

## IN THE HIGH COURT OF SINDH, KARACHI

**Present:**

**Mr. Justice Muhammad Saleem  
Jessar  
Mr. Justice Nisar Ahmed Bhanbhro**

### **Constitution Petition No. D-202 of 2026**

*(Mst. Rani Khatoon v. Province of Sindh & others)*

Petitioner : Through Mr. Shah Imroz Khan, Advocate  
*Mst. Rani Khatoon*

Respondent No.1 : Through M/s. Hakim Ali Shaikh and  
*(Province of Sindh through Sageer Ahmed Abbasi, Additional  
Home Secretary) Advocates General, Sindh*

Respondent No.3 : Mr. Zahoor Shah, Additional Prosecutor  
*(IGP Sindh) General, Sindh alongwith Mr. Abdul Baqi  
Respondent No.4 Rind, SP Sohrab Goth Division and PI  
(SP Malir) Ameen Khoso, SHO, P.S Sachal*

Respondent No.5  
*(SHO, P.S Sachal)*

Respondent No.2 : Through Mrs. Shazia Hanjrah, DAG and  
*[Director General Rangers Mr. Habib Ahmed, Special Prosecutor  
(Sindh)] Pakistan Rangers (Sindh)*

Date of hearing : 01.04.2026  
and judgment

## JUDGMENT

**Muhammad Saleem Jessar, J:-**Through instant Petition, the petitioner sought indulgence of this Court for directions to recover the brother of Petitioner namely *Shahmeer S/o Muhammad Urs*, allegedly taken away by unknown persons from her house in the wee hours of night intervening between 14<sup>th</sup> and 15<sup>th</sup> January 2026.

2. It is the case of the Petitioner that her brother Shameer was taken away by some unknown persons in the intervening night of 14<sup>th</sup> and 15<sup>th</sup> January, 2026 from her house located within the premises of Police Station Sachal District Malir and thereafter his whereabouts

were not known. Petitioner approached police station *Sachal* and sent applications to the Inspector General of Police, Sindh, SSP Malir and SHO, P.S *Sachal* on 15.01.2026 through courier, so also filed this petition seeking writ in the nature of habeas corpus. The petition was presented in the office on 15.01.2026 and placed before the Court on 19.01.2026, when notices were ordered. SHO Police Station Sachal filed reply to the petition wherein it transpired that alleged missing person was killed in police encounter in between unknown culprits and members of police party of Shah Latif Police on 17.01.2026. FIR No.97 of 2026 was registered for an offence punishable under section 353, 324 and 34 PPC for the incident occurred on 17.01.2026 within jurisdiction of police station Shah Latif.

3. Learned Counsel for the Petitioner contended that brother of the Petitioner was killed in a staged encounter. He contended that brother of the petitioner was taken away by police from home on 15.01.2026 and thereafter done to death on 17.01.2026. he contended that it is a case of illegal confinement and custodial killing which requires proper investigation. He contended that Petitioner apprehended danger to life of her brother therefore moved applications through courier to police high ups and filed petition before this Court on 15.01.2026. He contended that series of incidents established that alleged missing person was killed by police in a fake encounter. He submitted that though petition was filed for recovery of missing person, since he has been reported dead therefore, in the interest of justice an inquiry may be ordered.

4. Learned Additional Advocate General, Sindh contended that brother of the petitioner was habitual offender, he was involved in more than ten cases per criminal record of the offender, such FIRs were registered at different police stations in the province of Sindh. He contended that the petitioner has managed this petition to save proclaimed offender from the due process of law. The police encounter was genuine and matter was investigated by the police and a report under section 173 CrPC has been filed before concerned Court, therefore, petition warrants dismissal.

5. Heard the arguments and perused the material made available before us on record.

6. Admittedly, this petition was filed for recovery of alleged detainee *Shahmeer*. On notices it was reported by SHO Police Station Sachal that the said detainee was killed in police encounter with the police party of police station *Shah Latif*, District Malir on 17.01.2026 at 1:30 a.m. Undisputedly, instant petition was presented to office on 15.01.2026 with specific assertion that brother of Petitioner was taken away from home in the wee hours of night. Per FIR No 97/2026 recorded at Police Station Shah Latif, an encounter took place on 17.01.2026 at about 01:30 am between police party and outlaws, wherein one unknown dacoit was killed and later on identified as Shahmeer.

7. Series of the facts in the petition *prima facie* substantiate the stance of the petitioner that police encounter was suspicious. Shahmeer per statement of petitioner was taken away from home on

15.01.2026. Petitioner not only moved applications regarding alleged missing of her brother on 15.01.2026, but she also filed petition before this Court on the said date. Though no specific allegation has been leveled against any particular person regarding abduction of Shameer, but sufficiently lend support to the stance of petitioner that the police encounter was staged to do away with the life of her brother.

8. Torture, inhuman conduct, cruelty and degrading treatments have been recognized as an offence. The United Nations in its convention against torture and other inhuman and degrading treatments or punishments held in 1984, resolved to take effective measures to prevent the acts of torture and inhuman conduct, and such acts included proper legislation by the member nations. Not only this, but the constitutional commitment of Our Country to words dignity of life, as enshrined under Article 14 of the Constitution of Islamic Republic of Pakistan, 1973, guaranteed the same in the following manner:-

**“Inviolability of dignity of man, etc.**

**14.** (1) The dignity of man and, subject to law, the privacy of home, shall be inviolable.

(2) No person shall be subjected to torture for the purpose of extracting evidence.”

9. Pakistan being party to the 1984 U.N Convention resolved to curb torture and inhuman conduct. In order to provide justice to the bereaved families, victims of torture and rape, Parliament enacted the law titled “Torture and Custodial Death (Prevention and

Punishment) Act, 2022 (“Act-2022”). Preamble to the said Act reads as under:-

“WHEREAS, Pakistan is a party to the United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishments 1984 and it is imperative to make law for its effective implementation;

AND WHEREAS, the Constitution of the Islamic Republic of Pakistan guarantees the dignity of man as mentioned in Article 14;

AND WHEREAS, it is expedient to enact a law for the prevention and criminalization of all acts of torture.”

10. Under the provisions of 2022 Act the investigation of an offence relating to the custodial death and torture was entrusted to the Federal Investigation Agency. Section 5 of the Act being relevant reads as under:-

**“5. Investigation of offences.** – (1) Notwithstanding anything contained in any other law for the time being in force, the Agency shall have the exclusive jurisdiction to investigate the complaints against any public officials who have committed offence under this Act:

Provided that the Agency shall investigate the complaints under the supervision of National Commission for Human Rights.

(2) If at any time, including during the grant of physical remand under the Code, the Magistrate has reasonable grounds to believe that the offence under this Act is committed or a complaint of torture is lodged by the person in custody, he shall order a medical examination and if the results of such examination reveal infliction of torture, he shall notify the Agency to investigate such offence.

(3) The Agency, while investigating the offences under this Act, shall have the same powers and shall follow the same procedure as prescribed in the Federal Investigation Agency Act, 1974 (Act VIII of 1975) and the rules made thereunder.”

11. From perusal of above provision of law, it is abundantly clear that irrespective of position of the public officer working either under the Federal or Provincial Government, the custodial torture and death cases shall be investigated by the FIA, as Section 5 starts with *non obstante* clause and excluded operation of other laws. The

purpose and intent of legislation, to entrust the investigation of custodial torture and death to FIA, was to provide a neutral venue to probe into the matters, which do often related to local police and it was observed by the Courts time and again that police officers undertaking investigation extended undue favor to their colleagues, that resulted into weak prosecution.

12. To further empower, the legislation laid down that in case any public official who is accused of an offence under 2022 Act, FIA shall inform the competent authority regarding nature of the offence and the public official(s) accused of such offence shall either be suspended or transferred forthwith to a different location. Section 7 of the 2022 Act being relevant reads as under:-

**“7. Intimation to the concerned Government department and transfer or suspension of public official. –** (1) The Agency, while investigating a public official who is accused of an offence under this Act, shall within twenty-four hours of arrest, inform the competent authority to which the public official is accountable, of the nature of the proceedings against him.

(2) Notwithstanding anything contained in any other law for the time being in force, a public official when accused of an offence under this Act shall forthwith be suspended or transferred to a different location from the location in which the alleged offence was committed, after completion of a departmental enquiry within 7 days, giving a finding that there is *prima facie* evidence of commission of offence under this Act by the public official.

(3) Notwithstanding anything contained in any other law for the time being in force, a public official when convicted of an offence under this Act shall not perform any public duty unless acquitted by the appellate court.

*Explanation-I.* In this section, the “competent authority” shall mean the appointing authority as prescribed in the service rules of the relevant Government.

*Explanation-II.* It is clarified that this section, except subsection (3), shall only apply when a court of law finds a strong *prima facie* evidence against a public official with regard to the commission of an offence under this Act.”

13. In investigation under 2022 Act is required to be completed within time limit of thirty days and in case of any delay, FIA was further empowered either to transfer investigation to another officer under Section 13, that reads as under:-

**“13. Time limit for investigation, trial and appeal.—**(1) The investigation of the offences under this Act shall be completed within thirty days from the date of submission of the complaint.

(2) If the investigation of an offence under this Act is not completed within thirty days, the Agency shall call for a report for explaining the delay in completion of the investigation and if satisfied with the causes of delay, may grant maximum five days for completion of the investigation or if the Agency is not satisfied with the causes of delay, may transfer the investigation to another investigating officer who shall take up and complete the investigation from the same stage where it was left by his predecessor.

(3) If investigation of an offence is not completed with thirty days, the Agency shall also file an interim report before the Court of Session and the court may decide to initiate the trial on the basis of such information.

(4) The trial of offences under this Act shall be completed within three weeks from the date of submission of challan before the relevant court.

(5) The appeal against the offences under this Act shall be decided within thirty days from the date of filing of such appeal.”

14. Sufficient material was available on record to say that deceased Shameer brother of the petitioner was killed in an encounter, which appears to be suspicious. We have been informed that FIR No.97 of 2026 was investigated and for want of deficient evidence was proposed to be disposed of under A class as the names of the alleged other accomplices of deceased Shahmeer could not be traced out. Respondent Nos.3 and 4 (SSP Malir and SHO Police Station Sachal) despite being on notice of the petition and aware of the facts of the case have failed to take further steps in the matter including an independent inquiry into the applications moved by the Petitioner.

15. No matter a person is involved in many cases, he is proclaimed offender with a mammoth criminal record, the stigma against the alleged offender will not grant open license to the police to kill him in the manner, as has happened in the instant case. If the police officials are allowed to continue with such actions then purpose of establishment of the courts of law would become fruitless and public confidence in the judicial system would erode. The police being responsible force is required to observe a reasonable restraint and discipline. Police are saddled with a responsibility rather sacred duty to prosecution of the offenders and as such are expected to discharge this duty in accordance with law. In the line of duty, Police should refer the offenders accused of any offence for trial before competent court of law. Custodial killings tantamount to perturb the judicial system and cannot be allowed to perpetuate.

16. In the given circumstances and for the aforementioned reasons, this petition is **disposed of** with directions to Respondent Nos.3 and 4 to transfer the investigation of FIR No.97 of 2026 to the Director, FIA, Karachi, who shall depute an officer to investigate the FIR in terms of Sections 5, 7 and 13 of the Act 2022 strictly in accordance with law and shall complete the investigation of the case within the stipulated statutory period of thirty days. The investigation officer shall record the statement of Petitioner and any other witnesses conversant with the facts of case. Investigation officer shall conduct the investigation without being influenced by any observations in the instant order. On conclusion of the investigation result thereof shall be transmitted to the concerned court of law.

17. Let a copy of order be sent by fax to Director General, FIA, Islamabad, Inspector General of Police, Sindh, Director, FIA, Karachi as well as Respondents today. Learned MIT-II to ensure compliance.

**JUDGE  
HEAD OF CONST. BENCHES**

**JUDGE**

B-K Soomro

**Approved for Reporting**