



MANDVIWALLA & ZAFAR  
ADVOCATES

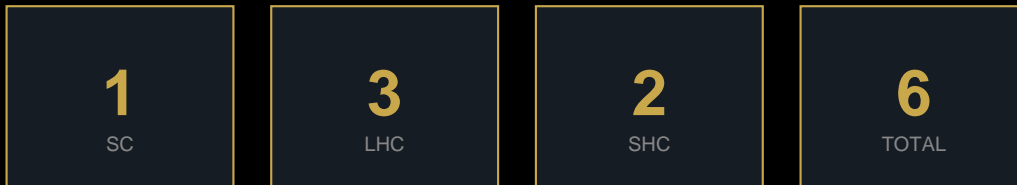
# CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

*Tuesday, 30 June 2026*

Upload Window: 27 + 29 June 2026 (with 27-Jun straggler check)

SC: 1 judgment | LHC: 3 judgments | SHC: 2 judgments | FCC/IHC: no new entries



## TABLE OF CONTENTS

---

### Supreme Court of Pakistan

Criminal — Altaf Yousuf v. The State through Additional Director FIA, Passport Circle, Karachi & another

### Lahore High Court

Rent — Khizar Hayat v. Additional District Judge, Multan, etc.

Banking — Habib Bank Limited etc. v. M/s Taunsa Gypsum (Pvt.) Limited etc.

Peca S.11 — Syed Abdul Mannan v. The State and another

### Sindh High Court

Limitation — Ms. Asmat Ara & Another v. Ms. Inayat Begum (Deceased) & Others

Customs Fir Quashment — M/S Al-Rahim Trading Company (Pvt) Limited & 69 others v. Federation of Pakistan & others

# Supreme Court of Pakistan

1 judgment

**CRIMINAL — APPEAL AGAINST ACQUITTAL; DOUBLE PRESUMPTION OF INNOCENCE; SECTION 249-A Cr.P.C.**

## Altaf Yousuf v. The State through Additional Director FIA, Passport Circle, Karachi & another

**CRIMINAL PETITION CONVERTED INTO APPEAL AND ALLOWED; HIGH COURT'S REVERSAL SET ASIDE; TRIAL COURT'S ACQUITTAL ORDER RESTORED**

*Cr.P.L.A. No.188-K of 2022 · Bench: Justice Muhammad Ali Mazhar (author); Justice Aqeel Ahmed Abbasi · Decided: 24.12.2025 · Uploaded: 27.06.2026*

### FACTS

FIR No.50/2006 dated 01.02.2006 was registered at PS FIA, P.P. Circle Karachi under Sections 419, 420, 468, 471 and 109 PPC read with Sections 17(1)(b), 22(b) and 23 of the Emigration Ordinance, 1979, alleging that the accused, in furtherance of common intention, forged a passport and other documents to help accused Mst. Hira to go abroad. Two separate chargesheets were submitted under Section 173 Cr.P.C. — one before the Judicial Magistrate, Malir, Karachi for the PPC offences and another before the Special Judge (Central-II), Karachi for the Emigration Ordinance offences. The petitioner (Altaf Yousuf) was acquitted by the Judicial Magistrate, Malir Karachi under Section 249-A Cr.P.C. on 21.06.2006 — the Trial Court holding that the petitioner merely issued air tickets as a travel agent, that there was no concrete or tangible evidence connecting him with knowledge of fake documents, that the accused Hira had genuine traveling documents (her passport was ordered to be returned), and that no element of cheating by personation surfaced. He was also acquitted by the Special Judge (Central-II), Karachi on 06.12.2017 in the bifurcated case, against which the State filed no acquittal appeal. The State, however, filed CrI. Acquittal Appeal No.256/2007 in the High Court of Sindh against the Magistrate's order — which was allowed by impugned judgment dated 17.10.2022, setting aside the acquittal qua the petitioner and remanding the matter to the Magistrate to proceed in accordance with law.

### LEGAL ISSUE

Whether the High Court was justified in reversing the order of acquittal passed under Section 249-A Cr.P.C., particularly where (i) the petitioner stood acquitted in the connected bifurcated case before the Special Judge with no acquittal appeal filed by the State; (ii) the acquittal carried a 'double presumption of innocence'; and (iii) the High Court failed to apply independent application of mind or identify any cogent ground of reversal.

### HOLDING

The Criminal Petition was converted into appeal and allowed. The Trial Court proficiently considered every nook and cranny of the prosecution case. Under Articles 38 and 39 Qanun-e-Shahadat Order 1984, no confession to a police officer or while in police custody (unless in immediate presence of Magistrate) is admissible against the accused; no statement under Section 164 Cr.P.C. of the co-accused was recorded. The presumption of innocence is a constituent of fair trial and the foundation of the criminal justice system — captured in the Latin maxim 'ei incumbit probatio qui dicit, non qui negat' (burden of proof lies with the one who declares, not the one who denies). An acquittal carries a 'double presumption of innocence' — the initial presumption that an accused is innocent until found guilty, fortified by the second presumption once a competent Court confirms that assumption. Interference with an acquittal is found to be rare unless glaring errors of law and fact are shown demonstrating that the acquittal is perfunctory with shocking conclusion. A single circumstance creating reasonable doubt is enough to enable benefit; where two sensible and judicious conclusions can be drawn, the view supporting acquittal must be subscribed to. The High Court, while reversing the acquittal, did not advert to any cogent or solid ground for reversal and remanded the matter to the Trial Court after a long period of time without independent application of mind. The acquittal order was set aside in a slipshod manner without scrutiny of record or incriminating material. The impugned judgment dated 17.10.2022 was set aside and the Magistrate's acquittal order dated 21.06.2006 in Case No.51/2006 (FIR No.50/2006) was restored.

**LEGAL SIGNIFICANCE**

A robust reaffirmation by the Supreme Court of the 'double presumption of innocence' attaching to an acquittal and the strict standard for High Court interference with acquittal orders. The judgment underscores that an Appellate Court reversing an acquittal must demonstrate independent application of mind and identify cogent or solid grounds — not act in a 'slipshod manner'. It articulates the foundational doctrine of the presumption of innocence and the Latin maxim allocating burden of proof to the prosecution, and reinforces that a single circumstance creating reasonable doubt suffices to enable benefit to the accused. The judgment is also significant in clarifying that bifurcation of trial (under PPC and Emigration Ordinance into different forums) cannot result in inconsistent outcomes where the State has failed to challenge a connected acquittal. Useful authority for defence counsel in State acquittal appeals and remand-based reversals.

**LEGAL PROPOSITIONS (VERBATIM)**

— *The presumption of innocence is constituent of a fair trial and also foundation of our criminal administration justice system wherein it is obligatory for the prosecution to prove the guilt beyond a reasonable doubt and the incriminating material/evidence should be so convincing and logical in which no other inference could be drawn except the guilt of accused.*

— *The philosophy 'innocent until proven guilty' is the fundamental vade mecum and golden thread to the doctrine of presumption of innocence as a shield but not as a sword.*

— *An acquittal is called a 'double presumption of innocence' and it is not mandatory that there must be numerous aftermaths that give rise to doubts to justify the benefit to the accused, rather a single circumstance if creating reasonable doubt is enough to enable him a benefit.*

— *The interference in a judgment of acquittal is found to be rare unless some glaring errors of law and fact are shown by the prosecution to demonstrate that the acquittal judgment is perfunctory with shocking conclusion.*

— *In the criminal justice system, if two sensible and judicious conclusions can be drawn, then the view which espouses and provides backing towards acquittal must be subscribed to.*

— *The Court in an appeal against acquittal would not ordinarily interfere but gives due weightage to the findings of acquittal which carries a double presumption of innocence, i.e. the initial presumption that an accused is innocent until found guilty, which is then fortified by a second presumption once the Court below confirms the assumption of innocence.*

**LEGAL PRINCIPLES EXPOUNDED**

**An acquittal carries a double presumption of innocence; the High Court will interfere only on cogent grounds demonstrating glaring errors and perfunctory reasoning.**

**Source:** *An acquittal is called a 'double presumption of innocence' ... The interference in a judgment of acquittal is found to be rare unless some glaring errors of law and fact are shown by the prosecution to demonstrate that the acquittal judgment is perfunctory with shocking conclusion.*

**Authority:** *Section 417 Cr.P.C.; settled jurisprudence on appeals against acquittal*

**The burden of proving every element of an offence beyond reasonable doubt lies on the prosecution; mere indictment is not evidence of guilt.**

**Source:** *The judges act out as the concierge of law and mere indictment cannot be treated as evidence of guilt unless the burden of proving every element of the crime beyond a reasonable doubt is discharged by the prosecution.*

**Authority:** *Latin maxim 'ei incumbit probatio qui dicit, non qui negat'; settled criminal jurisprudence*

**Confessions to a police officer or while in police custody (unless in immediate presence of Magistrate) are not admissible against the accused.**

**Source:** *According to Article 38 of the Qanun-e-Shahadat Order 1984, no confession made to a police officer shall be proved as against a person accused of any offence. Whereas the nitty-gritties of Article 39 explicates that subject to Article 40, no confession made by any person whilst he is in the custody of a police officer, unless it is made in the immediate presence of a Magistrate, shall be proved as against such person.*

**Authority:** *Articles 38, 39 and 40, Qanun-e-Shahadat Order 1984*

**Where two sensible and judicious conclusions can be drawn from the evidence, the view supporting acquittal must be subscribed to.**

**Source:** *In the criminal justice system, if two sensible and judicious conclusions can be drawn, then the view which espouses and provides backing towards acquittal must be subscribed to.*

*Authority: Settled criminal jurisprudence on benefit of doubt*

#### OPERATIVE ORDER

*This Criminal Petition was converted into an appeal and allowed vide our Short Order dated 24.12.2025, whereby the impugned judgment passed by High Court of Sindh, Karachi, on 17.10.2022 in CrI. Acquittal Appeal No.256/2007 was set aside and the order dated 21.06.2006 passed by the Court of Vth Judicial Magistrate Malir Karachi in Case No.51/2006 (FIR No.50/2006 registered under Sections 419, 420, 468, 471 and 109 PPC) was restored.*

■ [View Full Judgment](#)

## Lahore High Court

3 judgments

RENT — ORAL EXTENSION OF WRITTEN TENANCY; NOVATION IN EXECUTION; ONE-MONTH TENANCY PRESUMPTION

### Khizar Hayat v. Additional District Judge, Multan, etc.

CONSTITUTIONAL PETITION DISPOSED OF; EVICTION CONFIRMED; TWO-MONTH GRACE TILL 31.08.2026 GRANTED TO VACATE (STUDENTS' WELFARE)

*W.P. No.7652 of 2026 (Multan Bench) [2026 LHC 4035] · Bench: Muzamil Akhtar Shabir, J. · Decided: 22.06.2026 · Uploaded: 29.06.2026*

#### FACTS

Khizar Hayat (petitioner) is the tenant of property No. 213/1, Northern Bypass Road, Mouza Neelkot, District Multan, used to run an educational institution housing more than 2,000 students. The original tenancy was created by written agreement No.7182 dated 01.07.2017 at Rs.2,00,000/- per month (later enhanced periodically), expiring on 30.06.2025. The landlords (Respondents Nos. 3-7) filed an ejectment petition on the ground of default; the Special Judge (Rent), Multan passed an ejectment order on 03.10.2023 which was upheld by the Appellate Court on 06.06.2024 and by the High Court in W.P. No.10420 of 2024 on 21.01.2026, with the tenant permitted time till 30.04.2026 to vacate subject to clearing arrears and depositing advance rent at Rs.440,000/- per month. The petitioner claimed that, by oral mutual settlement reached in February 2026 (after the High Court's confirmation), the tenancy had been extended for 15 years (February 2026 to February 2041) at an enhanced rent of Rs.600,000/- per month, with rent for February-June 2026 paid and received. On that basis he filed an objection petition before the Executing Court (Civil Judge/Rent Controller, Multan) seeking to dismiss the execution petition due to novation of contract. Respondent No.5 (Umair Ahmad) appeared in Court and denied any agreement to extend tenancy. The Civil Judge/Rent Controller dismissed the objection petition by order dated 10.06.2026; the Additional District Judge, Multan dismissed the appeal by judgment dated 17.06.2026. Both impugned orders were assailed through the present constitutional petition.

#### LEGAL ISSUE

(i) Whether a written tenancy agreement can be varied or novated by an alleged oral agreement asserted by one party and denied by the other, particularly after the executing court is seized of an ejectment decree confirmed up to the High Court; (ii) whether an alleged oral extension of tenancy, if assumed to have been made, can be treated as extending the tenancy beyond one month; (iii) whether such oral settlement, if any, must be brought before the court and recorded in proceedings before being acted upon.

#### HOLDING

Constitutional petition disposed of. The original tenancy being through a written document, fresh agreement varying its terms had to be in writing; oral statements varying or tending to vary terms of a written document/agreement cannot be admitted into evidence (Elahi Bakhsh, 2014 SCMR 1217). The alleged oral agreement was asserted by the petitioner and denied by the respondent — its entry was disputed and could not be assumed. Although the respondents were not precluded from orally extending time, the High Court having fixed 30.04.2026 as the vacation date, the alleged oral agreement was required to be made part of court proceedings (either before this Court or by recording statements before the executing court) — a process not adopted despite the petitioner's claim that the settlement was reached in February 2026 (Mst.

Qadiran Begum, PLD 2001 Karachi 124; Fazal Maqsood, 2020 CLC 884; Umar Bakhsh, 1993 SCMR 374; Syed Ameer Hussain Shah, 2011 MLD 1956). Where period of tenancy is orally extended, the extension at most can be treated as one month only and not beyond — oral tenancy is a tenancy on month-to-month basis terminable on one month's notice; filing of an ejectment petition (and pressing of execution) itself constitutes notice of termination (Asad Ali Khan, PLD 2019 Lahore 363; Muhammad Islam, 2024 YLR 776; Mohammad Akram Bhatti, 2021 CLC 1405; Sohail Niaz Khan, 2024 YLR 1981; Muhammad Nayab, 2016 MLD 1095; Muhammad Taufeeq, 2015 CLC 1187; Aftab Ahmad Raja, 2011 YLR 2205; Sardar Muhammad, 2004 CLC 289 Kar). Even assuming oral extension, the petitioner was entitled at most to one month beyond 30.04.2026 (i.e. up to 31.05.2026), which has expired. As more than 2,000 students are getting education in the premises and arrangements need to be made, a period of two months expiring on 31.08.2026 is provided to vacate, subject to payment of outstanding rent/dues, failing which the extension ceases to have effect; no further objection petition shall be entertained.

#### LEGAL SIGNIFICANCE

A useful restatement of the well-settled rules governing alleged oral extensions of written tenancies at the execution stage. The judgment authoritatively reaffirms three propositions of broad relevance to landlord-tenant practice: (i) oral statements cannot vary the terms of a written agreement (Elahi Bakhsh, 2014 SCMR 1217); (ii) where a court has fixed a vacation date, any subsequent compromise or settlement must be brought before that court and recorded — a unilateral assertion of oral compromise cannot defeat execution; and (iii) an alleged oral extension of tenancy, if presumed, operates only on a month-to-month basis and the filing of an ejectment petition (or pressing of execution) is itself notice of termination. The judgment also illustrates the equitable balancing exercise undertaken by the High Court — confirming eviction in principle while granting a two-month grace period in view of student welfare and the need to relocate an educational institution.

#### LEGAL PROPOSITIONS (VERBATIM)

- *Oral statement of a party to an instrument which varied or tended to vary terms of a written document/agreement could not be admitted into evidence.*
- *Compromise comes from the Latin compromissum, which means 'mutual promise'. In order that a compromise be accepted, there are three conditions; (i) an adjustment of the suit; (ii) to the satisfaction of the court; (iii) by means of lawful agreement or compromise.*
- *Compromise would be complete only when it was accepted by the court and orders are passed by the court as desired by the parties.*
- *Where period of tenancy is orally extended the said extension at the most can be treated as for one month only and cannot be treated as an extension for a period beyond that time frame.*
- *Oral tenancy is a tenancy on month to month basis and the petitioner was obligated to vacate the rented premises, upon intimation of the landlord.*
- *Filing of ejectment petition was itself a notice for termination of tenancy. Keeping the said principle in view, it can also be held that pressing upon petition for enforcement of order of ejectment through execution petition is also a notice to the tenant/objection petitioner that tenancy, even if claimed to be orally extended, had expired.*

#### LEGAL PRINCIPLES EXPOUNDED

##### **An oral agreement cannot vary the terms of a written tenancy; the parole evidence rule applies to tenancy variations.**

**Source:** *in case fresh agreement had to be entered between the parties the same should have been in the written form as an oral agreement alleged to have been executed by and between the parties cannot ordinarily vary to terms of a written agreement.*

**Authority:** *Elahi Bakhsh v. Muhammad Iqbal (2014 SCMR 1217)*

##### **Where a Court has fixed a vacation date, any alleged compromise or settlement must be brought before the Court and recorded in proceedings; a unilateral assertion cannot defeat execution.**

**Source:** *even if orally entered into between the parties was required to be made part of court proceedings either before this Court or through mutual agreement between the parties by recording statements before the executing court, which process had not been adopted.*

**Authority:** *Mst. Qadiran Begum v. Dr. Jahangir Ahmed* (PLD 2001 Karachi 124); *Syed Ameer Hussain Shah* (2011 MLD 1956); *Order XXIII Rule 3 CPC*

**An alleged oral extension of tenancy, even if assumed, operates as a month-to-month tenancy only, terminable on one month's notice; the ejectment/execution petition itself constitutes notice.**

**Source:** *where period of tenancy had expired, the tenant who relied upon its extension had to establish through cogent evidence the time period for which it had been extended otherwise oral extension would tantamount to extension of one month only.*

**Authority:** *Asad Ali Khan v. Special Judge Rent* (PLD 2019 Lahore 363); *Muhammad Islam* (2024 YLR 776); *Mohammad Akram Bhatti* (2021 CLC 1405)

#### OPERATIVE ORDER

*In view of the above, as the other party had not consented to the extension of period of tenancy beyond the timeframe earlier fixed by this Court, the petitioner cannot claim the same as of right. However, as the petitioner claims that more than 2000 students are getting education in the premises and he has to make alternate arrangements for shifting the premises ..., a period of two months expiring on 31.08.2026 is provided to him to vacate the premises subject to payment of outstanding rent/dues within time to the respondents, failing which the order providing for afore-mentioned extension period shall cease to have its effect ... However, it is clarified that no further objection petition shall be entertained on the afore-mentioned grounds and extension of tenancy any further shall not be assumed unless the respondents appear before the court and get their statements recorded to affirm the same. This constitutional petition is disposed of in the above terms.*

#### ■ [View Full Judgment](#)

#### BANKING — BANKER'S LIEN VS POWER OF APPROPRIATION; DEMAND NOTICE; JOINT ACCOUNT; UNILATERAL SET-OFF

### Habib Bank Limited etc. v. M/s Taunsa Gypsum (Pvt.) Limited etc.

**REGULAR FIRST APPEAL DISMISSED; BANKING COURT'S RESTORATIVE DECREE OF US\$353,640.49 + PROFIT AFFIRMED**

*RFA No.7759 of 2022 [2026 LHC 4010] · Bench: Khalid Ishaq, J.; Hassan Nawaz Makhdoom, J. (author) · Decided: 29.06.2026 · Uploaded: 29.06.2026*

#### FACTS

In 1992 Mr. Muhammad Khan Malik (Respondent No.2) submitted a successful bid of Rs.15.9 million for the assets of Gypsum Corporation Limited then under liquidation before the Sindh High Court. To arrange the balance, he approached HBL for a bank guarantee; the Bank instead advised placing a foreign currency deposit under lien for obtaining running finance. A finance facility of Rs.8.4 million was extended to M/s Taunsa Gypsum (Pvt.) Limited (Respondent No.1) with foreign currency account No.40655-9 (jointly held by Respondents Nos.2 and 3) treated as security. On 08.07.1993 the Bank debited US\$353,004.08 and on 12.07.1993 a further US\$636.41 (aggregate US\$353,640.49) under the head 'TRF/MISC', appropriating the funds toward the alleged outstanding liability. The respondents sued in Suit No.130/01/2020 before Banking Court No.1, Lahore (under the Financial Institutions (Recovery of Finances) Ordinance, 2001) seeking declaratory relief, mandatory injunction and, alternatively, damages of Rs.76,651,804. The suit was initially dismissed as time-barred; the limitation question was conclusively decided in the respondents' favour by the High Court in RFA No.338/2009 (judgment 02.03.2020), and the matter was remanded for adjudication on merits. After remand, the Banking Court held that effective service of demand notice was not proved; notices were sent at incomplete addresses; the security/finance documents had admittedly been signed in blank and filled in later; Respondent No.3 had neither created the lien nor consented to adjustment of the joint account; and the Bank had acted both as claimant and judge in its own cause without prior adjudication of liability. The Banking Court, by judgment/decreed dated 22.12.2021, directed reversal/restoration of US\$353,640.49 to the joint foreign currency account together with profit at the prevailing bank rate. The Bank's RFA assailed this decree.

#### LEGAL ISSUE

(i) Whether a banker's lien (or letter of lien) over a depositor's foreign currency deposit, by itself, confers an unrestricted right of unilateral encashment, conversion, set-off or appropriation, without prior adjudication of

liability and without effective demand notice; (ii) the legal effect of admissions that finance/security documents were signed in blank and filled in subsequently; (iii) whether a joint account on an 'either or survivor' basis authorises the bank to appropriate the entire deposit toward one account-holder's debts; (iv) the scope of restitution as a remedy in banking suits.

#### **HOLDING**

Appeal dismissed; judgment/decree of Banking Court affirmed. A lien, in its ordinary legal sense, is merely a right of retention — it does not, of itself, confer a power of sale, realization, conversion, encashment or appropriation. Such authority arises only where expressly granted by statute or by clear, specific and unequivocal contractual terms; any ambiguity in a bank-drafted document must be construed against the Bank (contra proferentem). The Bank failed to discharge its burden of establishing effective service of demand notice — DW-1 could not state with certainty whether notices were dispatched by ordinary or registered post; no acknowledgment-due cards, postal receipts, courier records, certificates of posting or delivery confirmations were produced; the dispatch register (the primary contemporaneous record) was withheld without explanation, attracting an adverse inference; the notices bore incomplete addresses despite the complete Lahore Cantonment address being available in the account-opening documents. The requirement of effective notice is a substantive safeguard — not a procedural nicety — designed to afford the debtor a meaningful opportunity to verify, redeem or contest the alleged liability before irreversible action (Usman Malik v. Bank of Bahawalpur, PLD 1959 Karachi 725; Ma Me Shin v. Chettyar Firm, AIR 1933 Rangoon 76). The appellants' reliance on First Pakistan Securities (2021 CLD 1422) and Petrosin v. Faysal Bank (2009 CLD 361) was distinguished: those cases concerned the contents of notice (date/time of sale), not the very existence of effective service. The case was squarely governed by Messrs Summit Bank Limited v. Messrs Qasim & Company (2015 SCMR 1341) — 'the bank cannot be conferred with the judicial powers for determination of the amount due against its customer/borrower' and 'the right/power to set-off would be available only where the amount claimed was due and is certain and determined by a competent judicial forum'. The Bank, by acting as claimant, assessor and enforcing authority in one cause, violated the rule of law and due process. The 'either or survivor' designation regulates only the mode of operation inter se the joint holders; it does not empower the Bank to treat the entire balance as belonging exclusively to one holder for the purposes of securing or satisfying his personal obligations. Respondent No.3 had neither executed the lien document nor authorised appropriation. The decree was restorative in nature, founded on the equitable principle of restitution, and not punitive. A Full Bench in Muhammad Umar Rathore v. Federation of Pakistan (2009 CLD 257) further confirms that bank-maintained statements of account are not conclusive proof of liability for the purpose of enforcing proprietary claims.

#### **LEGAL SIGNIFICANCE**

A leading restatement by the Lahore High Court of the distinction between a banker's lien and a power of appropriation. The judgment operationalises the Supreme Court's Summit Bank principle (2015 SCMR 1341) and decisively rejects bank attempts to unilaterally adjudicate liability and execute recovery by appropriating depositor funds. Six points have lasting precedential value: (i) a lien per se is only a right of retention — power of sale/realization must be expressly conferred; (ii) bank-drafted security documents will be construed strictly against the Bank; (iii) effective service of demand notice is a substantive safeguard, not a formality, and the burden is on the Bank to prove dispatch and delivery; (iv) admitted blank-signed documents undermine the integrity of bank-relied evidence; (v) 'either or survivor' regulates operation only, not proprietary or security rights; and (vi) restitution lies in a banking suit to undo the consequences of unlawful unilateral appropriation. The decision will be widely cited by depositors resisting unilateral set-off, blocked/frozen account claims, and security enforcement in the absence of judicially determined liability.

#### **LEGAL PROPOSITIONS (VERBATIM)**

— *A lien, in its ordinary legal sense, merely confers upon the holder a right of retention over the property or asset concerned as security for satisfaction of an obligation. By itself, it neither divests the owner of his proprietary interest nor transfers title, ownership, dominion or beneficial interest in the asset to the lien-holder.*

— A lien, by its very nature, does not ordinarily confer a power of sale, realization, conversion, encashment or appropriation. Such authority can only arise where it is expressly granted by a statutory provision or is embodied in clear, specific and unequivocal contractual terms mutually agreed upon between the parties.

— Where the relevant document has been prepared by the financial institution itself, any ambiguity, uncertainty or lack of clarity therein cannot ordinarily be interpreted to the detriment of the depositor whose proprietary rights stand affected.

— The requirement of notice in matters involving realization or appropriation of security cannot be treated as a mere technical formality or an inconsequential procedural step. It constitutes a fundamental procedural safeguard designed to ensure fairness, transparency and observance of due process before a person is deprived of his property, proprietary interest or valuable financial asset.

— A creditor cannot be permitted to become the sole arbiter of its own claim and simultaneously the executing authority for its enforcement.

— The expression 'either or survivor' merely regulates the mode of operation of the account inter se the account holders ... It does not, in the absence of an express and legally enforceable authorization, empower a financial institution to treat the entire balance as belonging exclusively to one account holder for the purposes of securing or satisfying his personal obligations.

#### LEGAL PRINCIPLES EXPOUNDED

**A lien is merely a right of retention; an express power of sale or appropriation must be specifically conferred by statute or by unequivocal contractual term — and bank-drafted documents are construed contra proferentem.**

**Source:** A lien, by its very nature, does not ordinarily confer a power of sale, realization, conversion, encashment or appropriation. Such authority can only arise where it is expressly granted by a statutory provision or is embodied in clear, specific and unequivocal contractual terms.

**Authority:** Section 171, Contract Act 1872; Section 176, Contract Act 1872; *Usman Malik v. Bank of Bahawalpur* (PLD 1959 Karachi 725); *Ma Me Shin v. Chettyar Firm* (AIR 1933 Rangoon 76)

**A bank cannot be both claimant and adjudicator; the right of set-off arises only after the liability is judicially determined as a sum certain (Summit Bank principle).**

**Source:** Determination of the amount due is an essential pre-requisite ... the bank cannot be conferred with the judicial powers for determination of the amount due against its customer/borrower. The right/power to set-off would be available only where the amount claimed was due and is certain and determined by a competent judicial forum.

**Authority:** *Messrs Summit Bank Limited v. Messrs Qasim & Company* (2015 SCMR 1341); Section 171, Contract Act 1872

**Effective service of demand notice is a substantive safeguard; failure to produce dispatch register or proof of delivery attracts adverse inference and renders subsequent appropriation unlawful.**

**Source:** The requirement of notice ... constitutes a fundamental procedural safeguard ... Failure to establish due and effective notice strikes at the very foundation of the creditor's subsequent action.

**Authority:** *Usman Malik v. Bank of Bahawalpur* (PLD 1959 Karachi 725); *First Pakistan Securities v. Bank Islami* (2021 CLD 1422) (distinguished)

**An 'either or survivor' joint account designation regulates operational convenience only; it does not empower the bank to appropriate the entire deposit toward one holder's personal obligations without express authorisation from the co-holder.**

**Source:** The expression 'either or survivor' merely regulates the mode of operation of the account inter se the account holders ... It does not ... empower a financial institution to treat the entire balance as belonging exclusively to one account holder for the purposes of securing or satisfying his personal obligations.

**Authority:** Section 171, Contract Act 1872; *Muhammad Umar Rathore v. Federation of Pakistan* (2009 CLD 257) (Full Bench)

#### OPERATIVE ORDER

For the reasons recorded above, this Court finds no legal, factual or jurisdictional infirmity in the impugned judgment and decree dated 22.12.2021 warranting interference in exercise of appellate jurisdiction ... Consequently, the instant appeal being bereft of merit, is hereby dismissed and the impugned judgment and decree are maintained. No order as to costs. Announced in open Court on 29.06.2026.

■ [View Full Judgment](#)

**PECA S.11 — WHATSAPP GROUP LIABILITY; STATUS-BASED VS ACT-BASED ATTRIBUTION; DISSEMINATION****Syed Abdul Mannan v. The State and another****POST-ARREST BAIL APPLICATION DISMISSED; TRIAL TO BE EXPEDITED**

*Crl. Misc. No.69895-B of 2025 [2026 LHC 3997] · Bench: Tariq Saleem Sheikh, J. · Decided: 28.01.2026 · Uploaded: 29.06.2026*

**FACTS**

The petitioner Syed Abdul Mannan sought post-arrest bail in FIR No.57/2024 dated 05.04.2024 registered at PS FIA Cyber Crime Wing, Lahore for offences under Sections 295-A, 295-B, 295-C, 298-A and 109 PPC and Section 11 of the Prevention of Electronic Crimes Act, 2016 (PECA). The Informant had been added to two WhatsApp groups (R.K. and M.B.) in which various members were allegedly sharing blasphemous and sacrilegious posts; he preserved screenshots and lodged a complaint with FIA Cyber Crime Wing. Inquiry No.940/2024 dated 04.04.2024 was registered and merged with another complaint regarding the same groups. The Inquiry Officer found that the petitioner had uploaded, shared and disseminated the offensive content. Six accused persons (including the petitioner) were arrested during the inquiry. The petitioner was arrested on 08.04.2024 and his Vivo Y22 cellphone seized the same day. The Technical Analysis Report dated 17.05.2024 (over five weeks later) stated that the Vivo Y22 was attributed to the petitioner, three WhatsApp accounts were active on it, and the offending content allegedly shared through WhatsApp was found stored in the WhatsApp backend 'sent' folder of that cellphone. Defence counsel argued that mere group membership and recovery of a cellphone did not establish dissemination; the five-week gap between seizure and analysis made the Technical Analysis Report unsafe (susceptibility to misuse). The State and Informant opposed bail.

**LEGAL ISSUE**

(i) Whether mere membership of a WhatsApp group (or creation/administration of one) without identifiable act of dissemination attracts criminal liability under Section 11 PECA or Section 109 PPC; (ii) whether the absence of the words 'intentionally and publicly' in Section 11 PECA (contrasted with Sections 20 and 21 PECA) means that 'public' dissemination is not required; (iii) the evidentiary weight at the bail stage of a Technical Analysis Report prepared five weeks after seizure where the chain-of-custody is asserted but not independently impeached; (iv) classification of liability into Creator/Administrator, Ordinary Member, Actual Uploader/Forwarder, Reactions/Approval, and Failure to Remove/Act categories.

**HOLDING**

Bail dismissed. PECA's broad definitions of 'device' (cl. xv) and 'information system' (cl. xx) bring WhatsApp within the statutory framework. Section 11 PECA criminalises preparation or dissemination of information through an information system or device that advances (or is likely to advance) interfaith, sectarian or racial hatred. Although Section 11 does not use the word 'intentionally', the acts of preparing and disseminating are by their nature volitional. Liability in WhatsApp-group cases must be examined under five analytical categories: (1) Creator/Administrator — mere creation or administration does not create vicarious criminal liability unless the group is created for an unlawful purpose, the administrator participates in/facilitates/encourages the circulation, or common intention/conspiracy/abetment is shown; (2) Ordinary Member — mere membership, passive receipt of content, continued presence or failure to leave does not constitute preparation, dissemination or abetment; liability must rest on an identifiable act (uploading, forwarding, sharing, soliciting, storing for onward transmission); (3) Actual Uploader/Forwarder/Disseminator — liability is founded on the accused's own act; (4) Reactions, Approval or Expressions of Agreement — mere emojis or brief reactions are not by themselves preparation or dissemination; (5) Failure to Remove/Failure to Act — unless a statute imposes a duty to act, omission is not criminalised. Indian authorities (Kishor, Manual, Ashish Bhalla) and Pakistani authorities (Zaheer Ahmad, 2022 SCMR 1477; Muhammad Javed Memon, 2024 SHC KHI 902) were considered. Sections 20 and 21 PECA expressly require 'intentionally and publicly'; Section 11 omits this — a deliberate legislative choice. Section 26A PECA

(inserted by the 2025 Amendment) separately refers to 'disseminates', 'publicly exhibits' and 'transmits', treating them as distinct concepts. The reasoning in Memon (which drew on Nivrutti's 'public place' concept) cannot be transposed to Section 11. The real question is whether information was prepared or disseminated through an information system or device that advances interfaith/sectarian/racial hatred, and whether the act is voluntary and attributable to the accused. Here, the prosecution does not rest merely on group membership: the Technical Analysis Report attributes the Vivo Y22 to the petitioner, finds three active WhatsApp accounts on it, and locates the offending content in the WhatsApp backend 'sent' folder. The five-week interval, by itself, does not establish tampering — the analyst's record shows phones received in sealed condition through chain-of-custody form; no independent circumstance shows tampering or unauthorised access. There is sufficient incriminating evidence on tentative assessment; no case for further inquiry under Section 497(2) Cr.P.C. is made out (Shahzaman, PLD 1994 SC 65). Bail dismissed; trial to be expedited as petitioner is in custody.

#### LEGAL SIGNIFICANCE

A landmark Lahore High Court judgment on PECA Section 11 and the criminal liability of WhatsApp group participants. The five-category analytical framework (Creator/Administrator; Ordinary Member; Actual Uploader/Forwarder; Reactions; Failure to Remove) will become a standard reference in WhatsApp/social-media prosecutions across Pakistan. The judgment also makes three doctrinally important moves: (i) it distinguishes status-based liability from act-based attribution and confirms vicarious criminal liability cannot be inferred from mere administration; (ii) it draws a sharp textual distinction between Section 11 PECA (no 'publicly' requirement) and Sections 20-21 (express 'intentionally and publicly') and corrects (with respect) the SHC's transposition in Muhammad Javed Memon (2024 SHC KHI 902); (iii) it confirms that PECA's 2025 amendment (Section 26A) treats 'disseminates', 'publicly exhibits' and 'transmits' as distinct concepts. The judgment also reaffirms Shahzaman's test for 'further inquiry' under Section 497(2) Cr.P.C. and treats chain-of-custody objections to Technical Analysis Reports as matters of trial appreciation absent independent evidence of tampering.

#### LEGAL PROPOSITIONS (VERBATIM)

— *Mere creation or administration of a WhatsApp group does not, by itself, make the creator or administrator criminally liable for every post made by its members. Vicarious criminal liability cannot be inferred merely from administrative status.*

— *Mere membership of a WhatsApp group, passive receipt of content, continued presence in the group, or failure to leave it does not constitute preparation, dissemination or abetment for the purposes of section 11 of PECA or section 109 PPC. Criminal liability must rest on an identifiable act or legally relevant omission attributable to the member, and the intention or knowledge required by law.*

— *A person who personally uploads, forwards, sends, shares, or otherwise circulates the offending content stands on a different footing from a mere creator, administrator, or member of a WhatsApp group. In such a case, liability is founded on the accused's own act, not on vicarious responsibility for the act of another.*

— *Sections 20 and 21 expressly require that the offending information be exhibited, displayed or transmitted 'intentionally and publicly.' Section 11 contains no such requirement. This omission is significant.*

— *The real question under section 11 is not whether the dissemination was public, but whether information was prepared or disseminated through an information system or device in a manner that advances, or is likely to advance, interfaith, sectarian or racial hatred, and whether the alleged act is voluntary and attributable to the accused.*

— *Unless a statute imposes a duty to act, omission cannot readily be converted into criminal liability. Mere failure by an administrator to remove objectionable content, without more, does not amount to dissemination or abetment.*

#### LEGAL PRINCIPLES EXPOUNDED

**Five-category framework for analysing criminal liability arising from WhatsApp groups: Creator/Administrator; Ordinary Member; Actual Uploader/Forwarder; Reactions/Approval; Failure to Remove. Mere status (administrator or member) does not by itself create vicarious criminal**

**liability.**

**Source:** *These are not rigid compartments but a means of identifying the role attributed to the accused and testing it against the elements of the alleged offence ... Vicarious criminal liability cannot be inferred merely from administrative status.*

**Authority:** *Section 11, Prevention of Electronic Crimes Act 2016; Section 109 PPC; Kishor v. State of Maharashtra (2021); Manual v. State of Kerala (2022); Zaheer Ahmad v. The State (2022 SCMR 1477)*

**Section 11 PECA does not require dissemination to be 'public'; the deliberate legislative omission of 'intentionally and publicly' (used in Sections 20 and 21) means dissemination, not public exhibition, is the gravamen of Section 11.**

**Source:** *Within the same statute, the legislature expressly included the phrase 'intentionally and publicly' in sections 20 and 21 but omitted it from section 11, indicating a deliberate choice that the offence under section 11 should not depend upon proof that the dissemination was public.*

**Authority:** *Sections 11, 20, 21 and 26A, PECA 2016 (as amended 2025); Muhammad Javed Memon v. The State (2024 SHC KHI 902) (distinguished)*

**Mere five-week interval between seizure and Technical Analysis Report does not, without independent evidence of tampering, establish breakdown of chain of custody at the bail stage.**

**Source:** *Mere lapse of time, however, does not, by itself, establish that a device has been tampered with or accessed without authority ... No independent circumstance has been shown to demonstrate that the device was tampered with, accessed unauthorisedly, or used after seizure to introduce offending content.*

**Authority:** *Section 53-A Cr.P.C.; Article 13 Constitution of Pakistan 1973; Section 497(2) Cr.P.C.*

**'Sufficient grounds for further inquiry' under Section 497(2) Cr.P.C. is not satisfied by every hypothetical question; the question must have a nexus with the ultimate result and tend to show the accused may not be guilty.**

**Source:** *every hypothetical question capable of being answered by the trial court after evaluation of evidence does not make out a case of further inquiry. The question must have a nexus with the ultimate result and should show, or tend to show, that the accused may not be guilty of the offence charged.*

**Authority:** *Section 497(2), Cr.P.C.; Shahzaman v. The State (PLD 1994 SC 65)*

**OPERATIVE ORDER**

*For the above reasons, this application is dismissed. The observations made herein are tentative and confined to the disposal of this bail application. The trial court shall decide the case independently, on the basis of the evidence brought before it, without being influenced by any observation contained in this order. Since the Petitioner is in custody, the trial shall be expedited.*

**■ View Full Judgment****Sindh High Court**

2 judgments

**LIMITATION — ART. 113 FIRST LIMB; SECTION 53-A TPA; TENANT CLAIMING PART PERFORMANCE****Ms. Asmat Ara & Another v. Ms. Inayat Begum (Deceased) & Others****HIGH COURT APPEAL DISMISSED; SINGLE JUDGE'S REJECTION OF PLAINT UNDER ORDER 7 RULE 11 CPC AFFIRMED**

*H.C.A. No.16 of 2018 [2026 SHC KHI 1366] · Bench: Muhammad Faisal Kamal Alam, J.; Sana Akram Minhas, J. (author) · Decided: 29.06.2026 · Uploaded: 29.06.2026*

**FACTS**

Appellants Ms. Asmat Ara and Tahir Ghafoor were tenants of the deceased Respondent No.1 (Ms. Inayat Begum) in residential Plot No.9/4, Survey Sheet K-28, Firdaus Cooperative Housing Society Ltd, Nazimabad No.1, Karachi (901 sq yards with single-storeyed bungalow) under a Tenancy Agreement dated 15.11.1997. They subsequently entered into a Sale Agreement dated 15.10.1998 with the deceased Respondent No.1 — total consideration Rs.3.2 million, half (Rs.1.6 million) paid as advance, balance Rs.1.6 million to be paid on or before 31.3.1999 (admittedly unpaid to date). They continued to use the property as a godown for their sanitary-ware business. The plaintiff alleged that Respondent No.2 had been promised to return from the USA to clear bank loans and release the mortgage, but never did; despite repeated assurances year after year (2002-2008), the appellants regarded the assurances as fake but did not initiate legal proceedings owing to 'old relations and good family terms'. On 10.8.2009 Respondent No.2 visited the property, demanded an increased price reflecting appreciation, and threatened dispossession. The appellants issued a legal notice dated 15.8.2009; Respondent No.2's reply dated 10.9.2009 asserted the Sale Agreement had been cancelled on 10.8.2009 and was 'time barred'. Suit No.1245/2009 for specific performance, damages, defamation and permanent injunction was instituted on 2.9.2009 before the SHC. A learned Single Judge of the SHC (then exercising Original Civil Jurisdiction) by Impugned Order dated 19.12.2017 rejected the plaintiff under Order 7 Rule 11 CPC, holding the claim time-barred under the first limb of Article 113 of the Limitation Act, 1908.

**LEGAL ISSUE**

(i) Whether the appellants' plea of protection under Section 53-A of the Transfer of Property Act, 1882 — based on their possession originating under the Tenancy Agreement of 15.11.1997 — has any bearing on the question of limitation; (ii) whether, in view of the date fixed for performance in the Sale Agreement (31.3.1999), the plaintiff was liable to be rejected as barred by limitation under the first limb of Article 113 of the Limitation Act.

**HOLDING**

Appeal dismissed. Section 53-A TPA is a statutory shield (not a sword) protecting the possession of a transferee in part performance — it neither creates nor confers title and cannot be invoked to extend limitation for specific performance. To attract Section 53-A, the tenant must establish that subsequent to the agreement to sell he either entered into possession in part performance or, if already in possession, continued in possession and did some act in furtherance of the agreement, with possession and conduct referable to the agreement to sell rather than the pre-existing tenancy; and that the character of his possession had changed from tenant to prospective transferee (importing the obligations of the seller under Section 55(f) TPA). In the present case, none of these ingredients was satisfied: (i) the Sale Agreement did not provide that the tenancy would cease or that possession would thereafter be held as prospective purchasers in part performance; (ii) it contained no stipulation for exemption from rent or cessation of tenancy obligations; (iii) the appellants cannot contend their status changed merely because they stopped paying rent or instituted a suit for specific performance, particularly where 50% of the sale consideration (Rs.1.6 million) admittedly remains outstanding; (iv) the Sale Agreement provided no protection against eviction. Hence Section 53-A had no application. On Article 113 first limb, the Supreme Court in *Abdul Karim v. Florida Builders* (PLD 2012 SC 247) authoritatively held that the three-year limitation runs from two distinct and independent starting points — (i) from the date fixed for performance; or (ii) where no such date is fixed, from the date when performance is refused — the two limbs being mutually exclusive. Where a specific date is agreed, limitation runs strictly from that date irrespective of subsequent default or refusal; any extension is permissible only through subsequent express agreement, novation, acknowledgment under Section 19 Limitation Act, or other

statutory exception, specifically pleaded under Order 7 Rule 6 CPC. Here the stipulated date was 31.3.1999; the suit was instituted on 2.9.2009 — 10 years and 5 months later, well beyond three years. Respondent No.2's reply dated 10.9.2009 cannot revive a time-barred claim under Section 19 Limitation Act, which operates only where the acknowledgment is made before expiry of the limitation period. The appellants' own pleading (para 11) — that they refrained from initiating legal proceedings owing to 'old relations and good family terms' — demonstrates voluntary inaction; considerations of friendship or family ties cannot override the statutory bar. The law of limitation is a statute of repose, strict and inflexible (PLD 2016 SC 872, Khushi Muhammad v. Fazal Bibi; 2022 CLD 118, Zarai Taraqati Bank).

#### LEGAL SIGNIFICANCE

An important Sindh High Court Division Bench restatement of two settled but frequently confused doctrines: (i) the limits of Section 53-A TPA as a 'shield only' (not a sword) and its inapplicability to a tenant who fails to establish that the character of his possession changed from tenant to prospective transferee; and (ii) the operation of the first limb of Article 113 Limitation Act per Florida Builders (PLD 2012 SC 247) — that where a date for performance is fixed, limitation runs strictly from that date, independent of any later refusal. The judgment will be regularly cited to defeat stale specific-performance suits where (a) the plaintiff continues in occupation under a prior tenancy without conversion, (b) substantial sale consideration remains unpaid, or (c) limitation has expired before any acknowledgment of liability. The Division Bench also makes the procedural point that any extension by acknowledgment, novation or statutory exception must be specifically pleaded under Order 7 Rule 6 CPC. Helpful authority for limitation defences in real-estate disputes involving tenant-purchaser scenarios.

#### LEGAL PROPOSITIONS (VERBATIM)

- *Section 53-A neither creates nor confers title to immovable property, nor can it be invoked to assert ownership or seek a declaration of title. Its function is limited to protecting the transferee's possession in part performance of a contract by operating as a statutory defence enforceable against the transferor and all persons claiming under him, while legal title continues to vest in the transferor.*
- *Section 53-A cannot be utilised by a transferee as a sword (weapon of offence) to assert title in respect of the property, but is available only as a shield (defence) to protect possession against dispossession or interference by the transferor or persons claiming through him.*
- *Article 113 prescribes a three-year limitation period commencing from two distinct and independent points: (i) from the date fixed for performance; or (ii) where no such date is fixed, from the date when performance is refused. ... the two limbs are mutually exclusive in their operation.*
- *Under Section 19 of Limitation Act, an acknowledgment of liability gives rise to a fresh period of limitation only where it is made before the expiry of the prescribed limitation period. Once that period has expired, any subsequent acknowledgment is legally ineffectual and cannot revive or extend a time-barred claim.*
- *Considerations of friendship or family ties cannot override the statutory bar of limitation. The law of limitation operates with full rigour and cannot be defeated by subjective or sentimental reasons.*
- *The law of limitation has been described as a statute of repose, designed to quiet title and bar stale claims, and is required to be strictly complied with. By its very nature, it is strict and inflexible. It does not confer substantive rights; it merely regulates the enforcement of rights.*

#### LEGAL PRINCIPLES EXPOUNDED

**Section 53-A TPA is a shield, not a sword; it protects a transferee's possession but neither creates title nor extends limitation for specific performance.**

**Source:** *Section 53-A cannot be utilised by a transferee as a sword (weapon of offence) to assert title in respect of the property, but is available only as a shield (defence) to protect possession.*

**Authority:** *Section 53-A, Transfer of Property Act 1882; PLD 1989 SC 575 (Shamim Akhtar v. Muhammad Rasheed); 2022 SCMR 778 (Athar Hussain Shah v. Muhammad Riaz); 2000 SCMR 204 (Muhammad Yousaf v. Munawar Hussain)*

**Where a tenant claims part performance under Section 53-A, he must prove that the character of his possession changed from tenant to prospective transferee — referable to the agreement to sell, not the pre-existing tenancy.**

**Source:** the essential requirement of a clear and unequivocal change in the character of Appellants' possession — from that of tenants to that of prospective transferees in possession — remains wholly unfulfilled.

**Authority:** PLD 1989 SC 575 (Shamim Akhtar v. Muhammad Rasheed); 1994 SCMR 1012 (Muhammad Rafique v. HBL); 2000 SCMR 1604 (Nabi Bux v. Naseem)

**Article 113 Limitation Act has two mutually exclusive limbs; where a date is fixed for performance, limitation runs strictly from that date, irrespective of any subsequent refusal.**

**Source:** Where a specific date for performance is agreed between the parties, limitation runs strictly from that date, irrespective of any subsequent default or refusal, thereby avoiding factual disputes regarding notice or denial.

**Authority:** Article 113, Limitation Act 1908; PLD 2012 SC 247 (Abdul Karim v. Florida Builders); PLD 2018 SC 692 (Muhammad Sadiq v. Muhammad Mansha); 2022 SCMR 933 (Khudadad v. Ghazanfar Ali Shah)

**An acknowledgment of liability under Section 19 Limitation Act revives limitation only if made before expiry of the prescribed period; post-expiry acknowledgment cannot revive a time-barred claim.**

**Source:** Under Section 19 of Limitation Act, an acknowledgment of liability gives rise to a fresh period of limitation only where it is made before the expiry of the prescribed limitation period. Once that period has expired, any subsequent acknowledgment is legally ineffectual and cannot revive or extend a time-barred claim.

**Authority:** Section 19, Limitation Act 1908; 1997 SCMR 536 (Behlol v. Quetta Municipal Corporation)

#### OPERATIVE ORDER

For the foregoing reasons, the Impugned Order rejecting the Plaint as barred by limitation calls for no interference. As a result, this Appeal is dismissed along with all pending applications, with no order as to costs.

#### ■ View Full Judgment

#### CUSTOMS FIR QUASHMENT — SS.162-163; SEARCH-WARRANT REQUIREMENT; ART.199 JUDICIAL REVIEW

### M/S Al-Rahim Trading Company (Pvt) Limited & 69 others v. Federation of Pakistan & others

CONSTITUTIONAL PETITION ALLOWED; FIR NO. ASO-31/2026-INT QUASHED; SEARCH, SEIZURE AND DETENTION PROCEEDINGS DECLARED ILLEGAL; RELEASE OF CONFISCATED HSD WITHIN 10 DAYS DIRECTED

Const. P. No.D-3253 of 2026 [2026 SHC KHI 1355] · Bench: Muhammad Saleem Jessar, J. (author); Nisar Ahmed Bhanbhro, J. · Decided: 18.06.2026 (short order); reasons 27.06.2026 · Uploaded: 29.06.2026

#### FACTS

Petitioner No.1 is a petroleum terminal at 49, Oil Installation Area, Keamari, Karachi receiving, storing and releasing petroleum products against valid government-issued documents. Petitioner No.2 is a petroleum procurement and distribution company. Petitioners No.3 to 70 are its employees. On the intervening night between 13-14 May 2026 ASO Preventive Officer Mubashir Naveed intercepted two oil tankers (TLR-040 and TLZ-704) near Gate No.1 Keamari. The drivers disclosed they were transporting HSD from M/s Caspian Oil by reusing a Coast Guard Delivery Order dated 11.05.2026. Scanning revealed those tankers had moved 398,913 liters of HSD (excluding 96,000 liters on board at interception) from M/s Caspian to the Al-Noor/Fuel XL storage facility within Al Rahim premises during 11-13 May 2026 under instructions of M/s Al-Noor Petroleum (Pvt) Ltd. A second pattern alleged misuse of gate passes of another government entity covering another 397,018 liters HSD — aggregating an alleged smuggled quantity of approximately 891,931 liters. Search of Al Rahim/Al-Noor premises (without warrant) over 14-18 May 2026 led to seizure of Tank ATC-07 (10,50,488 liters HSD), tanker TMR-896 (21,000 liters HSD) and Tank ATL-11 (12,53,911 liters PMG). FIR No. ASO-31/2026-INT was registered on 18.05.2026 (four days after first interception, without explanation for delay) under Sections 2(s), 16, 17, 178 and 187 punishable under Section 156(1), 156(2) and 157(2) of the Customs Act, 1969. The petitioners produced OGRA Proforma dated 14.05.2026, FIA inspection report 14.05.2026, Coast Guard Auction Receipts, PRL Invoice No.1065, dispatch notes, A.F. Ferguson independent inspection report and PWC ASR-5683 confirming lawful procurement and storage.

#### LEGAL ISSUE

(i) Whether the FIR — registered with a four-day delay and lacking particulars of date and time of the alleged offence — satisfies the requirements of Section 222 Cr.P.C.; (ii) whether the search of the Petitioner's premises over 14-18 May 2026 (without obtaining a search warrant under Section 162 of the Customs Act, 1969 and without complying with the Section 163 requirement of recording the grounds of belief and danger of removal) is lawful; (iii) whether the petitioner's documentary evidence of lawful procurement (OGRA Proformas, Coast Guard auction receipts, PRL invoices, independent inspection reports) discharges the burden under Section 187 Customs Act; (iv) the scope of Article 199 Constitution for quashing an FIR where the proceedings are nullity for non-compliance with statutory safeguards.

#### **HOLDING**

Petition allowed; FIR quashed. The FIR was recorded on 18.05.2026 with a delay of four days without any explanation, and lacks the necessary ingredients of criminal charge — particularly date and time of the offence (Section 222 Cr.P.C.; *Mumtaz Ali v. The State*, 2000 PCrLJ 367). Section 162 of the Customs Act mandates obtaining a search warrant from a Judicial Magistrate; Section 163 permits warrantless search only where the officer (not below Assistant Collector) records in writing the grounds of his belief and the apprehended danger of removal before a warrant can be obtained. Recourse to Section 163 was at best justified on the first night of interception (13-14 May 2026); the continuing search of petitioners' premises from 14th May to 18th May 2026 without any search warrant vitiated all subsequent proceedings (*Collector of Customs (Preventive) v. Muhammad Mahfooz*, PLD 1991 SC 630 — the legislative wisdom is to safeguard citizens' property rights and right of privacy against mala fide interference). Before any seizure or confiscation, the Officer of Customs was bound to inquire about the status of goods using Section 26 Customs Act (obligation to produce documents and provide information) — no such notice was ever issued. The presumption that goods coming into Pakistan have been filtered through the customs barrier and relevant duties paid is judicially recognised; the petitioner discharged its prima facie evidential burden through OGRA Proformas, FIA reports, Coast Guard auction receipts, PRL invoices, dispatch notes and independent A.F. Ferguson/PWC reports — shifting the burden onto Customs, which failed to repel the stance. To bring a charge under Section 2(s) Customs Act, the seized goods must be of foreign origin brought into Pakistan through improper channel — not established here. Customs officials failed to record statements of any responsible person of PRL or Pakistan Coast Guards. Under Article 199(1)(a)(ii) of the Constitution, the Court is competent to judicially review acts of FIR registration and investigation by officers of the Federation (here ASO/Customs) and declare them without lawful authority. The power to quash an FIR is exercised sparingly — only where facts unequivocally indicate no offence was committed; the registration was misuse of official capacity; continued prosecution would amount to abuse of process; or a civil dispute has been converted into criminal proceedings to harass (PLD 2016 SC 55, *Muhammad Farooq v. Ahmed Nawaz Jagirani*; PLD 2023 SC 265, *FIA v. Syed Hamid Ali Shah*). The petitioner's fundamental rights under Articles 4, 9, 10-A and 18 of the Constitution were impinged. The FIR, detention proceedings and investigation are nullity; petitioners discharged their burden under Section 187 Customs Act.

#### **LEGAL SIGNIFICANCE**

A significant Sindh High Court Division Bench judgment limiting Customs/ASO warrantless searches and providing a clear template for quashment of Customs FIRs that bypass Sections 162-163 of the Customs Act, 1969. Three doctrinal points have wide commercial impact: (i) Section 162's warrant requirement is the rule; recourse to Section 163 (warrantless search) is exceptional and confined to situations where the officer records contemporaneous grounds of belief and apprehended danger of removal — a continuing multi-day search cannot be sustained on a single night's emergency premise; (ii) before any seizure, the Customs officer should ordinarily use Section 26 (information/document production) to inquire about the legal status of goods — failure to do so undermines the seizure; (iii) where the trader produces OGRA/FIA/PRL/independent inspection documentation establishing lawful procurement, the evidential burden shifts onto Customs to disprove the documentation. The decision is also significant for the application of Article 199 Constitutional jurisdiction to quash Customs FIRs at the threshold — even where alternative remedies under Sections 249-A/265-K Cr.P.C. exist — relying on *FIA v. Syed Hamid Ali Shah* (PLD 2023 SC 265) and *Muhammad*

Farooq v. Ahmed Nawaz Jagirani (PLD 2016 SC 55). High precedential value for OMC/petroleum-terminal litigation, oil-tanker seizures, and Customs HSD/PMG cases.

#### LEGAL PROPOSITIONS (VERBATIM)

- *From perusal of FIR, which has been recorded on 18.05.2026 with a delay of four days without any explanation, it transpires that the same lacks the necessary ingredients of criminal charge viz date and time of the offence. In absence of particular details an accused cannot be indicted for the charge.*
- *It was necessary to obtain a search warrant from concerned magistrate so as to make search and seizure proceedings trust worthy. No material has been placed on record for this omission, which vitiated all the proceedings conducted by the ASO officers.*
- *It is ordinarily presumed that goods coming into the country have been filtered through the customs barrier and the relevant duties and taxes have been paid. The aforesaid presumption is judicially recognized in absence of an indication to the contrary.*
- *While the evidential and tactical burden is initially placed upon on the person, he only needs to show some evidence to prima facie discharge his evidential burden and thereafter the same shifts upon the customs authorities.*
- *To bring a charge under section 2(s) of the Customs Act 1969, the seized goods must be of foreign origin and brought in Pakistan through improper channel.*
- *Powers vested in this Court under article 199 of the Constitution, in particular for quashing an FIR are exercised under exceptional circumstances, very sparingly and rarely, and only when the facts on record unequivocally indicated that no offence was committed by the accused; the registration of FIR was misuse of official capacity, there was no justification for allowing the prosecution to continue, the proceedings in the matter would amount to an abuse of the process of law.*

#### LEGAL PRINCIPLES EXPOUNDED

**Section 162 Customs Act 1969 requires a search warrant from a Judicial Magistrate; Section 163 warrantless search is exceptional and confined to situations with contemporaneous recorded grounds of belief and apprehended danger of removal — a continuing multi-day search cannot be sustained.**

**Source:** *ordinarily a place is to be searched only after search-warrant is obtained from the Magistrate ... in extraordinary cases this section can be dispensed with as is permissible under section 163 of the Customs Act but then grounds are to be stated by the Customs Officer who is allowed this facility for his belief and decision in not obtaining the search warrant.*

**Authority:** Sections 162 and 163, Customs Act 1969; Collector of Customs (Preventive) v. Muhammad Mahfooz (PLD 1991 SC 630)

**Before any seizure, the Customs officer should use Section 26 Customs Act to inquire about the status of goods; documentary evidence of lawful procurement shifts the burden onto Customs.**

**Source:** *If during inquiry Petitioner Company failed to justify the entry of goods through valid channel then proceedings under section 163 ought to have been taken. Section 26 of the Customs Act empowers a designated officer to require any person ... to furnish such information.*

**Authority:** Sections 26 and 187, Customs Act 1969

**The High Court may quash an FIR under Article 199 Constitution where the facts unequivocally indicate no offence is made out, the registration is misuse of official capacity, continuing prosecution would amount to abuse of process, or a civil dispute has been converted into criminal proceedings.**

**Source:** *Powers vested in this Court under article 199 of the Constitution, in particular for quashing an FIR are exercised under exceptional circumstances, very sparingly and rarely, and only when the facts on record unequivocally indicated that no offence was committed.*

**Authority:** Article 199(1)(a)(ii), Constitution of Pakistan 1973; FIA v. Syed Hamid Ali Shah (PLD 2023 SC 265); Muhammad Farooq v. Ahmed Nawaz Jagirani (PLD 2016 SC 55)

**FIRs lacking particulars of time and place fail the Section 222 Cr.P.C. test of a valid charge and cannot afford the accused the notice required to defend.**

**Source:** *It is mandatory that charge shall contain all material particulars as to time, place as well as specific name of the alleged offence, the manner in which the offence was committed and the particulars of the accused so as to afford*

*accused an opportunity to explain the matter with which he is charged.*

**Authority:** Section 222, Cr.P.C.; *Mumtaz Ali v. The State* (2000 PCrLJ 367)

#### OPERATIVE ORDER

*In view of the reasoning and rationale herein contained, a case to exercise the powers of judicial review under article 199 of the Constitution is made out. Consequently this petition is allowed. The search, seizure and detention proceedings conducted by the respondents are declared in dissonance with the law. As a result of the findings herein above the FIR No ASO-31/2026-INT stands quashed. ASO is directed to restore the sealed and detained property to the Petitioners. ... Petitioner ... may submit an application with the custom authorities for the release of confiscated goods and HSD which shall be released to him within a period of 10 days from the date of this order.*

■ [View Full Judgment](#)

---