

Criminal Miscellaneous Application No. S-396 of 2025

1. For orders on office objection.
2. For hearing of main case.

Syed Muhammad Mehdi Shah, Advocate for the applicant
alongwith applicant

Mr. Abdul Waris Bhutto, Assistant Advocate General

Mr. Aitbar Ali Bullo, Deputy Prosecutor General for the
State assisted by Mr. Zain ul Abideen Asstt: Prosecutor
General alongwith D.S.P Javed Ahmed Sanghri, SDPO,
Mirokhan, S.I.P Zulfiqar Ali Mugheri, on behalf of S.S.P
Kambar-Shahdadkot @ Kambar and Inspector Ali Hassan
Muheri, S.H.O P.S. Sijawal.

In pursuance of the Court's earlier order, a report has been submitted by the S.S.P., Kamber-Shahdadt Kot @ Kamber, wherein it is stated that Mr. Javed Ahmed Sangri, DSP/SDPO Mirokhan, was deputed to ensure the safe recovery of the alleged detainee. The DSP has also filed his progress report, while Ali Hassan Mugheri, SHO Police Station Sijawal Junejo, and ASI Deedar Hussain Deenari (respondent No.3) have submitted their comments/objections. The same are taken on record.

Today, Mr. Arif Ali Kalhoro, Advocate, has filed Vakalatnama on behalf of respondent No.6, Amir (CNIC No. 43401-0386039-3), who is also present in Court. Learned counsel for respondent No.6 has filed a copy of the order dated 08.11.2025 passed by the learned Additional Sessions Judge-I, Shahdadkot, in Criminal Misc. Application No.2097 of 2025, wherein the alleged abductee, Mst. Asia, appeared before that Court and expressed her willingness to reside with her mother, Mst. Shamshad, and was accordingly left at liberty. The learned Additional

Sessions Judge-I also directed the concerned SHO to ensure protection to Mst. Asia till she safely reached her residence.

Mst. Asia is present in person and has also filed her statement along with affidavit, wherein she has reiterated that she wishes to reside with her mother, and that she does not wish to face any further dispute or harm. She further stated that she intends to seek dissolution of marriage from the applicant. The said statement is taken on record.

Briefly, it appears that the Nikah between the applicant and Mst. Asia was solemnized under a free-will affidavit, where after Mst. Asia had approached the learned District & Sessions Judge, Karachi (West) for protection against her brothers, and protection was duly granted. Subsequently, Mst. Shamshad, mother of the alleged abductee, lodged FIR No.41/2025 at Police Station Sijawal, under Section 365-B, PPC, against the applicant. That FIR was later disposed of under "C" class by order of this Court in C.P. No.D-633/2025, filed by Mst. Asia herself. Thereafter, the applicant alleged that Mst. Asia had been taken away by her family members, whereas the respondents contended that she voluntarily returned to her parental home.

Learned counsel for the applicant contends that Mst. Asia is the legally wedded wife of the applicant and that the marriage was contracted with her free consent. He submits that her current stance is only to avoid any possible bloodshed between the families and that her statement is not voluntary but the result of duress and pressure from her brothers and mother. He therefore prays that Mst. Asia be placed in Darul Aman to enable her to make a free and independent decision.

The applicant, Muqem Khan, with permission of the Court, further submits that after marriage, Mst. Asia was five months pregnant, but the respondents committed an act of *Isqat-i- haml*, attracting Section 338(A), PPC. He requests that this allegation be probed by a medical board.

Conversely, learned counsel for respondent No.6 contends that Mst. Asia has voluntarily chosen to reside with her parents, and there exists no threat to her life or liberty from them. However, if she were to

return to the applicant, there would be a genuine apprehension of harm from his side. Regarding the allegation of *Isqat-i- haml*, counsel submits that the same is unsupported by any medical or legal evidence and, as recorded in the order dated 08.11.2025, the alleged miscarriage occurred due to maltreatment by the applicant himself, as stated by Mst. Asia before the Additional Sessions Judge-I, Court.

Learned Deputy Prosecutor General and Assistant Advocate General submit that there are contradictory statements made by the alleged abductee initially expressing her willingness to live with her husband, and later choosing to stay with her mother. They contend that such inconsistency suggests mental pressure or duress from both sides. They therefore propose that she be temporarily housed in Darul Aman to enable her to clear her mind before recording any further statement.

I have heard the learned counsel for the parties and examined the record. It is settled that no individual can be compelled to live with another against their free will. While *Darul Aman* serves as a protective institution, keeping an adult woman there without her consent also curtails her liberty except in rare cases. In the present case, the learned trial court has already obtained a surety bond of Rs.500,000/- from Mst. Shamshad (mother of Mst. Asia) ensuring the life and liberty of Mst. Asia. Since Mst. Asia has consistently maintained, both before the Court of Additional Sessions Judge-I (order dated 08.11.2025) and this Court (statement dated 11.11.2025), that she wishes to reside with her parents, and her liberty is to be respected. Accordingly, Mst. Asia is left at liberty to reside with her parents. However, a personal (P.R.) bond of Rs. One Million shall be executed before this Court by Amir (respondent No.6) and Mst. Shamshad, guaranteeing her safety and liberty.

The concerned DSP, who is present in Court, is directed to ensure that adequate protection and security is provided to Mst. Asia and her children, and to take immediate legal action in case of any threat or harassment, even if it emanates from her relatives.

As regards the allegations of *Isqat-i- haml*, the applicant is at liberty to avail the appropriate legal remedy before the competent forum in accordance with law.

In view of the above, this Criminal Miscellaneous Application stands disposed of in the above terms.

JUDGE

Abdul Salam/P.A ****