

IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. D - 3663 of 2026

Shakeel Ahmed & another

Versus

Province of Sindh & Ors

Before: *Mr. Justice Muhammad Saleem Jessar &
Mr. Justice Abdul Hamid Bhurgri*

07.10.2026

Mr. Muhammad Daud Narejo, Advocate for the petitioner.

Mr. Qamar Abbas Ali Abbasi, Advocate for KW&SC along with
SIP Ameer Ali Shah, PS KW&SC.

Ms. Amna Ansari, Addl. P.G.

Mr. Muhammad Kamran Baloch, AAG.

ORDER

MUHAMMAD SALEEM JESSAR, J: Through instant Constitutional Petition, petitioners have called in question the legality and vires of FIR No.29 of 2026, registered at Police Station KW&SC East Zone, Karachi, under Sections 430, 427/34 PPC read with Section 39(2) & (3) of Schedule-I/II of the Karachi Water and Sewerage Corporation Act, 2023 (the Act). The petitioners have sought, *inter alia*, quashment of the said FIR and protection against coercive action. The substantive reliefs sought by the petitioners are reproduced hereunder:

- “(a) That the impugned FIR No.29 of 2026 registered under Sections 430, 427 and 34 of the Pakistan Penal Code read with Section 39(2)(3) of Schedule II of the Karachi Water and Sewerage Corporation Act, 2023 at Police Station KW&SC East Zone, Karachi, may kindly be quashed as being illegal, without lawful authority, mala fide, and an abuse of the process of law.
- (b) To pass interim order directing the official's respondents not to arrest the petitioners/accused persons named in the FIR who are on protective bail and to suspend/stay the further proceedings of the above case/FIR, pending before the concerned tribunal concerned with the directions not to proceed with the above crime/case till the final decision of this petition.
- (c) To direct the respondents No.3/1.O. FIR No.29 of 2026 registered under Sections 430, 427 and 34 of the Pakistan Penal Code read with Section 39(2)(3) of Schedule I & II of the Karachi Water and Sewerage Corporation Act, 2023 at Police Station KW&SC East Zone, Karachi, to appear and

produce complete record and progress report of above FIR of investigation before this Honorable Court.

- (d) That during the pendency of this Constitutional Petition, the operation of the impugned FIR and any further proceedings including arrest of the petitioners pursuant thereto may kindly be suspended and the petitioners may be granted interim protection against any coercive action.
- (e) That any other relief which this Honourable Court may deem just, fit, and proper in the interest of justice may also be granted to the petitioners."

Learned counsel for the petitioners has mainly contended that the offences incorporated in impugned FIR, particularly Sections 430 and 427 PPC, are not scheduled offences within the contemplation of Karachi Water and Sewerage Corporation Act, 2023. According to learned counsel, alleged occurrence pertains to an offence under the Act, therefore, matter was required to be proceeded with by way of a complaint before competent Tribunal rather than through registration of an FIR by the police. On this premise, it has been urged that the impugned FIR is without lawful authority and liable to be quashed.

During course of hearing, a query was put to learned counsel for the petitioners as to whether challan in respect of impugned FIR had been submitted. Learned counsel, while acknowledging the subsequent development, maintained that the provisions of the PPC were not attracted to the alleged occurrence and that the proper course was to invoke the jurisdiction of Tribunal in accordance with the Act. However, despite repeated query, learned counsel was unable to point out from relevant provisions of the Act or any other applicable law that the provisions of PPC could not be invoked in the circumstances of the present case.

Learned Additional Advocate General, assisted by learned Additional Prosecutor General Sindh who is present in court in connection with other cases, while waiving notice, opposed the petition. He submitted that investigation has already been completed and challan has been submitted, which is presently pending trial before Karachi Water and Sewerage Corporation Tribunal. It was, therefore, contended that FIR has already served its purpose and petitioners, if aggrieved by the inclusion of any particular penal provision, may avail an appropriate remedy before the trial forum. Reliance in this regard was placed upon the judgment of Hon'ble Supreme Court in *Director General Anti-Corruption Establishment, Lahore and others v. Muhammad Akram Khan and others* reported as PLD 2013 SC 401.

Mr. Qamar Abbas Ali Abbasi, learned counsel appearing on behalf of Karachi Water and Sewerage Corporation, has also opposed the petition. He submitted that after completion of investigation and submission of challan, petitioners have an efficacious remedy before the trial Court/Tribunal. According to learned counsel, petitioners have not challenged inclusion of Sections 430 and 427 PPC before the competent forum by filing an appropriate application, therefore, invocation of the constitutional jurisdiction of this Court at this stage is not warranted.

We have heard learned counsel for the parties and have examined the record made available before us as well as the relevant provisions of law.

The principal question is whether the constitutional jurisdiction of this Court should be exercised to quash the FIR after submission of challan merely because the petitioners dispute the applicability of certain penal provisions. In *Shahnaz Begum v. The Honourable Judges of the High Court of Sindh and Balochistan* (PLD 1971 SC 677) and *FIA through Director General, FIA and others v. Syed Hamid Ali Shah and others* (PLD 2023 SC 265), the Honourable Supreme Court explained the distinction between inherent jurisdiction under Section 561-A Cr.P.C. and constitutional jurisdiction under Article 199. In *Director General, Anti-Corruption Establishment, Lahore and others v. Muhammad Akram Khan and others* (PLD 2013 SC 401), it was held that, after cognizance by the trial Court, the fate of the prosecution should ordinarily be determined by that Court through the remedies available under the criminal law. The same approach was followed by this Court in *Mohammad Uzair Ahmed Maniya v. Federation of Pakistan and others* (2025 PCrLJ 117). These principles favour recourse to the trial forum where the challan has already been submitted and the grievance is capable of determination there.

Nevertheless, the submission of challan does not constitute an absolute bar to constitutional intervention. In *Aurangzaib Alamgir v. Muhammad Sajid and others* PLD 2025 SC 53 and *The State through Prosecutor General Punjab, Lahore v. Chaudhry Mohammad Khan and others* (PLD 2025 SC 254), the Honourable Supreme Court recognised that criminal proceedings may be quashed in exceptional circumstances where no offence is disclosed, the proceedings are manifestly unlawful or their continuation constitutes an abuse of process. Reference may also be made to *Ajmeel Khan v. Abdul Rahim and others* (PLD 2009 SC 102), *Dr. Sher Afgan Khan Niazi v. Ali S. Habib and others* (2011 SCMR 1813), *Muhammad Khalid Mukhtar v. The State* PLD (1997 SC 275) and *The State v. Asif Ali Zardari and another* (1994 SCMR 798), which recognise the limited and exceptional nature of interference with criminal proceedings. Furthermore, in *Muhammad Safeer and*

others v. Muhammad Azam and others (PLD 2024 SC 838), it was reiterated that availability of an adequate alternative remedy ordinarily regulates the exercise of constitutional jurisdiction, although intervention remains permissible where the impugned action is manifestly without jurisdiction, mala fide or void.

Applying the foregoing principles, we find that the petitioners have not demonstrated any exceptional circumstance warranting quashment of the FIR. The investigation stands completed and the challan is pending before the Tribunal. The question whether Sections 430 and 427 PPC are attracted, whether the special procedure prescribed under Section 38 of the Act has been complied with and whether the Tribunal possesses jurisdiction to entertain the proceedings are legal objections which may appropriately be raised before the trial forum. The mere assertion that the PPC provisions are not included in the Schedules to the Act does not, by itself, establish that those offences are legally excluded or that the proceedings are necessarily void. No patent illegality or manifest abuse of process has been demonstrated which would justify bypassing the ordinary remedy.

Consequently, we find no justification for exercising the extraordinary constitutional jurisdiction of this Court at this stage. The instant Constitutional Petition, along with the listed application(s), is accordingly dismissed. However, the petitioners shall be at liberty to approach the trial Court/Tribunal through an appropriate application challenging the applicability of the penal provisions, the legality of cognizance or the jurisdiction of the Tribunal, which shall be decided strictly in accordance with law, independently and without being influenced by any observation made herein. Nothing observed in this order shall be construed as an expression of opinion upon the merits of the pending criminal proceedings.

JUDGE
HEAD OF CONST. BENCHES

Karachi.
Dated: 07.10.2026
Approved for Reporting.
Azeem/Aamir

Judge