

ORDER SHEET

THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Cr. Misc. Application No. S-12 of 2026

Mst. Akhtiaran v. DIG Larkana and others.

Date	Orders with signature of Judge
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For hearing of main case.

16-07-2026

Mr. Wazir Ali Mahar, Advocate for applicant.

Mr. Ayaz Ahmed Faras, Advocate for respondents No.5 to 8.

Mr. Sardar Ali Solangi, D.P.G for the State.

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Mst. Akhtiaran, wife of Ghous Bux Mahar, is aggrieved by the Order dated 06.01.2026 passed by the learned Additional Sessions Judge, Kashmore, dismissing her application moved under section 491 Cr.P.C. seeking the production of her daughter, Mst. Qambreen, who is presently married to and resides with her husband, the respondent No.6/Sirajuddin Domki, son of Shahmore. She contends that the Addl. Sessions Judge dismissed her application without the physical production of her daughter, Mst. Qambreen, before the Court, and when her daughter was produced through video link, neither she nor her pleader was allegedly present in the courtroom to verify her daughter's identity. Given that the applicant-mother had alleged that her daughter/Mst.Qambreen was allegedly detained illegally and wrongfully by the respondent nos. 5 to 8; therefore, the production through video link was also improper and not in accordance with law on this score, too.

2. Learned counsel for the applicant-mother/Mst. Akhtiaran contends that although a detainee was produced via video link and this may well be the detainee-daughter, however, at the material time, when the alleged detainee was allegedly produced before the Addl. Sessions Judge, virtually neither the applicant-mother nor her pleader was physically present in the courtroom to verify her identity. This, he contends, is/was contrary to law, and he is, as such, aggrieved by the impugned order passed by the Additional Sessions Judge, Kashmore. He relies on the judgment of the Supreme Court in PLD 1974 SC 402 and PLD 1978 SC 83.

3. Learned counsel for the respondent nos.5 to 8, which includes the detainee, Mst. Qambreen, and her husband, Sirajuddin Domki, vehemently oppose the challenge to the impugned order. They contend that prior to the applicant-mother filing an application under Section 491 Cr.P.C., the detainee, Qambreen, had filed Constitutional Petition no.S-337/2025 in the High Court of Sindh, Karachi, seeking police protection on account of her marriage with respondent no.6/Sirajuddin Domki. The applicant-present detainee was present before the High Court earlier when the said application was granted by this (High Court) vide Order dated 12.05.2025. Counsel further contended that, given this background, the learned Additional Sessions Judge, Kashmore, rightly, after satisfying himself as to the bona fides of Mrs Qambreen's statement via video link, dismissed the applicant-mother/Mst. Akhtiaran's application.

4. Learned D.P.G adopts the submissions of the respondents' counsel and submits that the impugned order is in accordance with law.

5. Heard counsel and learned D.P.G. and perused the record. As per the available record, the alleged detainee-daughter was produced through video link before the Addl. Sessions Judge Kashmore, and recorded her statement. The said statement is reproduced in the impugned Order as follows:

"I state that I left my parents' house of my own free will and contracted marriage with Siraj Din Domki on 17.04.2025. I am happy with my husband at his home, and I face no danger at the hand of my husband. I further state that no one has illegally detained me; rather, I filed a harassment petition against my parents and others before the Honourable High Court of Sindh at Karachi, and the same was disposed of on 28.04.2025. My mother has filed a false petition pertaining to my illegal detention; hence, the same be dismissed. I do not want to live with my parents."

6. Counsel for the applicant-mother argued that the Court of Sessions did not have the power to produce the alleged detained daughter through video link. I am not at all impressed with Counsel's arguments, particularly after reading the provisions of Section 491 Cr.P.C. read in light of the Judgment of the Supreme Court of Pakistan reported as

Meera Shafi v. Ali Zafar, PLD 2023 SC 211. The relevant paragraphs from the Meera Shafi case are reproduced below:

“13. The “virtual attendance” of a witness in court through the medium of video conferencing enables the judge and other persons present in court to see the witness and hear what he says, and vice versa. Such an attendance is thus, in effect, in open court, and his evidence is also recorded under the personal superintendence of the judge. The judge under whose superintendence the evidence through video conferencing is recorded can satisfy himself about the free will of the witness present on screen as he does about the witness present physically in court by questioning him in this regard and ensuring that he is not under the immediate influence of any other person. Needless to say that a court can ensure the independence of a witness only from the immediate influence, not from any covert influence, of any other person in both situations whether he is physically present or virtually present in court. In the latter situation, the court can ensure that there is no other person in the room where the witness is sitting, while his evidence is being recorded, by asking him to provide a full view of that room on the screen. The identity of the witness, if disputed, can also be verified by the judge through appropriate means. The witness can be confronted on screen with documents produced or sought to be produced in court by any of the parties or, if needed, the scanned copies of such documents can be sent to him through modern means of communication. In all such necessary matters as to the recording of evidence, the physical attendance and the virtual attendance of a witness in court do not differ. The virtual attendance of a witness in court, thus, appears to be the species of the genus of “attendance” required under Rule 4 and fulfills the legislative purpose and policy in requiring the attendance of a witness in court for recording his evidence. Therefore, we can legitimately conclude that the word “attendance” used in Rule 4 can be extended to “virtual attendance” and the word “attendance” mentioned in this Rule does not mean only “physical attendance” but includes “virtual attendance” made possible by the modern technology of video conferencing.

14. Next, we proceed to examine under which provision of the C.P.C. can a court make an order for the virtual attendance of a witness as there is no such provision in Order XVI of the C.P.C., which relates to „Summoning and Attendance of Witnesses“. Learned counsel for the petitioner has referred to section 151 of the C.P.C., in this regard; therefore, we need to see whether a court can make such an order, in the exercise of its inherent powers under section 151 of the C.P.C.

15. Admittedly, the C.P.C. is silent on the matter of evidence recording through video conferencing: there is no express provision either allowing or prohibiting such procedure of recording evidence. And regarding the procedural law, it is a

well-settled principle that the courts are not to act upon the principle that every procedure is to be taken to be prohibited unless it is expressly provided for by the Code [of Civil Procedure], but on the converse principle that every procedure is to be understood as permissible till it is shown to be prohibited by law. As a matter of general principle, prohibition cannot be presumed. The provisions of section 151, which empowers the civil courts to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court, are intended to preclude the possibility of the civil courts being stuck in a situation for any omission in the C.P.C. The inherent powers of the civil courts saved by section 151 are thus supplementary to their powers stated expressly in the C.P.C. and are to be exercised where the situation is not covered by any provision of the C.P.C. It hardly needs lengthy arguments to establish that when in the circumstances of a case, requiring physical attendance of a witness in court will incur an unnecessary amount of delay, expense or inconvenience, the order of the court allowing virtual attendance of a witness through video conferencing is for the ends of justice, and the rejection of an unjustifiable insistence of the opposing party on securing physical attendance of such witness in court is to prevent abuse of the process of the court. An order allowing virtual attendance of the witness in such circumstances thus squarely falls within the scope of section 151 of the C.P.C.”

7. The aforesaid view of the Supreme Court is also endorsed and has been followed in a number of judgments of the Superior Courts of Pakistan, including by the High Court of Sindh, among others, in an Order dated 02.10.2023 passed by the learned Single Judge in Suit No.622/2012. There is no reason for this bench, based on the reasons articulated by the Supreme Court, as reproduced hereinabove, not to apply the same principle to Section 491 Cr.P.C. There is no prohibition under the Criminal Procedure Code that would render Section 491 Cr.P.C. redundant if the production of a detainee is carried out by video link. Indeed, the learned Additional Sessions Judge, Kashmore, in paragraph 3 of the impugned order, also sets out his reasons for calling the production of the detainee through video link. Nothing has been presented to this bench which may suggest that the Court of Sessions’ reasoning and exercise of discretion, given the peculiar facts and circumstances of the case, to produce the detainee through video link was arbitrary, unlawful and/or unreasonable. The upshot of the above is that I cannot find that the production of the detainee through video link, as a practice, and in the facts and circumstances which are discussed in this Order, is/was contrary to law.

8. I now turn to another aspect of the matter, i.e. whether the applicant-mother's pleader was present in the courtroom during the virtual production of the daughter, and whether her physical presence in the courtroom was mandatory/necessary in the presence of her pleader; and as ancillary, whether the production of the detainee through video link was carried out by the Sessions Court, overall, in a proper, fair and transparent manner?

On the alleged non-attendance of Counsel

9. The counsel for the applicant-mother/her pleader, first contends that his client's pleader was not present in the courtroom at the time of the production of the detainee via video link. However, the impugned order dated 06.01.2026, at the very outset, notes the presence of both the applicant's pleader and the counsel for the respondents as well as the DPP. Nothing on record suggests to me, as pleaded by the applicant-mother, that the situation was in reverse to what is articulated in the impugned order. Clearly, if the pleader intended to assert his non-attendance, he ought to have raised such objections, at the very outset, before the Court of Sessions and/or at least filed or submitted his objections in writing, etc. to compel the Additional Sessions Judge to take note of such objections and address and respond to the same in the impugned Order. In the circumstances, the pleader did nothing, and there is nothing available on record in support of his arguments, which are contrary to the record. Counsel must now face the consequences of his inaction.

On the alleged non-attendance of the applicant mother

10. I now turn to the next contention raised by the pleader of the applicant-mother that his client, i.e. the applicant-mother in person, was not physically present in the courtroom when the alleged detainee was produced through video link. He has argued that consequently neither the identity of the person appearing via video link nor the statement recorded can be objectively corroborated and/or verified. Further, Counsel contends that as the mother of the alleged detainee filed the application under section 491 Cr.P.C., as the deponent of such application, a vested right accrued to her to see her daughter and verify her safety as and when she was produced

before the Sessions Court, be it virtually or physically, and such right was denied to her by the Court of Sessions vide the impugned Order because she was not available/present in Court when the allegedly detained daughter was produced in Court via video link.

11. A perusal of the impugned order indeed finds that there is no articulation therein whether the applicant-mother was physically present in the courtroom. However, as mentioned above, this is not the case for the applicant-mother's pleader. The record shows that her pleader was in fact in attendance (see paragraph 9 above). Counsel for the respondent Nos.5 to 8 submits that the production of the detainee through video link was over a smartphone using WhatsApp, displaying the video of the alleged detainee-daughter on the screen of the cellphone, and the volume of the smartphone was turned up to maximum. He argued that the image and sound of the detainee-daughter were clearly visible and audible in the presence of the pleader of the applicant-mother, counsel for the respondents and DPP, who were all present in the courtroom.

12. It is an admitted position that the cr. misc. application filed under Section 491 Cr.P.C. was filed before the Additional Sessions Judge, Kashmore by the pleader of the applicant-mother. Section 4(1)(r) defines "pleader" as follows:

"(r) "Pleader." "pleader," used with reference to any proceeding in any Court, means a pleader [or a mukhtar] authorised under any law for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorised, and (2) any [* *] other person appointed with the permission of the court to act in such proceeding."

13. Given that the pleader as per the definition provided under Cr.P.C is used with reference to proceedings in Court wherein a pleader is presumed to be duly authorised under the law for the time being in force and includes an advocate, who, as per the law, by way of Vakalatnama, acts, appears and defends client's case with the consent/permission of such client, it may be safely assumed that the pleader is for all purposes in Court, is the client's representative, subject to the terms and conditions set out in the Vakalatnama. In the instant case, the pleader for the applicant-mother has not shown any material that when the pleader appeared in person in the

courtroom on the day of the production of the detainee-daughter via video link, he was not duly authorised on behalf of his client (see paragraph 9 above). In the circumstances, as the impugned order indicates, the pleader of the applicant was very much present in the courtroom (see paragraph 9 above), therefore, the argument made by the pleader that, in fact, his client had to be physically present as per law cannot be sustained. As the representative of the applicant-mother, the pleader, having been present himself in the courtroom, cannot now argue that his client had to be mandatorily present in the courtroom at the time of the production of the alleged detainee-daughter in the Courtroom, too. His presence in the courtroom is/was sufficient. Therefore, I cannot find that the applicant-mother's presence was necessary in the courtroom at the time of production of the alleged detainee via video link, when the pleader was present before the Court, and no objection was raised before the Court of Sessions in this regard, at the material time.

On allegation of mismatched identity during production via video link

14. I now turn to the practical issue raised by the pleader of the applicant-mother, i.e. her detainee-daughter, in the absence of the alleged pleader and her, was not positively identifiable; hence, the person seen by the Court of Sessions was someone else, and the production via video link is/was not proper and also not properly conducted. To this end, when I queried Counsel for the applicant-mother, Counsel did not deny that the applicant's daughter is/was an adult. It is also common ground (as corroborated by the affidavit available on record duly sworn by the High Court's NADRA verification cell) that the alleged detainee is/was an adult and of age of majority when the detainee was produced via video link before the Court of Sessions. Further, none denied that she had approached the High Court and was present before the High Court when police protection was extended to her in May 2025. Indeed, as per the available record, the parties have denied neither that the alleged detainee had filed a harassment petition before the Hon'ble High Court of Sindh, Karachi (and that the same was allowed on 12.05.2025) nor that the alleged detainee contracted marriage on 17.04.2025 with Respondent no.6-husband. Finally, the petition filed by the detainee before the High Court, certified copy of which is available on record, bears her photograph, and further, it is/was also

supported by an affidavit page, which also has her photograph, on the date of swearing of the affidavit before the High Court's NADRA Verification Cell. The certified copy of the Statement of the alleged detainee along with her photograph duly signed by the Addl. Sessions Court is also available on record. None denied that the above photograph is/was fake and such data/information was not available with the Court of Sessions. I have also seen the detainee's photograph appearing in several documents available on record and find that the photographs are consistently the same and appear to be of the same person, i.e. the applicant's daughter, Mst.Qambreen. Last but not least, neither any objection on the part of the applicant-mother nor her pleader is recorded in the impugned Order as to alleged mistaken identity nor found in the record of the Court of Sessions, in this cr. misc. appln, nor such objection is raised in the memorandum of this cr. misc. application. The argument is raised belatedly in oral submissions. Consequently, given the facts and circumstances highlighted above and documents available on record, I cannot simply assume that the learned Addl. Sessions Judge at the time of production of the detainee via video link did not satisfy himself concerning the identity of the detainee-daughter before recording her statement. In the facts and circumstances, the contention raised by the applicant-mother has neither force nor legs to stand on and is hereby rejected. The requirements of Section 491. Cr.P.C., viz. production of the alleged detained daughter, have been squarely met.

15. It is apparent from the record that the detainee-daughter, now, is peacefully residing with her husband as a married adult. Nothing has been brought on record before this (High) Court to trigger yet another round of attendance/production of Mst.Qambreen, once again, before the Court when she has already appeared before the High Court of Sindh at Karachi in April-May 2025, and in January 2026 virtually via video link before the Court of Sessions.

16. Given the above, no case is made out by the applicant-mother to set aside the Additional Sessions Court's impugned Order, concerning the production of the alleged detainee-daughter through video link. The exercise conducted by the Court of Sessions, as described above, appears to have been carried out in a proper, fair and transparent manner and, in the facts and circumstances of the case, does not call for

intervention. Finally, no ground is made out for her production under Section 491 Cr.P.C. before this High Court, either, presently.

17. Before parting with this list, it may be mentioned that various protocols have been discussed by the apex courts, including the reproduced relevant paragraphs of the Meera Shafi case (supra), concerning best practices to conduct hearings through video link, including production of witnesses and detainees. Modern devices and technology facilitates hearings and production of witnesses and detainees. To further strengthen and encourage their use, without controversy, orders passed for production of a detainee by video link ought to expressly mention and describe the protocols and safeguard measures taken by the Court in the production of the detainee by video link in the order itself. Orders passed may expressly mention that a second camera was made available in the room when the detainee was produced and recorded his/her statement in Court via video link, visible to the Presiding Officer of the Court and the parties, to ensure that at the time of recording of the statement, none in the room were coaching or directing or exercising coercion such that at the time of production and recording of statement, online, the detainee was under pressure or duress.

18. The Criminal Miscellaneous Application is dismissed for the above reasons.

JUDGE