

# **IN THE HIGH COURT OF SINDH AT KARACHI**

PRESENT:

***Mr. Justice Arshad Hussain Khan***  
***Mr. Justice Amjad Ali Sahito***

## **High Court Appeal No.259 of 2024**

Appellant : Ali Wahid (Raj Ali Wahid Kunwar)  
son of Wahid Khursheed Kunwar  
through M/s. Muhammad Zeeshan  
Abdullah, Shoaib Ahmed, Ahmed Ali  
Hussain & Muhammad Mohib Ellahi,  
Advocates

Respondent No.1: S.M. Traders Pvt. Ltd.  
Nemo.

Respondent No.2: Muhammad Babar S/o Nazeer Ahmed  
Nemo.

Respondent No.3: Soneri Bank  
Nemo.

Respondent No.4: Habib Metro Bank  
Nemo.

Respondent No.5: I.G. Sindh Police,  
through Ms. Amna Usman, Assistant  
Advocate General

Respondent No.6: Vista Apparel Pvt. Ltd.,  
through Mr. Nadir Khan Burdi, Advocate

## **High Court Appeal No.262 of 2024**

Appellant : Vista Apparel Pvt. Ltd.  
through Mr. Nadir Khan Burdi, Advocate

Respondent No.1: S.M. Traders Pvt. Ltd.  
Nemo.

Respondent No.2: Muhammad Babar S/o Nazeer Ahmed  
Nemo.

Respondent No.3: Soneri Bank  
Nemo.

Respondent No.4: Habib Metro Bank  
Nemo.

Respondent No.5: I.G. Sindh Police,  
through Ms. Amna Usman,  
Assistant Advocate General

For State: Ms. Amna Usman, A.A.G. Sindh

Date of Hearing : 14.05.2026

Date of Judgment: 14.05.2026

## **J U D G M E N T**

**Amjad Ali Sahito, J.** Through the captioned High Court Appeals, No. HCA No.259 of 2024 filed by the appellant, Ali Wahid (Raj Ali Wahid Kunwar), and HCA No.262 of 2024 filed by the appellant, Vista Apparel (Pvt.) Ltd., the appellants have called in question the legality, propriety, and correctness of the order dated 31.07.2024 passed by the learned Single Judge of this Court in Suit No.765 of 2024. By the said order, while adjudicating upon an application seeking interim relief in relation to certain disputed cheques, the learned Court recorded observations pertaining to alleged suppression of material facts, misleading of the Court, and forum shopping attributed to the appellant, who was appearing as counsel in the connected proceedings.

2. Through the impugned order, costs quantified at Rs.3,000,000/- (Rupees Three Million) were imposed upon the plaintiff, adverse observations and strictures concerning the professional conduct of the appellant were recorded, and consequential directions were also issued. Feeling aggrieved and dissatisfied with the findings, observations, and consequences emanating therefrom, the appellants have preferred the present appeals seeking setting aside and/or modification of the impugned order.

3. Briefly stated, as gathered from the record, a civil suit bearing No.765/2024 had earlier been instituted before this Court on behalf of a company namely **Vista Apparel (Pvt.) Limited** seeking declaration, cancellation of guarantee cheques and permanent injunctive relief restraining use/presentation of such cheques. Separately, constitutional proceedings being C.P. No. D-3513/2024 had also been initiated on behalf of another

person seeking protective relief against apprehended coercive action, inquiries and registration of criminal cases. Orders of interim nature were passed in both matters by different Benches of this Court. Subsequently, during hearing of the civil suit, questions arose regarding disclosure of previously instituted proceedings and interim relief obtained therein. The learned Single Judge, after considering the matter, reached the conclusion that material facts had not been fairly disclosed before the Court and, while dismissing the stay application, proceeded to pass observations concerning conduct of counsel, impose substantial costs and issue consequential directions, giving rise to the present appeals.

4. Learned counsel appearing on behalf of the Appellants, while assailing the impugned order, contended that the learned Single Judge fell into serious error in treating two independent proceedings as overlapping or identical in nature. According to learned counsel, Suit No.765/2024 had been instituted by *Vista Apparel (Pvt.) Limited* through its authorized representative seeking civil reliefs including declaration, cancellation of cheques and injunction against their use and presentation, whereas Constitutional Petition No. D-3513/2024 had been filed on behalf of another individual seeking protective relief against apprehended coercive action and registration of criminal proceedings. It was argued that parties in both matters were distinct, causes of action differed and reliefs sought were not identical; therefore, omission to disclose one proceeding in the other could not ipso facto be construed as suppression of material facts or deliberate attempt to mislead the Court.

5. Learned counsel further submitted that any omission attributable to the Appellants was wholly inadvertent, bona fide and devoid of mala fide intention. It was argued that at no stage was there any attempt to secure conflicting orders or abuse process of Court. Learned counsel maintained that the Appellants had acted under bona fide understanding that relief sought in constitutional proceedings concerning apprehended criminal action was materially different from civil relief sought in

the suit concerning cancellation and presentation of cheques. According to them, such omission, assuming without conceding the same, could at best amount to an error of judgment and not deliberate concealment warranting adverse findings affecting professional reputation.

6. Learned counsel for the appellants next argued that observations recorded in the impugned order carry serious civil and professional consequences inasmuch as they attribute conduct amounting to deliberate suppression, misleading of Court and forum shopping. It was contended that adverse remarks against an advocate cannot ordinarily be recorded unless strictly necessary for decision of controversy and after affording meaningful opportunity to explain circumstances giving rise to such observations. Learned counsel submitted that prior to passing of impugned order, no specific charge, issue or notice had been framed requiring the Appellant Ali Wahid to defend allegations touching his professional conduct and, therefore, findings recorded in the impugned order offend settled principles of natural justice.

7. Learned counsel appearing in HCA No.262 of 2024 further contended that the quantum of costs imposed through the impugned order, namely **Rs.3,000,000/- (Rupees Three Million)**, is excessive, disproportionate and unsupported by statutory framework. It was argued that while imposing punitive or exemplary costs, Courts are required to observe proportionality and exercise discretion judiciously keeping in view nature of default, prejudice caused and surrounding circumstances. Learned counsel submitted that the impugned order proceeded on assumptions regarding professional earnings and fee structure of the Appellant without evidentiary basis and consequently resulted in arbitrary determination of quantum.

8. Continuing his submissions, learned counsel argued that even otherwise, assuming some lapse on part of the Appellant, penal consequences ought not to have been visited upon the litigant who merely engaged legal representation and acted upon professional advice. It was urged that if any responsibility was to

be assigned, the same could not have been transferred to the client in absence of independent wrongdoing attributable thereto. Learned counsel emphasized that a litigant lacking legal expertise should not suffer punitive consequences for procedural or strategic decisions allegedly taken by counsel.

9. Learned counsel also placed considerable emphasis upon the doctrine of proportionality and submitted that judicial discretion in imposing costs must bear reasonable nexus with gravity of conduct complained of. Reference was made to precedents wherein comparatively lesser costs had been imposed even in cases involving abuse of process, whereafter it was argued that imposition of costs quantified at Rs.3,000,000/- in peculiar facts of the present case is manifestly excessive and warrants interference by this Court in appellate jurisdiction.

10. Lastly, learned counsel submitted that the Appellant Ali Wahid (Raj Ali Wahid Kunwar) has throughout maintained an unblemished professional record and had no intention to mislead any Court. It was urged that observations adversely affecting integrity and professional standing deserve expunction and, alternatively, the impugned order may be suitably modified to remove strictures and reduce or set aside costs imposed thereunder. On these and other grounds, learned counsel prayed that the present appeal be allowed and the impugned order be set aside or modified to the extent indicated above.

11. On the other hand, Learned AAG appearing on behalf of the Respondent No.5, while opposing the instant appeals, supported the impugned order and contended that the same suffers from no legal infirmity warranting interference by this Court in appellate jurisdiction. According to learned AAG, parties approaching constitutional Courts are under an unequivocal obligation to disclose all previous and pending proceedings having nexus with the controversy in issue, particularly where interim reliefs have already been sought or granted. It was argued that such obligation flows from settled principles requiring utmost candour, fairness and good faith in proceedings invoking discretionary jurisdiction of superior Courts.

12. Learned AAG submitted that material available before the learned Single Judge sufficiently demonstrated existence of connected proceedings involving substantially similar subject matter concerning disputed cheques and apprehended criminal action. According to her, omission to disclose earlier proceedings had direct bearing upon exercise of judicial discretion and could not be brushed aside as a mere inadvertent lapse. It was contended that suppression of material facts disentitles a litigant from equitable relief and Courts are fully empowered to decline relief, record observations and impose costs where process of Court appears to have been abused.

13. Learned AAG, further argued that the impugned order was passed after due consideration of circumstances emerging from record and cannot be viewed in isolation from conduct observed by the learned Single Judge during pendency of proceedings. It was urged that findings recorded in the impugned order essentially constitute judicial opinion formed on basis of material before the Court and such findings ordinarily ought not to be disturbed unless shown to be arbitrary, perverse or unsupported by record.

14. With regard to costs imposed through the impugned order, learned counsel submitted that superior Courts possess inherent authority to impose deterrent or exemplary costs in appropriate cases to preserve sanctity of judicial proceedings and discourage misuse of process. According to her, quantum of costs falls within discretionary domain of the Court passing the order and mere disagreement with such exercise of discretion would not justify appellate interference.

15. Learned AAG lastly contended that present appeals substantially seek reappraisal of factual appreciation and exercise of discretion undertaken by the learned Single Judge, whereas no case of jurisdictional error, misreading or violation of law has been demonstrated. It was therefore prayed that the appeals being devoid of merit be dismissed and impugned order be maintained.

16. We have heard learned counsel for the parties at considerable length, examined the impugned order, pleadings appended with the appeals and relevant material placed on record.

17. Before examining rival contentions and legality of the impugned order, we consider it appropriate to briefly recount the factual background leading to institution of the present appeals. The controversy appears to have originated from commercial dealings resulting in issuance of multiple cheques, whereafter disputes arose concerning liability attached thereto and apprehended coercive measures including criminal proceedings. In that backdrop, civil proceedings seeking cancellation of cheques and injunctive relief were initiated, while parallel constitutional proceedings seeking protective directions against possible criminal action were also brought before this Court. Interim orders came to be passed in both matters at different stages. Thereafter, during hearing of Suit No.765/2024, maintainability issues, scope of relief and disclosure obligations concerning connected proceedings came under consideration before the learned Single Judge, eventually culminating in passing of the impugned order dated 31.07.2024.

18. Since the controversy raised in the present appeal concerns not merely the correctness of the costs imposed but also propriety of recording adverse observations against a practicing advocate, alleged suppression of material facts and exercise of judicial discretion in imposing punitive consequences, it would be advantageous to first examine the factual sequence in chronological order before addressing legal questions arising for determination.

***a. Whether adverse observations/strictures recorded against the appellant were justified?***

19. The question requiring determination concerns propriety of adverse observations and strictures recorded against the Appellant Ali Wahid in the impugned order. The issue assumes significance because remarks touching integrity, professional

conduct or honesty of an advocate are not confined to immediate litigation but may carry enduring consequences affecting reputation, standing at the Bar and future professional prospects.

20. It is a settled principle of judicial restraint that while Courts possess unquestionable authority to comment upon conduct relevant to controversy before them, adverse remarks against an individual, particularly an advocate discharging professional duties, ought not to be recorded casually or unnecessarily. Such observations must remain confined to what is indispensable for deciding issues arising in the proceedings and should avoid language exceeding requirements of adjudication.

21. Superior Courts have repeatedly emphasized that before recording remarks having civil or professional repercussions, three broad safeguards ordinarily deserve observance: **firstly**, the person concerned should have sufficient opportunity to explain circumstances giving rise to proposed criticism; **secondly**, material supporting such criticism must appear from record; and **thirdly**, recording of such remarks must be necessary for deciding controversy before the Court. Absence of these considerations may render adverse observations vulnerable to appellate scrutiny.

22. In the present matter, perusal of the record suggests that principal controversy before the learned Single Judge related to maintainability, interim relief and effect of alleged non-disclosure of connected proceedings. The question therefore arises whether findings touching deliberate misleading of Court, suppression of facts and observations carrying implications regarding professional conduct were indispensable for deciding application before the learned Court or whether controversy could have been resolved without extending criticism to that extent.

23. Another aspect carrying weight is procedural fairness. Learned counsel for the Appellant Ali Wahid has consistently maintained that no specific notice or meaningful opportunity was

afforded to explain alleged misconduct prior to recording findings having serious professional implications. Whether opportunity provided was sufficient or otherwise must be viewed not through technical lens alone but keeping in mind gravity of consequences ultimately flowing from impugned observations.

24. We may observe that advocates, as officers of the Court, undoubtedly owe heightened duties of candour and fairness. Equally, however, Courts bear corresponding responsibility to ensure that findings affecting professional reputation are recorded with circumspection, moderation and only where circumstances unmistakably demand such course. Institutional dignity is preserved not merely by condemning misconduct where established, but equally by ensuring that criticism remains proportionate and procedurally fair.

25. Upon careful examination of available material, we find that while conduct attributed to the Appellant may legitimately have invited judicial concern regarding disclosure of connected proceedings, the transition from concern to conclusions implying intentional deception or professional impropriety required fuller justification and clearer foundation. Judicial displeasure and findings carrying long-term reputational consequences cannot invariably be treated as interchangeable.

26. We are therefore of the tentative view that observations impugning professional conduct, if not indispensable for adjudication and unsupported by adequate procedural safeguards, may warrant interference, moderation or expunction to the extent necessary to secure ends of justice without diluting importance of disclosure obligations owed to the Court.

27. Resultantly, although expectation of complete disclosure remains undiminished and any lapse in that regard deserves disapproval, adverse remarks affecting integrity or professional standing must satisfy stricter standards before being permitted to endure. The issue shall accordingly be considered alongside sustainability of costs imposed through the impugned order.

***Whether imposition of costs of Rs.3,000,000/- was justified and proportionate?***

28. The impugned order further imposed costs quantified at Rs.3,000,000/- (Rupees Three Million). Such direction constitutes a substantive civil consequence and, therefore, requires independent examination apart from observations recorded regarding conduct of the Appellant/Vista Apparel Pvt. Ltd. The issue is not whether Courts possess power to impose costs. Such authority is beyond dispute, but whether exercise of such power in facts of present case satisfies requirements of legality, proportionality and judicial discretion.

29. It is by now well settled that award of costs serves multiple objectives: compensatory, regulatory and, in appropriate circumstances, deterrent. Courts may impose realistic or exemplary costs to discourage frivolous litigation, abuse of process, concealment of facts or conduct undermining administration of justice. Nevertheless, power concerning costs is discretionary and, like every judicial discretion, must remain informed by reason and exercised on objective principles.

30. A discretionary order imposing substantial financial consequences ordinarily requires clear articulation regarding: **(i)** nature and gravity of misconduct established; **(ii)** prejudice caused to opposing side or judicial process; **(iii)** reasons justifying chosen quantum; and **(iv)** proportional relationship between conduct complained of and sanction imposed. Absence of such factors may expose exercise of discretion to challenge.

31. In the present matter, imposition of costs appears to have been founded upon perceived suppression of material facts and conclusions drawn regarding conduct attributable to the Appellant. We have already observed hereinabove that while omission to disclose connected proceedings may legitimately attract criticism, characterization thereof as intentional suppression required more nuanced examination. Sustainability of consequential punitive measures must therefore necessarily be viewed in same context.

32. Another aspect carrying significance concerns quantum. Costs amounting to Rs.3,000,000/- are by no means nominal or merely symbolic. Such amount constitutes substantial financial burden capable of producing serious consequences. The greater the sanction, the greater ordinarily is the requirement for demonstrable justification. Principle of proportionality acquires heightened importance where sanction imposed travels beyond routine compensatory costs and assumes punitive or deterrent character.

33. Judicial discretion relating to costs must avoid perception of arbitrariness. Deterrence, though legitimate, cannot be detached from proportionality. Sanction imposed should correspond to gravity of conduct established and should neither trivialize misconduct nor exceed what circumstances reasonably warrant. Excessive punishment may itself undermine confidence in fairness of process just as inadequate sanction may fail to preserve institutional discipline.

34. We are further persuaded by the submission that distinction between conduct attributable to counsel and litigant deserved careful consideration before imposing financial consequences. Record indicates that grievance underlying impugned order primarily concerned alleged omission or strategic conduct during litigation. Whether consequences thereof ought to have been visited upon litigant, counsel or neither required independent reasoning, particularly where litigant is asserted to have acted upon legal advice.

35. It is equally important to note that imposition of costs should not inadvertently result in punishment disproportionate to established wrongdoing or produce consequences extending beyond legitimate objectives of discipline and deterrence. Courts must remain vigilant that sanctions preserve respect for judicial process without assuming character of retribution.

36. Upon cumulative assessment of surrounding circumstances, nature of omission alleged, absence of unequivocal finding supported by stronger material regarding

deliberate suppression and considerations touching proportionality, we are of the considered view that quantum of costs imposed through the impugned order warrants appellate scrutiny. Even where criticism of conduct may be justified, sanction imposed must bear rational nexus with misconduct established.

37. Consequently, while expectation of complete disclosure before Courts remains absolute and any departure therefrom may justify corrective measures, imposition of costs quantified at Rs.3,000,000/- in peculiar facts of present case does not appear free from concerns relating to proportionality and adequacy of supporting reasons.

38. Having examined the controversy from all relevant angles, considered submissions advanced by learned counsel for the parties and scrutinized material available on record, we are persuaded to hold that although omission to disclose connected proceedings cannot be regarded as an ideal practice and undoubtedly deserves caution, the circumstances of the present matter did not justify conclusions of such severity as ultimately recorded in the impugned order.

39. We have observed hereinabove that proceedings before different Benches involved distinct parties and reliefs not identically framed, notwithstanding some overlap in factual background. In such circumstances, omission to disclose connected proceedings required cautious appreciation before being elevated to a finding of deliberate suppression, misleading of Court or conduct amounting to forum shopping. Findings carrying such implications necessarily require stronger foundation and clearer demonstration of conscious intent than what appears from record presently before us.

40. Likewise, observations affecting professional standing and integrity of an advocate, once recorded in judicial orders, possess consequences extending beyond immediate proceedings. Such remarks, unless indispensable for adjudication and supported by adequate opportunity and compelling material, ought to be

avoided. We are not persuaded that continuation of adverse observations contained in the impugned order is necessary for preservation of judicial discipline or for deciding controversy that arose before the learned Single Judge.

41. So far as costs quantified at Rs.3,000,000/- are concerned, we are of the considered view that the same do not satisfy test of proportionality in peculiar facts of present case. Even assuming lapse on part of the Appellant, sanction imposed appears disproportionate to conduct established and unsupported by reasons commensurate with financial consequences flowing therefrom. Exercise of discretion, therefore, warrants interference.

42. We may clarify that present findings shall not be construed as dilution of obligation resting upon litigants and members of the Bar to approach Courts with utmost candour and complete disclosure. Such duty remains absolute. However, enforcement of that obligation must remain balanced with fairness, proportionality and procedural safeguards, particularly where conclusions may adversely affect professional reputation and livelihood.

43. For the reasons discussed hereinabove, we are of the considered view that the impugned order dated 31.07.2024, insofar as it records adverse observations and strictures against the appellants, imposes punitive costs, and attributes deliberate suppression of facts and misleading of the Court to them, is not sustainable in the eyes of law and, therefore, warrants interference by this Court in exercise of its appellate jurisdiction.

44. Consequently, the instant appeals are partly allowed, and the order dated 31.07.2024 passed by the learned Single Judge in Suit No.765 of 2024 is hereby modified accordingly.

45. **Resultantly:**

- i. The adverse observations, remarks, and strictures recorded against the appellant, namely Ali Wahid (Raj Ali Wahid Kunwar, Advocate), pertaining to the alleged deliberate suppression of facts, misleading of the Court, forum

shopping, or professional misconduct, are hereby expunged.

- ii. The direction imposing costs in the sum of Rs.3,000,000/- (Rupees Three Million) is modified and reduced to Rs.100,000/- (Rupees One Lac only). The appellant, Vista Apparel (Pvt.) Ltd., shall deposit the aforesaid amount with the High Court Clinic within fifteen (15) days.
- iii. All pending applications, if any, shall accordingly stand disposed of.

46. Before parting with this matter, we deem it appropriate to reiterate that members of the Bar occupy a vital position in administration of justice and are expected to maintain highest standards of candour and disclosure before Courts. Equally, criticism affecting professional standing must be exercised with restraint and only where circumstances unmistakably justify such course. Administration of justice is best served when accountability and fairness proceed hand in hand.

**JUDGE**

**JUDGE**