

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

*Constitutional Petition No. S- 482 of 2025.
(Manzoor Ali vs. Province of Sindh & Others).*

Date of Hearing	Order with signature of Judge
-----------------	-------------------------------

1. *For orders on MA No.71/2026. U/A.*
2. *For orders on office objection-A.*
3. *For orders on MA No.1056/2026. E/A*
4. *For hearing of main case.*

29.01.2026.

Mr. Mazhar Ali Bhutto, Advocate for the petitioner.

Ali Haider 'Ada'-J:-Through this Constitutional Petition, the petitioner has voiced his grievance against the police functionaries, alleging that they are subjecting him and his family members to harassment. The petitioner seeks directions to the respondents to refrain from causing any sort of harassment and further prays for the provision of protection to his life and property. The petitioner has also requested that the concerned police officials be directed to appear before this Court and submit an undertaking to resolve the matter in accordance with the law. During the course of the hearing, a query was put to the learned counsel for the petitioner as to why the petitioner had not availed of the alternate and efficacious remedy available under Section 22-A of the Code of Criminal Procedure, 1898. In response, learned counsel contended that since different jurisdictions are involved, the petitioner was constrained to invoke the Constitutional jurisdiction of this Court. However, a perusal of the averments made in the petition reveals that the petitioner is admittedly residing within the territorial jurisdiction of respondent No.4, namely the Station House Officer, Police Station Mahi Makol, District Kamber-Shahdadkot.

2. Heard.
3. First and foremost, it is a settled principle of law that the Court, before exercising its Constitutional jurisdiction, is required to examine whether an adequate and efficacious remedy is provided under the law for redressal of

the grievance of a citizen arising out of a complaint. Where such a remedy is available, the aggrieved person is ordinarily required to invoke the same in the first instance. This principle is rooted in the doctrine of *remedium juris*, which signifies that where a legal right exists, the law also provides a remedy for its enforcement. Courts consistently apply this doctrine while determining whether a Petitioner should be relegated to an alternate statutory remedy rather than being permitted to invoke extraordinary constitutional jurisdiction. The said principle further finds support from the well-recognized Latin maxim "*Ubi remedium est, ibi cessat querela,*" meaning thereby that *where a remedy exists, the complaint ceases*. In other words, when the law provides an adequate and efficacious remedy, the continuation of grievance through constitutional proceedings is neither warranted nor permissible. Closely allied to the above is the doctrine of "*Exhaustio remediorum,*" which embodies the rule of exhaustion of remedies. It proposes that where a statutory or adequate legal remedy is available, the aggrieved person must first exhaust such a remedy before seeking recourse to Constitutional or extraordinary jurisdiction.

4. Thus, the collective effect of the aforesaid principles is that the Constitutional jurisdiction of the High Court is not to be invoked as a matter of course, particularly where the law itself provides a complete and efficacious mechanism for redressal of the grievance.

5. The primary issue for determination is whether the Constitutional jurisdiction of the High Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, has been properly invoked. It is a well-settled principle of law that the Constitutional jurisdiction of the High Court is to be exercised in exceptional circumstances, particularly where no adequate, efficacious, or alternative remedy is available under the law. Invocation of Constitutional jurisdiction does not contemplate the bypassing or circumvention of remedies expressly provided under statutory provisions. The rationale behind this principle is that a litigant must approach the proper forum in the first instance, so as to ensure orderly administration of justice and to prevent unnecessary burden upon the High Courts. Such a tendency of directly invoking Constitutional jurisdiction, despite the availability of

alternate statutory remedies, has consistently been deprecated by the superior Courts. Reliance in this regard is placed upon the judgment of the Honourable Supreme Court of Pakistan in **Indus Trading and Contracting Company v. Collector of Customs (Preventive), Karachi and others (2016 SCMR 842)**, wherein it was held in paragraph No.4, which is reproduced hereunder for ready reference:

4. Before examining the merits of the case, we find it necessary to state that at the stage when regulatory duty was charged, the appellant ought to have challenged the same before the forum provided under the Customs Act. Instead of doing that, the appellant invoked the jurisdiction of the High Court under Article 199(1) of the Constitution of Pakistan. Ordinarily, the jurisdiction of the High Courts under Article 199 of the Constitution should not be invoked where alternative forum under a special law, duly empowered to decide the controversy is available and functioning. Where a special law provides legal remedy for the resolution of a dispute, the intention of the legislature in creating such remedy is that the disputes falling within the ambit of such forum be taken only before it for resolution. The very purpose of creating a special forum is that disputes should reach expeditious resolution headed by quasi judicial or judicial officers who with their specific knowledge, expertise and experience are well equipped to decide controversies relating to a particular subject in a shortest possible time. Therefore, in spite of such remedy being made available under the law, resorting to the provisions of Article 199(1) of the Constitution, as a matter of course, would not only demonstrate mistrust on the functioning of the special forum but it is painful to know that High Courts have been over-burdened with a very large number of such cases. This in turn results in delays in the resolution of the dispute as a large number of cases get decided after several years. These cases ought to be taken to forum provided under the Special law instead of the High Courts. Such bypass of the proper forum is contrary to the intention of the provisions of Article 199(1) of the Constitution which confers jurisdiction on the High Court only and only when there is no adequate remedy is available under any law. Where adequate forum is fully functional, the High Courts must deprecate such tendency at the very initial stage and relegate the parties to seek remedy before the special forum created under the special law to which the controversy relates. We could have relegated the appellant to seek remedy before the appropriate forum, however, as the dispute in the present case is now more than twenty years old, we for this reason only as matter of indulgence, proceed to decide the controversy on its merits.

6. At this juncture, it is necessary to sound a note of caution that the Constitutional jurisdiction of the High Court is equitable and discretionary in nature, and its exercise is not a matter of right. Such jurisdiction is required to be exercised with caution and judicial limit, particularly where its invocation may have the effect of defeating, frustrating, or avoiding the purpose of a validly enacted statutory provision. The Superior Courts have consistently

held that Constitutional jurisdiction should not be exercised in a manner that renders statutory mechanisms redundant or ineffective. In this regard, support is drawn from the judgment of the Honourable Supreme Court of Pakistan in **President, All Pakistan Women Association, Peshawar Cantt. v. Muhammad Akbar Awan and others (2020 SCMR 260)**, wherein it was categorically held that:

8. In the present case, the intent of the Legislature to keep out interlocutory/interim orders from the scope of appeal is not difficult to understand. It is meant to curtail delays, piecemeal and fractured litigation at various fora at the same time. In our view, such orders cannot be challenged under the guise of invoking the constitutional jurisdiction of the High Court because the same would tantamount to negating the provisions of the Statute itself and rendering the bar imposed by the Legislature in the interest of expeditious disposal of rent matters totally redundant. The High Courts exercising constitutional jurisdiction must be fully cognizant and conscious of this Rule and strictly adhere to the same in the interest of advancing the policy of law and delivering expeditious justice in accordance with the law and the Constitution. Even otherwise, constitutional jurisdiction is equitable and discretionary in nature and should not be exercised to defeat or bypass the purpose of a validly enacted statutory provision. This Court has repeatedly held to that effect in a number of cases including Mushtaq Hussain Bukhari v. The State (1991 SCMR 2136), Mohtarma Benazir Bhutto, MNA and Leader of the Opposition, Bilawal House, Karachi v. The State (1999 SCMR 1447), Mst. Seema Begum v. Muhammad Ishaq and others (PLD 2009 SC 45) and Muhammad Raza Hayat Hiraj v. Election Commission of Pakistan (2015 SCMR 233), Saghir Ahmed Naqvi v. Province of Sindh (1996 SCMR 1165) and Muhammad Iftikhar Mohmand v. Javed Muhammad (1998 SCMR 328). We respectfully reiterate and affirm that principle.

7. Moreover, the law itself provides special statutory provisions that constitute a complete and efficacious legal remedy for the resolution of disputes or redressal of grievances. The intention of the legislature in creating such remedies was to ensure that grievances are addressed before the forum specifically established for that purpose. Any attempt to evade such forum is contrary to the legislative intent underlying Article 199(1) of the Constitution of the Islamic Republic of Pakistan, which confers jurisdiction upon the High Court only where no adequate remedy is available under the law. This principle has been consistently reiterated by the Superior Courts, including in case of **Commissioner Inland Revenue and others v. Jahangir Khan Tareen and others (2022 SCMR 92)**, wherein it was emphasized that the Constitutional jurisdiction of the High Court is not a substitute for a remedy

which is otherwise available under statutory provisions. Such statutory remedies constitute an appropriate and alternate remedy, or remedium juris, which is generally more convenient, beneficial, and effective. This principle was upheld in case of **Executive Director (P&GS), State Life, Principal Office Karachi and others v. Muhammad Nisar, Area Manager, State Life Corporation of Pakistan, Peshawar Zone (2025 SCMR 249)**.

8. It is a well-established principle that the High Court will not ordinarily entertain a petition under Article 199 when an adequate statutory remedy exists. The availability of such a remedy regulates, but does not negate, the exercise of Constitutional jurisdiction. Constitutional jurisdiction will ordinarily be invoked only in exceptional circumstances. The tendency to sidestep a statutory remedy is discouraged to preserve the legislative intent and to prevent unnecessary burden on the High Courts. This principle was reiterated in **Muhammad Safeer and others v. Muhammad Azam and others (PLD 2024 Supreme Court 838)**.

9. The object of proceedings under Article 199 is the enforcement of an existing right, not the creation of a legal right. Therefore, the right sought to be enforced must be clear, complete, and simpliciter, and there must be an actual infringement of the right. The writ jurisdiction of the High Court cannot be treated as a mechanism to remedy all grievances or sufferings of a party when an equally efficacious, alternate, and adequate remedy exists under the law. The Superior Courts have repeatedly held that such statutory remedies cannot be avoided to attract the exercise of writ jurisdiction, as emphasized in case of **Sana Jamali v. Mujeeb Qamar and another (2023 SCMR 316)**.

10. Turning to the present issue, it is evident that an adequate and efficacious statutory remedy is available to the petitioner under the provisions of Sections 22-A of the Code of Criminal Procedure, 1898. These provisions provide a specific mechanism for the redressal of grievances relating to registration of FIRs and police inaction, thereby offering a direct and appropriate forum for resolution of the complaint. The petitioner, therefore, cannot evade these remedies and invoke the extraordinary

jurisdiction of this Court under Article 199 of the Constitution. For ready reference, Section 22-A of the Cr.P.C. is reproduced as under:

22. Appointment of Justices of the Peace. The Provincial Government may, by notification in the official Gazette, appoint, for such period as may be specified in the notification, and subject to such rules as may be made by it, any person who is a citizen of Pakistan and as to whose integrity and suitability it is satisfied to be a Justice of the Peace for a local area to be specified in the notification, and more than one Justice of the Peace may be appointed for the same local area.

22A. Powers of Justices of the Peace. (1) *A Justice of the Peace for any local area shall, for the purpose of making an arrest, have within such area all the powers of a police-officer referred to in section 54 and of an officer in charge of a police-station referred to in section 55.*

(2) *A Justice of the Peace making an arrest in exercise of any powers under sub-section (1) shall, forthwith, take or cause to be taken the person arrested before the officer in charge of the nearest police-station and furnish such officer with a report as to the circumstances of the arrest and such officer shall thereupon re-arrest the person.*

(3) *A Justice of the Peace for any local area shall have powers, within such area, to call upon any member of the police force on duty to aid him.*

(a) *in taking or preventing the escape of any person who has participated in the commission of any cognizable offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having so participated; and*

(b) *in the prevention of crime in general and, in particular, in the prevention of a breach of the peace or a disturbance of the public tranquillity.*

(4) *Where a member of the police force on duty has been called upon to render aid under sub-section (3), such call shall be deemed to have been made by a competent authority.*

(5) *A Justice of the Peace for any local area may, in accordance with such rules as may be made by the Provincial Government, —*

(a) *issue a certificate as to the identity of any person residing within such area, or*

(b) *verify any document brought before him by any such person, or*

(c) *attest any such document required by or under any law for the time being in force to be attested by a Magistrate, and until the contrary is proved, any certificate so issued shall be presumed to be correct and any document so verified shall be deemed to be duly verified, and any document so attested shall be deemed to have been as fully attested as if he had been a Magistrate.*

[(6) An ex-officio Justice of the Peace may issue appropriate directions to the police authorities concerned on a complaint regarding

(i) non-registration of a criminal case;

(ii) transfer of investigation from one police officer to another; and

(iii) neglect, failure or excess committed by a police authority in relation to its functions and duties.]

11. It is apparent from the language of the provision that the legislature intended to provide a complete, efficacious, and alternative remedy for addressing grievances against police inaction. The statutory scheme contemplates that the complainant may seek intervention through the proper channels before approaching the High Court, thereby ensuring that the Constitutional jurisdiction is not misused and the statutory forum is fully utilized. It is clear that the remedy under Section 22-A Cr.P.C constitutes an effective remedy, and the petitioner is obliged to first exhaust such statutory remedy before seeking relief under Article 199. Any direct invocation of Constitutional jurisdiction, despite the availability of this statutory mechanism, would amount to escaping the legislative scheme. Reliance is also placed on the case of **Younis Abbas v. Relevant Authorities (PLD 2016 Supreme Court 581)**, wherein it was held that the functions performed by an Ex-Officio Justice of the Peace are quasi-judicial in nature and cannot be characterized as executive, administrative, or ministerial. The Apex Court observed that the office of an Ex-Officio Justice of the Peace is empowered to entertain applications and pass appropriate orders strictly within the domain of powers conferred under Sections 22-A and 22-B of the Code of Criminal Procedure, 1898. The exercise of such powers is therefore judicial, and any remedy or relief provided by this forum must be first sought before invoking the extraordinary constitutional jurisdiction of the High Court.

12. It has further been noted that, for registration of an FIR, an adequate remedy is available under the law. Similarly, in cases concerning police excesses, harassment, or requests for protection, a statutory remedy exists, which also includes the transfer of a criminal investigation to another officer or jurisdiction. The primary contention of the petitioner is based on a claimed jurisdictional error. However, it is pertinent to note that the aggrieved person or party resides within a particular area, which falls under the territorial jurisdiction of a designated police functionary. Accordingly, any measures to restrain illegal acts, harassment, or to provide protection must necessarily be taken by the officer having territorial jurisdiction over that area. Even if the alleged harassment involves police personnel from another jurisdiction, the

grievance must still be reported to and addressed by the functionary having territorial jurisdiction. The statutory mechanism under Section 22-A of the Cr.P.C. provides an efficacious and speedy remedy for such matters, without immediate recourse to the High Court. This principle has been explicitly considered by a Division Bench of this Court in **Abdul Hameed and another v. Province of Sindh, through Secretary Home Department and others (PLD 2019 Sindh 168)**, wherein the same question arose. The Division Bench, after detailed consideration, dismissed the Constitutional petitions on the ground that an adequate remedy was available under Section 22-A of the Cr.P.C, which was required to be availed before invoking the Constitutional jurisdiction of the High Court. This reinforces the settled principle that the Constitutional forum is not to be approached where a complete and efficacious statutory remedy exists. As it had been held in supra case that:

"15It was mainly contented on behalf of the petitioners that cases cannot be filed before the Ex-Officio Justice of Peace if petitioners and respondents reside in different districts, and police officials do not obey if any order for protection is passed by the Ex-Officio Justice of Peace. As regards their first contention, the person seeking protection can approach the Ex-Officio Justice of Peace of such district where the protection is required by him. Their second contention can also be addressed by the Ex-Officio Justice of Peace himself. Both the learned AAGs as well as both the learned amicus curiae and learned counsel for one of the private respondents have strongly opposed these petitions by contending that such matters should not be filed before this Court as Ex-Officio Justice of Peace is the proper forum for such matters according to law and if this Court has concurrent jurisdiction, even then the cases should be filed at the lowest level according to the settled law."

13. Keeping in view the above facts and circumstances of the case, it is manifest that the petitioner has an adequate, efficacious, and alternate remedy available under the statutory provisions of Sections 22-A and 22-B of the Code of Criminal Procedure, 1898. The statutory forum is competent to address the grievances raised by the petitioner, including registration of FIR, prevention of harassment, provision of protection, transfer of investigation, or any police excess. Accordingly, the instant Constitutional petition is hereby dismissed in *limine*. No order as to costs.

JUDG E