

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Misc. Appln. No. S-258 of 2023

Applicant	Ghulam Yaseen Lashari, through Mr. Mazhar Ali Mangan, advocate holding brief for Mr. Shakeel Ahmed Ansari, advocate
Respondent No.1	Pir Bux Noonari, Through Mr. Zafar Ali Malghani, advocate
The State	Through Mr. Sardar Ali Solangi, D.P.G.
Date of hearing	22-09-2025
Date of order	22-09-2025

O R D E R

Shamsuddin Abbasi, J.- Through instant Cr. Misc. Application, the applicant has impugned the order dated 11.08.2023, passed by learned Additional Sessions Judge/Ex-Officio Justice of Peace, Thull in Cr. Misc. Appln. No.654/2023, re: Pir Bux Vs. The S.H.O P.S. A-Section Thull whereby directions were issued to the S.H.O P.S. Thull to register FIR of respondent Pir Bux against applicant under Sindh Child Marriage Restraint Act, 2013.

2. Learned counsel for the applicant submits that respondent No.1 Pir Bux was complainant in F.I.R No.58/2023, registered at Police Station A-Section Thull, Jacobabad for the offence U/s 365-B Cr.P.C. During investigation it has come on the record that Mst. Parveen contracted marriage with Baban Ali s/o Janib Ali Lashari by exercising her right of free-will and in support of his contentions, he has placed on record affidavit of freewill, nikahnama and copy of application filed by Mst. Parveen and Baban Ali before Ex-Officio Justice of Peace Khairpur against her father (Pir Bux) and others. He further submits that C.P. No. D-692/2023 was filed by Mst. Parveen against her father and other

police officials for quashment of F.I.R and in compliance of court directions, I.O disposed of the F.I.R under cancelled "C" class and thereafter the respondent No.1 again approached to Ex-Officio Justice of Peace for registration of second F.I.R on the ground that her daughter Mst. Parveen was minor at the time of contracting marriage with Baban Ali and respondent has approached to ex-officio with malafide intention and ulterior motives and in order to drag them in false criminal case.

3. Learned counsel for the respondent No.1 submits that respondent No.1 has rightly approached to Ex-Officio Justice of Peace for registration of second F.I.R under Child Marriage Restraint Act, 2013, as at the time of contracting marriage, her daughter was minor.

4. Learned D.P.G. has supported the impugned order and arguments advanced by the learned counsel for the respondent No.1.

5. Heard learned counsel for applicant, advocate for respondent No.1 and learned D.P.G so also perused material available on the record.

6. It is matter of record that respondent No.1 registered the F.I.R No.58/2023 at Police Station A-Section Thull, District Jacobabad for offence U/S 365-B, 452, 34 P.P.C r/w Section 3-T.I.P, 2018, wherein he alleged that main accused Baban along with other accused abducted her daughter Mst. Parveen aged about 17/18 years on the show of weapons. During investigation, Mst. Parveen approached to Ex-Officio Justice of Peace, Khairpur for protection against her father. She also approached to this court by way of filing C.P. No. D-692/2023 for quashment of F.I.R. During investigation, statement of Mst. Parveen was recorded by I.O in F.I.R No.58/2023, wherein she has denied the allegations for abduction and further stated that she being sui juris has contracted marriage by exercising her right of freewill and in view of

such statement concerned I.O has submitted his report before concerned Magistrate for disposal of the FIR/Case in cancelled "C" class, which has been accepted by the concerned Magistrate. Thereafter respondent Pir Bux again approached to Ex-Officio Justice of Peace for registration of second F.I.R under provisions of Sindh Child Marriage Restraint Act, 2013, whereby directions were issued to the S.H.O Police Station A-Section Thull to register the F.I.R.

7. The Sindh Child Marriage Restraint Act, 2013 is special law which prohibits the marriage of any person under 18 years of age and establishes criminal liability for those contracting, solemnizing, or facilitating such a marriage. To pursue prosecution under the Act, it is essential to prove that the individual alleged to be a minor was indeed under eighteen at the time of marriage. In the present case, there are significant contradictions concerning the age of Mst. Parveen. The complainant gave her age as 17/18 in the FIR, but subsequently reported it as 15/16 in the application for registration of the second FIR. No conclusive documentary evidence was produced to establish that Mst. Parveen was a minor at the relevant time. Given these inconsistencies, and the absence of substantive, reliable proof of minority, the statutory framework did not compel for registration of a new FIR under the Act. Under the law, the burden rests on the complainant to provide satisfactory proof of minority; without it, the enforcement machinery and penal provisions of the Act are not triggered and court, therefore, has to evaluate the credibility of such claims. In the absence of credible evidence of minority, further criminal proceedings under the Child Marriage Restraint Act, 2013 are not justified.

8. This court cannot ignore the significance of the victim's own statement about her majority and freewill, especially when no reliable documentary evidence supports issue of under age. Once a criminal matter has been investigated and disposed of under "C" class (i.e., for lack of evidence) and especially where the alleged

victim's stance is clear, the registration of a subsequent FIR in the absence of fresh, credible evidence is generally not permitted.

9. In view of above, I am of the considered view that without credible and consistent proof of minority, the courts and investigative authorities are not obliged to register or proceed with a fresh FIR under the Sindh Child Marriage Restraint Act, 2013. Mere contradictory claims and the absence of new, substantive evidence are insufficient grounds for initiating repeated criminal proceedings. Consequently, impugned order dated 11.08.2023, passed by learned Ex. Officio Justice of Peace is set-aside and instant application is allowed.

J U D G E

Abdul Salam/P.A