was diluted by the admission of PNSC's own witness that the allegations 'amounted not proved'. Since no disciplinary proceeding was ever concluded, the same allegations could not be re-agitated by way of counter-claim. The counter-claim failed on the evidence as well: the two documents relied on were unsigned, carried hand-written figures, bore no certification that they were generated from an automated information system as required by Article 46-A of the Qanun-e-Shahadat Order, 1984 and the Electronic Transactions Ordinance, 2002, and were internally contradictory in attributing the debit balance to the respondent 'and other accused'; in any event recovery was barred by Article 57 of the Limitation Act, the counter-claim having been filed on 05.05.2011, some nine years after the retirement letter.

On the reliefs, the Court held that a defence that the hospital was not on the approved panel is a feeble one where hospitalisation and expenditure are undisputed, but that the respondent had failed to produce his medical bills, so the claim was confined to the admitted medical allowance of Rs.72,000; that the claim of 18 percent compound interest was impermissible and mark-up was correctly awarded at the prevailing market rate of ten percent; and that the award of Rs.2.5 million in general damages was justified, a statutory corporation having failed to settle post-retirement dues even after the acquittal was maintained by the Supreme Court, regard being had to the respondent's age and imprisonment.

LEGAL SIGNIFICANCE

The judgment is of practical importance to employers and employees in public sector corporations. It holds an employer to the terms of its own retirement letter for limitation purposes, so that where release of dues is expressly deferred until the conclusion of proceedings, time does not begin to run at retirement. It draws a firm line under the 'technical acquittal' argument where the criminal court has decided the allegations on the evidence and no departmental proceedings were ever concluded, foreclosing an employer's attempt to relitigate proven-unproven allegations through a counter-claim. Its treatment of unsigned computer-generated statements under Article 46-A of the Qanun-e-Shahadat Order, 1984 and the Electronic Transactions Ordinance, 2002 reinforces the mandatory nature of certification for such print-outs, and its observation on panel hospitals is a useful corrective in medical reimbursement disputes.

LEGAL PROPOSITIONS (VERBATIM)

— *the cause of action continued to subsist and it never stopped in the intervening period*

— *The Superior Courts have ruled that for such kind of computer generated print out, its certification is mandatory.*

— *Speaking generally, if the factum of hospitalization of an employee and incurring of expenses is not disputed, then the defense that the hospital was not on Panel, is a feeble one.*

LEGAL PRINCIPLES EXPOUNDED

Where an employee has continuously pursued his claim through successive proceedings, and the employer has itself tied release of the dues to the conclusion of those proceedings, the cause of action subsists throughout and limitation does not run from the date of retirement or of the first acquittal.

Source: *the cause of action continued to subsist and it never stopped in the intervening period*

Authority: *Articles 19, 22 and 23, Limitation Act, 1908; retirement letter dated 23.05.2002 (Exhibit 6/4)*

An acquittal recorded after exhaustive appreciation of the evidence, in which the prosecution is held to have failed to prove the allegation, is not a merely technical acquittal, and operates to exonerate the employee in respect of those allegations; a witness cannot in any event be bound by his answer to a question of law.

Source: *the acquittal recorded by this Court was on technical grounds by extending benefit of doubt, is untenable, because, this Court has determined after exhaustive discussion on the evidence, that prosecution failed to prove that the Respondent No.1 and other co - accused misappropriated the amounts.*

Authority: *Criminal Accountability Appeals Nos. 6 and 7 of 2004 (judgment dated 07.11.2005) maintained by the Supreme Court by order dated 18.05.2006; distinguishing The Deputy Inspector-General of Police, Lahore v. Anis-ur-Rehman Khan (PLD 1985 SC 134) and Inspector-General of Police, Punjab v. Muhammad Tariq (2001 SCMR 789)*

A computer-generated print-out tendered in evidence must bear the certification required by law; unsigned statements carrying hand-written figures and lacking any certification that they emanate from an automated information system cannot sustain a monetary claim.

Source: *The Superior Courts have ruled that for such kind of computer generated print out, its certification is mandatory.*

Authority: *Article 46-A, Qanun-e-Shahadat Order, 1984; Electronic Transactions Ordinance, 2002; Askari Bank Limited v. DCD Services Limited (2018 CLD 799); Akeel Ahmad v. Chairman, Punjab Public Service Commission, Lahore (PLD 2024 Lahore 228)*

Where the fact of an employee's hospitalisation and the incurring of expenses are not disputed, the objection that the hospital was not on the employer's approved panel is a weak defence; the

claim nevertheless fails if the employee does not discharge his onus by producing the bills.

Source: *Speaking generally, if the factum of hospitalization of an employee and incurring of expenses is not disputed, then the defense that the hospital was not on Panel, is a feeble one.*

Authority: *PNSC Service Regulations; admission of D.W.-1 as to medical allowance of Rs.72,000*

An employer's counter-claim founded on the same allegations that were negatived in criminal proceedings, and never established through concluded disciplinary proceedings, cannot be re-agitated in the civil suit and is in any event barred by limitation if brought years after the entitlement is said to have arisen.

Source: *The above Decisions in the Accountability Appeals, maintained by the Apex Court, followed by the separate acquittal orders, in fact exonerated Respondent No.1 in respect of the allegations of misappropriation*

Authority: *Article 57, Limitation Act, 1908; Section 256-K, Code of Criminal Procedure, 1898*

OPERATIVE ORDER

The Appeal was disposed of and the decree modified as follows: (i) the respondent is entitled to receive all service dues as decided in the impugned judgment, after deducting salaries and allowances paid by PNSC during the suspension period until superannuation and the sums already received during the pendency of the appeal; (ii) medical allowance reduced to Rs.72,000, being the amount admitted in evidence by the witness of PNSC; and (iii) damages of Rs.2.5 million as determined in the impugned judgment maintained, with mark-up at ten percent per annum. Save as so modified, the impugned judgment was held to be within the parameters of law and was not interfered with. Parties to bear their own costs. Dated at Karachi, 20.07.2026.

■ **View Full Judgment**

FAMILY COURTS ACT 1964 S.17; FAMILY COURT RULES 1965 R.6; MUSLIM FAMILY LAWS ORDINANCE 1961; CPC SS.10, 16(F), 20, 151 & ORDER VII RULE 10; CONSTITUTION ART 199 — CLAIMS ARISING OUT OF A MATRIMONIAL RELATIONSHIP FALL WITHIN THE EXCLUSIVE JURISDICTION OF THE FAMILY COURT WHERE THE WIFE RESIDES, AND SECTIONS 16 TO 20 CPC STAND EXCLUDED FROM SUCH PROCEEDINGS

Mst. Javeria and another v. Muhammad Ali and others

PETITION ALLOWED; ORDERS OF THE REVISIONAL COURT DATED 31.07.2025 AND OF THE TRIAL COURT DATED 05.03.2025 SET ASIDE; APPLICATION UNDER ORDER VII RULE 10 READ WITH SECTION 151 CPC ALLOWED; PLAINT ORDERED TO BE RETURNED FOR PRESENTATION BEFORE THE COURT OF COMPETENT JURISDICTION; NO ORDER AS TO COSTS

2026 SHC KHI 1470; Constitutional Petition No. S-818 of 2025 · Bench: Muhammad Hasan (Akber), J. · Decided: 18.07.2026 · Uploaded: 18.07.2026

FACTS

Respondent No.1 (the husband) and petitioner No.1 (the wife) were married; petitioner No.2 is the wife's brother. The marriage was dissolved following matrimonial disputes. The husband then filed Civil Suit No. 264 of 2024 before the III Senior Civil Judge, Karachi South, against the wife and her brother for recovery of Rs.250,000 in cash, sixteen tolas of gold ornaments and certain original documents, alleging that these articles had been removed from the matrimonial home in Defence Housing Authority, Karachi, when the wife left for Rawalpindi with their four children on 10.06.2023. The petitioners filed a joint written statement raising, among other objections, a challenge to territorial jurisdiction, and applied under Order VII Rule 10 read with Section 151 CPC for return of the plaint on the ground that both petitioners were permanent residents of Rawalpindi and that the matter was in reality a matrimonial dispute. The trial court dismissed the application on 05.03.2025 by reference to Section 10 CPC. The XII Additional District & Sessions Judge, South Karachi, dismissed Civil Revision No. 36 of 2025 on 31.07.2025, reasoning that the suit could attract Section 16(f) or Section 20 CPC because the articles were taken from a house within the trial court's limits, and declining during final arguments to permit reference to the attachments to the plaint.

LEGAL ISSUE

Whether a suit between former spouses for recovery of cash, gold ornaments and documents said to have been removed from the matrimonial home is triable by a civil court at all, or falls within the exclusive jurisdiction of the Family Court where the wife resides; and whether, on the plaint as framed, the trial court at Karachi South had territorial jurisdiction under Section 16(f) or Section 20 CPC.

HOLDING

The Court held that the trial court's reliance on Section 10 CPC, which governs the stay of a suit where the same matter is directly and substantially in issue in a previously instituted suit, disclosed a failure to apply its mind, that provision having nothing to do with territorial jurisdiction; the application before it lay under Order VII Rule 10 CPC, which obliged the court to examine the plaint and its attachments and determine whether it had jurisdiction. The revisional court compounded the error by equivocating between Sections 16(f) and 20 CPC without deciding which applied. On the merits, Section 16(f) points to the court where the movable property is situate or where the defendant resides, both of which were at Rawalpindi. Section 20 did not assist because a cause of action for recovery of movable property wrongfully detained is composite: the initial taking is one element, but the decisive element is the wrongful detention and refusal to return on demand, and the plaint disclosed no demand or refusal within the trial court's limits, the entire chain of events after the wife's departure having occurred at Rawalpindi. The position of petitioner No.2 was still weaker, the plaint disclosing no basis whatever for jurisdiction over him, and the revisional court was not justified in relegating that question to trial, the return of a plaint being a threshold remedy. The revisional court also erred in excluding the attachments to the plaint from consideration and in its application of the maxim mobilia sequuntur personam. Above all, both courts overlooked that the relationship and claims arose out of a matrimonial dispute governed by the Muslim Family Laws Ordinance, 1961, the Family Courts Act, 1964 and the Family Court Rules, 1965; following Mst. Yasmeen Bibi v. Muhammad Ghazanfar Khan (PLD 2016 SC 613), Sections 16 to 20 CPC stand excluded from proceedings between husband and wife before the Family Court, whose jurisdiction is exclusive and vests in the court where the wife resides, extending even to immovable property irrespective of its location.

LEGAL SIGNIFICANCE

The judgment is a clear corrective against the practice of recasting matrimonial claims as ordinary civil suits for recovery of movables in order to select a convenient forum. It applies Mst. Yasmeen Bibi to a husband's claim for return of cash, gold and documents and holds such a claim to lie exclusively before the Family Court where the wife resides, with the territorial provisions of the CPC displaced altogether. It also contains a useful analysis of the composite nature of a cause of action for recovery of wrongfully detained movables, locating the decisive element in the demand and refusal rather than the original taking, and reaffirms that an examination under Order VII Rule 10 CPC extends to the annexures to the plaint and must be undertaken separately in respect of each defendant at the threshold.

LEGAL PROPOSITIONS (VERBATIM)

— The Family Courts have been empowered with exclusive jurisdiction to deal with all issues inter se husband and wife and their respective claims.

— A cause of action for recovery of movable property wrongfully detained is a composite cause of action.

— The return of the plaint under Order VII Rule 10 of the Code is a remedy that operates at the threshold and is intended precisely to spare a defendant from undergoing the rigours of a trial before a court that has no jurisdiction to try the suit against him.

LEGAL PRINCIPLES EXPOUNDED

All claims inter se husband and wife fall within the exclusive jurisdiction of the Family Court; the provisions of Sections 16 to 20 CPC stand excluded from such proceedings, and the Family Court where the wife resides has jurisdiction irrespective of where the property in question is situate.

Source: *The Family Courts have been empowered with exclusive jurisdiction to deal with all issues inter se husband and wife and their respective claims.*

Authority: *Section 17, Family Courts Act, 1964; Rule 6, Family Court Rules, 1965; Muslim Family Laws Ordinance, 1961; Mst. Yasmeen Bibi v. Muhammad Ghazanfar Khan (PLD 2016 SC 613); Muhammad Tariq v. Mst. Shaheen (PLD 2006 Peshawar 189)*

A cause of action for recovery of movable property wrongfully detained is composite; the initial taking is only one element, and the element that crystallises the claim for recovery is the wrongful detention and the refusal to return the property on demand, so that jurisdiction under Section 20 CPC follows the place of demand and refusal.

Source: *A cause of action for recovery of movable property wrongfully detained is a composite cause of action.*

Authority: *Sections 16(f) and 20, Code of Civil Procedure, 1908; maxim mobilia sequuntur personam*

Return of a plaint under Order VII Rule 10 CPC is a threshold remedy designed to spare a defendant a trial before a court without jurisdiction; the objection cannot be relegated to trial, and must be determined separately as against each defendant on the basis of the plaint.

Source: *The return of the plaint under Order VII Rule 10 of the Code is a remedy that operates at the threshold and is intended precisely to spare a defendant from undergoing the rigours of a trial before a court that has no jurisdiction to try the suit against him.*

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

In deciding an application under Order VII Rule 10 CPC the court must read the plaint as a whole, including all documents and annexures forming part of it; excluding the attachments defeats the purpose of the enquiry and produces a distorted view of the jurisdictional question.

Source: *The examination under Order VII Rule 10 of the Code requires the court to look at the plaint as a whole, which necessarily includes all documents and annexures forming part of it.*

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

Section 10 CPC governs the stay of a suit where the same matter is directly and substantially in issue in a previously instituted suit and has no application to a question of territorial jurisdiction; deciding an application for return of plaint by reference to it discloses a failure to apply judicial mind.

Source: *Section 10 CPC is a provision that deals with a stay of a suit where the subject matter in issue is also directly and substantially in issue in another suit previously instituted between the same parties pending before a court in Pakistan.*

Authority: *Sections 10 and 151 and Order VII Rule 10, Code of Civil Procedure, 1908*

OPERATIVE ORDER

The petition was allowed, both impugned orders — that of the revisional court dated 31.07.2025 and that of the trial court dated 05.03.2025 — were set aside, the petitioners' application under Order VII Rule 10 read with Section 151 CPC was allowed, and the plaint in Civil Suit No. 264 of 2024 was ordered to be returned to Respondent No.1 for presentation before the court of competent jurisdiction in accordance with law. No order as to costs. Announced on 18.07.2026.

■ View Full Judgment

SINDH RENTED PREMISES ORDINANCE 1979 SS.2 & 15; CONSTITUTION ART 199 — THE PRIMARY BURDEN OF ESTABLISHING THE RELATIONSHIP OF LANDLORD AND TENANT RESTS ON THE LANDLORD THROUGHOUT, AND PRODUCTION OF A TITLE DEED DOES NOT BY ITSELF ESTABLISH A LETTING

Mst. Samreen v. Muhammad Imran Khan and another

PETITION ALLOWED; APPELLATE ORDER DATED 06.11.2024 SET ASIDE; ORDER OF THE RENT CONTROLLER DATED 24.02.2023 DISMISSING THE RENT APPLICATION UPHELD; RENT EXECUTION APPLICATION NO. 01/2025 DISPOSED OF IN CONSEQUENCE; NO ORDER AS TO COSTS

2026 SHC KHI 1473; Constitutional Petition No. S-437 of 2025 · Bench: Muhammad Hasan (Akber), J. · Decided: 18.07.2026 · Uploaded: 18.07.2026

FACTS

Respondent No.1 filed Rent Case No. 161 of 2022 before the XVII Rent Controller, Karachi (West), under Section 15 of the Sindh Rented Premises Ordinance, 1979, claiming to be the lawful owner of a plot in Lasi Anjam Colony, Baldia Town, Karachi, that the petitioner had been his tenant since 2004 at Rs.5,000 per month, that she had defaulted for eighteen years, and that he needed the premises for his personal bona fide need as the father of nine children. The petitioner denied any landlord-tenant relationship, asserting that she had lived there since birth, that her parents had lived there for the preceding forty years, that no rent agreement had ever been executed, and that being related to the respondent she was a co-sharer entitled to her share. Evidence was recorded. The applicant admitted in cross-examination that he had not resided in the premises for twenty-five years, that the electricity bill still issued in the name of his grandfather Abdullah Khan, that the petitioner is his first cousin, that questions of distribution of shares arising from family succession remained unresolved, and that she had never paid him any rent but had been permitted to live there on humanitarian grounds because she was poor. The Rent Controller dismissed the application on

24.02.2023, holding the relationship unproved. On appeal the V Additional District & Sessions Judge, Karachi (West), allowed First Rent Appeal No. 41 of 2023 on 06.11.2024, reasoning that the petitioner having denied tenancy bore the burden of proving co-ownership and had produced no title document. During the pendency of that appeal Respondent No.1 himself instituted Civil Suit No. 2043/2024 for declaration, possession and permanent injunction, expressly admitting in the plaint that instituting rent proceedings had been a mistake and that the matter involved questions of title and inheritance; this was brought to the appellate court's notice by formal statement but ignored.

LEGAL ISSUE

Where the existence of a landlord-tenant relationship is denied, upon whom does the burden of proof lie in proceedings under the Sindh Rented Premises Ordinance, 1979; whether the production of a registered lease deed by itself establishes a letting; and whether the appellate court could reverse the Rent Controller's findings of fact without cogent reasoning and in disregard of the applicant's own judicial admission in a subsequently filed civil suit.

HOLDING

The Court held that the jurisdiction of the Rent Controller under the Ordinance of 1979 is special and limited, exercisable only upon the existence of a landlord-tenant relationship as a necessary precondition; where that relationship is disputed and not established, the Rent Controller has no jurisdiction to entertain or decide the application. The appellate court proceeded on a fundamentally incorrect legal premise in holding that the petitioner's denial shifted the burden to her to prove co-ownership: the initial and primary burden of establishing the relationship lay entirely on the landlord who asserted it, and only upon its discharge could the burden shift. Mere denial neither relieved the landlord of that burden nor transferred it. Although Section 2 SRPO includes an owner within the definition of landlord, the existence of the relationship, once challenged, must be established on the facts and evidence of each case; production of a lease deed may establish title but does not automatically establish a letting. The applicant's admissions were decisive and wholly inconsistent with any tenancy, and the inference that a landlord would not remain silent for eighteen years while rent went unpaid flowed naturally from common sense and the ordinary course of human conduct. The appellate court had further ignored the applicant's solemn judicial admission in his own plaint in Civil Suit No. 2043/2024 that the rent proceedings had been a mistake and that the dispute concerned title and inheritance, an admission which created an estoppel and demolished the foundation of the rent case. The real dispute being one of joint family ownership of ancestral property, the questions of co-sharership, share and validity of title lay within the exclusive domain of the civil courts, and the appellate court had acted in excess of jurisdiction.

LEGAL SIGNIFICANCE

The judgment is a firm restatement of the burden of proof in ejectment proceedings where tenancy is denied, an issue that recurs constantly in Sindh rent practice and is frequently decided the wrong way round. It holds that ownership and landlordship are distinct, that a registered title deed proves the former but not the latter, and that a Rent Controller has no jurisdiction at all in the absence of the jurisdictional fact of a letting. It is also a useful authority on the effect of a judicial admission made in a subsequently instituted civil suit, and on the limits of an appellate court's power to reverse findings of fact recorded by the tribunal that itself recorded the evidence.

LEGAL PROPOSITIONS (VERBATIM)

> *— the initial and primary burden of establishing a relationship of landlord and tenant lay entirely upon the landlord because he claimed such relationship.*

> *— The mere denial by the Petitioner of the existence of any tenancy did not relieve the landlord of his primary burden, nor did it transfer that burden upon the Petitioner.*

> *— The production of a lease deed may establish his title on record at present, however, it does not automatically by itself establish the relationship of landlord and tenant between the parties*

LEGAL PRINCIPLES EXPOUNDED

The jurisdiction of the Rent Controller under the Sindh Rented Premises Ordinance, 1979 is special and limited, and may be exercised only where the relationship of landlord and tenant exists; that relationship is a jurisdictional precondition, and where it is disputed and not established the Rent Controller has no jurisdiction to entertain or decide the application.

Source: *The jurisdiction of the Rent Controller under the Sindh Rented Premises Ordinance, 1979 is a special and limited jurisdiction , which can only be exercised upon existence of landlord and tenant relationship between the parties as a necessary*

Authority: *Sections 2 and 15, Sindh Rented Premises Ordinance, 1979*

The initial and primary burden of proving the relationship of landlord and tenant lies entirely upon the person who asserts it, namely the landlord; only when that burden is discharged can any burden shift to the occupant.

Source: *the initial and primary burden of establishing a relationship of landlord and tenant lay entirely upon the landlord because he claimed such relationship.*

Authority: *Sections 2 and 15, Sindh Rented Premises Ordinance, 1979; PLD 2003 Karachi 444 (standard of proof for verbal tenancy)*

A denial of tenancy by the occupant neither relieves the landlord of his primary burden nor transfers that burden to the occupant; an appellate court that reasons otherwise inverts the burden of proof and decides the case on a wrong legal basis.

Source: *The mere denial by the Petitioner of the existence of any tenancy did not relieve the landlord of his primary burden, nor did it transfer that burden upon the Petitioner.*

Authority: *Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973; Sindh Rented Premises Ordinance, 1979*

Although Section 2 SRPO includes an owner within the definition of landlord, ownership and landlordship are distinct; a lease deed may establish title on the record but does not by itself establish that the premises were let to the occupant as a tenant, which must be shown from the pleadings and evidence in each case.

Source: *The production of a lease deed may establish his title on record at present, however, it does not automatically by itself establish the relationship of landlord and tenant between the parties*

Authority: *Section 2, Sindh Rented Premises Ordinance, 1979*

OPERATIVE ORDER

The constitutional petition was allowed, the impugned order dated 06.11.2024 passed by the V Additional District & Sessions Judge, Karachi (West), in First Rent Appeal No. 41 of 2023 was set aside, and the order dated 24.02.2023 of the XVII Rent Controller, Karachi (West), in Rent Case No. 161 of 2022 dismissing the rent application was upheld. Rent Execution Application No. 01/2025 pending before the Rent Controller stood disposed of in consequence. The petition was allowed with no order as to costs, the Court recording its appreciation of the legal assistance rendered by counsel for both sides. Announced on 18.07.2026.

■ **View Full Judgment**

FAMILY COURTS ACT 1964 S.14(3); CPC S.47; CONSTITUTION ART 199 — AN EXECUTING COURT MAY NOT GO BEHIND THE DECREE TO ADD RELIEF OR RE-DETERMINE LIABILITY, AND A STATUTORY BAR ON APPEAL OR REVISION AGAINST AN INTERIM FAMILY ORDER CANNOT BE CIRCUMVENTED BY INVOKING CONSTITUTIONAL JURISDICTION

Ms. Aisha Qazi and two others v. Irshad Ali Shah

PETITION DISMISSED ALONG WITH PENDING APPLICATIONS; NO ORDER AS TO COSTS

2026 SHC KHI 1469; Constitutional Petition No. S-1239 of 2025 · Bench: Muhammad Hasan (Akber), J. · Decided: 18.07.2026 · Uploaded: 18.07.2026

FACTS

Petitioner No.1 (the wife) and Respondent No.1 (the husband) were married and had two sons. Following matrimonial disputes the wife obtained a decree in Family Suit No. 1723 of 2018 for dower, her own maintenance and maintenance of the minors on specified terms, and initiated Family Execution Application No. 07 of 2020 before the Family Judge-XXIII, Karachi East. Before the executing court she filed three applications: dated 08.09.2025 for increase in or additional maintenance; dated 08.09.2025 for attachment of the judgment debtor's salary; and dated 17.09.2025 for payment and enhancement of maintenance on account of educational expenses. By interlocutory order dated 20.10.2025 all three were decided against her. The Family Judge found that the predecessor judge had already examined the judgment debtor's financial position when fixing maintenance at Rs.10,000 and Rs.12,000 per month for the two minors with a ten percent annual increment, that the minors were by then collectively receiving Rs.40,000 per month with the increment continuing to apply, and that no material change in circumstances had been shown. On the claim of Rs.221,460 for outstanding educational expenses, the record showed that in C.P. No. S-1489 of 2024 the decree holder's counsel had not pressed the contempt application and had undertaken to furnish a voucher evidencing receipt of that very sum, rendering the application infructuous. The petition also raised observations made by the Family Court against counsel concerning non-existent, AI-generated judgments cited before it on 19.09.2025 and withdrawn on 20.10.2025.

LEGAL ISSUE

Whether an Executing Court may amend or modify a decree so as to add a relief not recorded in it, or by conducting a fresh reassessment on a question of fact disturb the findings recorded in the judgment; and whether the statutory bar in Section 14(3) of the Family Courts Act, 1964 against appeal or revision from an interim order of a Family Court may be circumvented by invoking Article 199 of the Constitution.

HOLDING

The Court held that the reasoning of the Family Judge on the judgment debtor's income was sound and neither arbitrary nor unjust: nothing had been placed on record to show any increase in his salary or other income, and the mere fact that the minors attend expensive private institutions does not establish that maintenance carrying an annual increment is insufficient. On the first legal question, the Court, following Sardar Ahmed Yar Khan Jogezai v. Province of Balochistan (2002 SCMR 122), held it to be beyond the jurisdiction of an Executing Court to modify or change a decree, or to delete, insert or add anything to it, such an exercise being arbitrary, capricious and coram non judice, and an attempt to frustrate the object of a judgment and decree that has attained finality; an Executing Court cannot go beyond the terms of the decree, must execute it even if erroneously passed, and cannot rectify even a mistake in it. On the second question, the Court held on the authority of Mst. Naseem Akhter (1994 SCMR 22) and subsequent cases that the plea of incorrect assessment of liability by the trial court cannot be entertained by the Executing Court; Section 47 CPC extends only to questions relating to execution, discharge or satisfaction and does not deal with pre-decretal matters. The claim for Rs.221,460 had rightly been dismissed as infructuous, this Court having already recorded satisfaction upon payment. As to the observations concerning non-existent AI-generated judgments cited before the Family Court, the citations having been fairly withdrawn as a genuine inadvertence, the point was rejected as irrelevant, the Court noting the spotless career of counsel and of his father and brother as officers of the Court. Finally, Section 14(3) of the Family Courts Act, 1964 bars any appeal or revision against an interim order of a Family Court, and a statute expressly excluding a right of appeal cannot be bypassed by attacking the interim order in constitutional jurisdiction; the scope of interference under Article 199 in family matters against interlocutory orders is much narrower than that of an appeal and is confined to a basic jurisdictional defect, which was absent.

LEGAL SIGNIFICANCE

The judgment brings together, in a single convenient statement, the settled learning on the limits of an Executing Court's powers — that it takes the decree as it stands, cannot go behind or beyond it, cannot re-determine liability and cannot correct even an erroneous decree — and applies it in the family execution context, where applications for enhancement of decreed maintenance are routinely pressed. It is equally important for its treatment of Section 14(3) of the Family Courts Act, 1964, holding that the express statutory exclusion of appeal and revision from interim family orders cannot be defeated by resort to Article 199, and confining constitutional interference to cases of basic jurisdictional defect. The Court's handling of counsel's reliance on non-existent, AI-generated citations — withdrawn as genuine inadvertence and treated as irrelevant to the merits — is a noteworthy early instance of a Pakistani superior court addressing the issue.

LEGAL PROPOSITIONS (VERBATIM)

— in terms of section 14(3) of the Family Courts Act, 1964 no appeal or revision shall lie against an interim order passed by the Family Court.

— Even otherwise, the scope of interference by this Court under Article 199 of the Constitution in family matters against interlocutory Orders is much narrower than the scope of an appeal.

— Interference under the constitutional jurisdiction is permissible only in case of any jurisdictional defect or legal infirmity which does not exist in the present case.

LEGAL PRINCIPLES EXPOUNDED

An Executing Court has no jurisdiction to modify or change a decree, or to delete, insert or add anything to it; any such exercise is arbitrary, capricious and coram non judice.

Source: *by holding that it was beyond the Jurisdiction of the Executing Court to modify or change a decree, nor could it delete, insert or add anything therein, and any such exercise would be arbitrary, capricious and coram non judice .*

Authority: *Sardar Ahmed Yar Khan Jogezai v. Province of Balochistan (2002 SCMR 122); Province of Punjab v. Burewala Textile Mills Limited (2001 SCMR 396); Muhammad Ali v. Zakir Hussain (PLD 2005 Lahore 331); Topanmal v. Kundomal Gangaram (AIR 1960 SC 388)*

A decree that has attained finality must be executed according to its terms even if erroneously passed; the Executing Court cannot go beyond those terms and cannot rectify even a mistake in the decree.

Source: *It was further held that such an act would amount to an attempt to frustrate the object of the Judgment and decree, which had already attained finality and, that an Executing Court cannot go beyond the terms of the decree, and when a decree has attained finality, it has to be executed even if it was erroneously passed, and the Executing Court could not even rectify any mistake in the decree.*

Authority: *Sardar Ahmed Yar Khan Jogezai v. Province of Balochistan (2002 SCMR 122); Mst. Naseem Akhtar v. Shalimar General Insurance Company Limited (1994 SCMR 22); Section 47, Code of Civil Procedure, 1908*

Section 14(3) of the Family Courts Act, 1964 excludes any appeal or revision against an interim order of a Family Court, and a statute expressly excluding a right of appeal from an interim order cannot be bypassed by bringing that order under attack in constitutional jurisdiction.

Source: *in terms of section 14(3) of the Family Courts Act, 1964 no appeal or revision shall lie against an interim order passed by the Family Court.*

Authority: *Section 14(3), Family Courts Act, 1964; Syed Saghir Ahmad Naqvi v. Province of Sindh (1996 SCMR 1165)*

The scope of interference under Article 199 of the Constitution against interlocutory orders in family matters is narrower than that of an appeal; it cannot be used to re-open findings of fact merely because a different view is possible, and is available only where there is a basic jurisdictional defect.

Source: *Even otherwise, the scope of interference by this Court under Article 199 of the Constitution in family matters against interlocutory Orders is much narrower than the scope of an appeal.*

Authority: *Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973; Family Courts Act, 1964*

Constitutional interference in such matters is permissible only where a jurisdictional defect or legal infirmity is shown; absent that, the writ jurisdiction will not be exercised against an interim order made in family execution proceedings.

Source: *Interference under the constitutional jurisdiction is permissible only in case of any jurisdictional defect or legal infirmity which does not exist in the present case.*

Authority: *Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973; Section 14(3), Family Courts Act, 1964*

OPERATIVE ORDER

The Court held that the petitioner had failed to make out a case of jurisdictional error or blatant violation of law justifying interference under the writ jurisdiction of Article 199 of the Constitution against an interim order made on interlocutory applications by the executing Family Court. The petition was accordingly dismissed along with the pending applications, with no order as to costs. Announced on 18.07.2026.

■ **View Full Judgment**