

Order Sheet

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Constitutional Petition No.S-104 of 2026

[Sofi Sajjad vs. Ayaz Ali]

Applicant by : Mr. Rao Faisal Ali, Advocate

Respondent by : Nemo.

Date of hearing : 20-04-2026

Date of decision : 20-04-2026

ORDER

ARBAB ALI HAKRO, J.- The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution, assailing the judgment dated 27.02.2026 rendered by the learned Additional District Judge-II/MCAC, Umerkot (“**revisional Court**”), whereby Civil Revision Application No.01 of 2026 was dismissed, as well as the earlier order dated 20.12.2025 passed by the learned Senior Civil Judge-II, Umerkot (“**trial Court**”, through which the plaint in F.C. Suit No.313 of 2025 was rejected under Order VII Rule 11 C.P.C.

2. The factual matrix, as emerges from the plaint and the annexed documents, reveals that the petitioner, a resident of Village Soofi Faqeer, Umerkot, instituted F.C. Suit No.313 of 2025 seeking recovery of damages to the tune of Rs.15,00,00,000/- on the allegation that the respondent had, with mala fide intent and without lawful justification, lodged FIR No.13 of 2025 at Police Station Soofi Faqeer under sections 324, 506-II, 337-A(i), 337-F(i), 147, 148 and 149 PPC. The petitioner averred that the said criminal proceedings were actuated by ill-will, were devoid of reasonable and probable cause and were initiated solely to malign his reputation and subject him to humiliation, arrest, mental agony and financial loss. It is further averred that during the investigation, the police, upon examining the material collected, concluded that no incident of the nature alleged in the FIR had occurred

and that the injuries attributed to the complainant's side were in fact the result of a prior road accident. The Investigating Officer accordingly submitted a final report under "C-Class", which was duly forwarded by the learned State Counsel. Umerkot, upon scrutinising the entire investigative record, the Civil Judge & Judicial Magistrate-II, approved the "C-Class" report vide order dated 28.10.2025, holding that the allegations were unsubstantiated and that the matter did not warrant further criminal proceedings. Upon such cancellation of the FIR, the petitioner instituted the aforementioned suit for damages, on the plea that the termination of the criminal proceedings in his favour constituted a foundational element of a claim for malicious prosecution. The plaint asserted that the respondent had misused his position as an advocate to procure a false FIR and had thereby caused irreparable injury to the petitioner's liberty, reputation and business interests.

3. The trial Court, however, at the very threshold rejected the plaint under Order VII Rule 11 CPC vide order dated 20.12.2025. The trial Court held that a cancellation under "C-Class" does not amount to termination of prosecution in favour of the accused for purposes of a suit for malicious prosecution and that only a "B-Class" cancellation carries a finding of falsity and malice. The Court further observed that the plaint lacked specific particulars of damages and therefore did not disclose a cause of action.

4. Aggrieved by the rejection of the plaint, the petitioner preferred Civil Revision Application No.01 of 2026 before the revisional Court. The revisional Court, vide judgment dated 27.02.2026, concurred with the reasoning of the trial Court and dismissed the revision.

5. It is against these concurrent orders, firstly, the rejection of the plaint by the trial Court and secondly, the dismissal of the revision by the revisional Court, that the petitioner has approached this Court through the instant constitutional petition.

6. Learned counsel for the petitioner, while reiterating his challenge to the concurrent orders, submitted that the present petition is

competently maintainable under Article 199 of the Constitution as both the courts below acted in derogation of settled legal principles and thereby failed to exercise jurisdiction vested in them. He argued that although the order dated 20.12.2025 rejecting the plaint is deemed to be a decree within the contemplation of Section 2(2) CPC, the revisional Court, having entertained and adjudicated the matter on merits, has itself conferred a jurisdictional complexion upon the proceedings which now warrants constitutional scrutiny. He contended that the revisional Court's decision dated 27.02.2026, being a judicial determination rendered without examining the true legal character of the underlying order, has resulted in a manifest miscarriage of justice. In support of his contentions, he relied upon **PLD 1990 SC 28, 2023 YLR 621, and 1995 CLC 1578.**

7. Heard and perused the record.

8. At the very outset, the pivotal question that arises is not one of factual appreciation, but of jurisdictional architecture under the Code of Civil Procedure, 1908 and the permissible reach of this Court's powers under Article 199 of the Constitution. The order dated 20.12.2025, whereby the trial Court rejected the plaint under Order VII Rule 11 CPC, is, by express statutory fiction, a "decree" within the meaning of Section 2(2) CPC, which specifically provides that the term "decree" shall be deemed to include the rejection of a plaint. The Supreme Court has reiterated that an order rejecting a plaint "is most certainly a decree". It carries the same degree of finality and enforceability as any other decree, unless otherwise provided by law. Once the order of 20.12.2025 is so characterised, the statutory remedy against it lies in a regular first appeal under Section 96 CPC, and not in a civil revision¹.

9. Section 96 CPC confers a right of appeal from every original decree passed by any court exercising original jurisdiction, save where expressly excluded. The rejection of the plaint under Order VII Rule 11, being an original decree, was thus appealable under Section 96 CPC

¹ Muhammad Ali and others v. Province of Punjab and others (PLJ 2009 SC 1081)

within the prescribed period of limitation. Had such an appeal been filed and decided, the resultant appellate decree could then, subject to the statutory thresholds, be assailed either by way of a second appeal under Section 100 CPC (where a substantial question of law arose) or, in an appropriate case, by revision under Section 115 CPC, depending on the nature of the order and the forum that passed it. The legislative scheme is sequential and hierarchical: original decree, first appeal under Section 96, second appeal under Section 100 or, where applicable, revisional scrutiny under Section 115. It does not contemplate bypassing the appellate structure by directly invoking constitutional jurisdiction against what is, in substance, a decree.

10. Section 115 CPC, in turn, is carefully circumscribed. Revisional jurisdiction is attracted only where no appeal lies and where the subordinate Court has exercised jurisdiction not vested in it, failed to exercise jurisdiction so vested, or acted in the exercise of its jurisdiction illegally or with material irregularity. Once an order is, by statutory command, a decree appealable under Section 96, the revisional jurisdiction is ordinarily ousted. This is consistent with the broader jurisprudence that orders rejecting a plaint under Order VII Rule 11 are not revisable but appealable, precisely because they fall within the ambit of Section 2(2) CPC as decrees. The petitioner, instead of availing the statutory appeal, chose to file a civil revision and that too beyond the period of limitation ordinarily applicable to such proceedings. The revisional Court did not convert it into an appeal, nor did it address the limitation aspect in the context of the proper remedy. In entertaining and deciding the revision,

11. Section 100 CPC further reinforces the appellate hierarchy by confining second appeals to substantial questions of law arising from decrees passed in appeal. It underscores that challenges to decrees must travel through the appellate ladder and that extraordinary or supervisory jurisdictions are not to be used as substitutes for the ordinary remedies deliberately crafted by the legislature. The combined

reading of Sections 2(2), 96, 100 and 115 CPC thus yields a coherent scheme: rejection of the plaint is a decree; the proper and primary remedy is an appeal under Section 96; revisional jurisdiction is residual and cannot be invoked where an appeal lies and second appeal lies only from an appellate decree on substantial questions of law.

12. When this statutory framework is juxtaposed with the constitutional jurisdiction under Article 199, the contours of this Court's power become clearer. The writ jurisdiction is discretionary, equitable and corrective; it is not designed to supplant the ordinary remedies of appeal and revision, nor to rescue a litigant from the consequences of his own election of an inappropriate forum or his own laches. The consistent principle in our jurisprudence is that where an adequate and efficacious alternate remedy exists, and particularly where that remedy has been bypassed or allowed to lapse, recourse to Article 199 is ordinarily barred, save in exceptional cases involving patent lack of jurisdiction, coram non iudice proceedings, or gross violation of fundamental rights. The present case does not fall within any such exceptional category.

13. In the case at hand, the petitioner allowed the period for filing an appeal under Section 96 CPC to elapse, then invoked revisional jurisdiction, which, in law, did not properly lie against a decree, and now seeks to invoke constitutional jurisdiction to undo both the original decree (rejection of the plaint) and the revisional judgment. To permit such a course would be to dismantle the carefully constructed hierarchy of remedies under the CPC and to convert Article 199 into a general appellate forum, contrary to both text and principle. The fact that the revisional Court entertained the revision does not, by itself, confer legitimacy on a procedurally misconceived route, nor does it enlarge the scope of this Court's constitutional jurisdiction to regularise what the statute does not sanction.

14. It is also of some significance that the order rejecting the plaint was not a mere procedural or ministerial act; it was a final adjudication,

at least at the threshold, on the maintainability of the suit, and thus squarely within the definition of "decree" under Section 2(2) CPC. In this backdrop, the proper forum to test the correctness of that decree was the appellate Court under Section 96, not the revisional Court and certainly not this Court in its writ jurisdiction at the instance of a party who did not pursue the statutory remedy in time.

15. Even if one were to look beyond the procedural missteps and examine the matter through the lens of Article 199, the petitioner's case would still not warrant interference. The impugned orders are concurrent, reasoned and rendered by courts of competent jurisdiction. They do not disclose any patent lack of jurisdiction, nor any such gross illegality or perversity as would justify constitutional intervention in the face of an available, though unavailed, statutory remedy.

16. In these circumstances, the present constitutional petition is hit at multiple levels: first, the original order of rejection was a decree appealable under Section 96 CPC; second, the petitioner failed to avail that remedy within limitation; third, the subsequent revision was not the correct remedy in law and fourth, Article 199 cannot be invoked as a surrogate appeal or revision to cure these defects. To hold otherwise would be to encourage litigants to circumvent statutory forums and to invite this Court to sit as a general court of appeal in civil matters, which is neither the design nor the mandate of Article 199.

17. For the foregoing reasons, I am constrained to hold that the present constitutional petition is not maintainable in law and does not merit interference on the merits either. Resultantly, the instant petition stands **dismissed** in *limine*, along with the pending miscellaneous application(s).

JUDGE