

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitutional Petition No. D--989 of 2026
[Mst. Asia and another vs. Province of Sindh and others]

Before:-

Mr. Justice Zulfiqar Ali Sangi
Mr. Justice Arbab Ali Hakro,

Mr. Kashif Ali Jagirani, Advocate along with petitioners.
Mr. Khalil Ahmed Maitlo, Deputy Prosecutor General along with
Inspector Ashraf Ali Mani, I.O of P.S Kandhra.

Date of Hearing : **07.07.2026**
Date of Short Order **07.07.2026**
Date of Reasons : **13.07.2026**

ORDER

Zulfiqar Ali Sangi, J. Through this Constitution Petition instituted under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioners have invoked the constitutional jurisdiction of this Court seeking, inter alia, quashment of FIR bearing Crime No.92 of 2025, registered at Police Station Kandhra, District Sukkur, under Sections 365-B and 457, P.P.C., read with Section 3 of the Trafficking in Persons Act, 2018, together with all consequential proceedings arising therefrom. The petitioners have further sought directions to the official respondents to ensure protection of their life, liberty and property against the alleged harassment by respondent No.5 and the police officials.

2. Briefly stated, the relevant facts are that petitioner No.1, namely Mst. Asia, was previously married to respondent No.5, Abdul Samad. Due to matrimonial discord, she instituted a Family Suit for dissolution of marriage through Khula before the competent Family Court at Karachi. The said proceedings culminated in an ex-parte judgment and decree dated 25.09.2025 whereby her marriage with respondent No.5 stood dissolved. According to the petitioners, after expiry of the prescribed period of

Iddat, petitioner No.1, being a major, sui juris Muslim woman, voluntarily contracted marriage with petitioner No.2, Saddam Hussain, on 26.12.2025 in accordance with Islamic injunctions and also executed an affidavit affirming that the marriage had been solemnized of her own free will and without any force, coercion, inducement or undue influence.

3. It is the case of the petitioners that respondent No.5, being aggrieved by the dissolution of his marriage and the subsequent marriage of petitioner No.1 with petitioner No.2, maliciously lodged the impugned FIR alleging that petitioner No.2 and his relatives had abducted petitioner No.1. It is further alleged that despite the lawful marriage between the petitioners, respondent Nos.3 and 4, in connivance with respondent No.5, continued conducting raids upon the houses of petitioner No.2 and his relatives and subjected them to unnecessary harassment. It has further been pleaded that during the course of investigation the police submitted report under Section 512, Cr.P.C by declaring the accused persons as absconders, notwithstanding the fact that petitioner No.2 had already obtained protective bail from this Court followed by confirmation of his pre-arrest bail by the learned Additional Sessions Judge-II, Sukkur. According to the petitioners, the criminal proceedings initiated through the impugned FIR are tainted with mala fide, constitute an abuse of the process of law and have been instituted solely to wreak vengeance and interfere with their peaceful matrimonial life.

4. Learned counsel for the petitioners submitted that petitioner No.1 is a major, competent and sui juris Muslim woman who had lawfully obtained dissolution of her previous marriage and thereafter, after observing the mandatory period of Iddat, solemnized Nikah with petitioner No.2 entirely of her own volition. It was argued that she had also executed an affidavit affirming her free consent, thereby completely negating the allegations of kidnapping or trafficking. Learned counsel further contended that once a major Muslim woman voluntarily contracts marriage with a person of her own choice, no offence under Section 365-B, P.P.C. or under the Trafficking in Persons Act, 2018 can legally be said to have been committed. It was further submitted that although the

Investigating Officer initially failed to record the statement of petitioner No.1 under Section 161, Cr.P.C. and proceeded to submit report under Section 512, Cr.P.C., during the pendency of the petition, on 07.07.2026, the Investigating Officer recorded her statement wherein she categorically stated that she had not been kidnapped by anyone and had contracted marriage with petitioner No.2 voluntarily and without any coercion or pressure. Learned counsel therefore prayed that in view of the unequivocal statement of the alleged abductee herself, the impugned FIR and all proceedings emanating therefrom deserve to be quashed.

5. The Investigating Officer is present before the Court and has produced the statement of petitioner No.1 recorded under Section 161, Cr.P.C. A perusal thereof reveals that petitioner No.1 has unequivocally stated that she has neither been abducted nor trafficked by anyone and that she has contracted marriage with petitioner No.2 of her own free will, consent and choice, without any pressure, coercion or inducement whatsoever.

6. Learned Deputy Prosecutor General, after examining the statement of petitioner No.1, fairly conceded that in view of her categorical declaration that she had voluntarily contracted marriage and was never subjected to kidnapping or trafficking, continuation of the criminal proceedings would serve no useful purpose and the prosecution case no longer survives.

7. We have heard the learned counsel for the parties, the learned Deputy Prosecutor General, examined the material available on record and have given anxious consideration to the controversy involved.

8. The admitted factual position emerging from the record is that petitioner No.1 is a major Muslim woman. Her previous marriage with respondent No.5 stood dissolved through a decree of Khula passed by the competent Family Court. Thereafter, upon completion of the prescribed period of Iddat, she contracted marriage with petitioner No.2. During the pendency of these proceedings, her statement under Section 161, Cr.P.C. has been recorded by the Investigating Officer wherein she has categorically denied the allegations contained in the FIR and has unequivocally

stated that she voluntarily contracted marriage with petitioner No.2 and was never abducted, kidnapped or trafficked by anyone.

9. It is now a settled principle of law that a major Muslim woman possesses the unfettered legal right to contract marriage according to her own free will and choice. Such right flows not only from the injunctions of Islamic law but is equally protected under Articles 9, 14 and 35 of the Constitution of the Islamic Republic of Pakistan, 1973, which guarantee the right to life, dignity and protection of the family institution. Once a woman of full legal capacity voluntarily enters into a matrimonial alliance, the essential ingredients of the offences relating to kidnapping, abduction or trafficking automatically disappear, unless there exists independent material demonstrating lack of consent or unlawful restraint.

10. The entire edifice of the prosecution case was founded upon the allegation that petitioner No.1 had been abducted by petitioner No.2 and his companions. However, the alleged victim herself has demolished the very foundation of the prosecution by unequivocally declaring that she voluntarily accompanied petitioner No.2 and solemnized marriage with him of her own free choice. Her statement completely destroys the substratum of the allegations contained in the impugned FIR.

11. The Investigating Officer has also placed before this Court the statement recorded under Section 161, Cr.P.C., and there is nothing available on record suggesting that such statement was procured through coercion, inducement or unlawful influence. On the contrary, the said statement is fully consistent with the documentary material produced by the petitioners, including the decree of dissolution of marriage and the subsequent Nikahnama. Therefore, continuation of the criminal proceedings despite such overwhelming material would amount to sheer abuse of the process of law.

12. The superior Courts have consistently held that where the admitted or undisputed material available on record demonstrates that no cognizable offence is made out and the continuation of criminal proceedings would merely result in unnecessary

harassment of the accused persons, the constitutional jurisdiction of the High Court can validly be exercised to prevent abuse of the process of law and to secure the ends of justice. The constitutional jurisdiction under Article 199 of the Constitution is intended, inter alia, to prevent misuse of criminal process where the allegations contained in the FIR are patently false, inherently improbable or stand completely negated by unimpeachable material available on record.

13. It is equally well settled that criminal law cannot be permitted to be employed as an instrument of personal vendetta or to settle private scores arising out of matrimonial disputes. The record unmistakably demonstrates that the impugned FIR was lodged by respondent No.5 only after dissolution of his marriage with petitioner No.1 and her subsequent marriage with petitioner No.2. The subsequent statement of petitioner No.1 recorded during investigation completely belies the allegations made by respondent No.5. In such circumstances, allowing the prosecution to continue would amount to legitimizing abuse of the criminal justice system.

14. It is also noteworthy that despite availability of documentary evidence relating to the dissolution of the earlier marriage and the subsequent Nikah, the Investigating Officer initially failed to record the statement of the alleged abductee and instead proceeded to submit report under Section 512, Cr.P.C. Such an approach was neither fair nor in consonance with the settled principles governing criminal investigation. However, once the statement of petitioner No.1 has now been recorded and she has categorically denied the allegations of kidnapping and trafficking, no useful purpose would be served by allowing the criminal proceedings to continue.

15. Since the alleged abductee herself has categorically stated that she was never kidnapped or trafficked and had voluntarily contracted marriage with petitioner No.2, the essential ingredients of the offences punishable under Sections 365-B and 457, P.P.C., as well as Section 3 of the Trafficking in Persons Act, 2018, are conspicuously absent. Consequently, the impugned FIR has become wholly unsustainable in law.

16. For the foregoing reasons, this Constitution Petition is allowed. FIR bearing Crime No.92 of 2025, registered at Police Station Kandhra, District Sukkur, under Sections 365-B and 457, P.P.C., read with Section 3 of the Trafficking in Persons Act, 2018, together with all consequential proceedings arising therefrom, including the report submitted under Section 512, Cr.P.C., is hereby quashed. The respondent Nos.2, 3 and 4 are directed to ensure that no unnecessary harassment is caused to the petitioners on account of the impugned FIR and, if any genuine threat to their life, liberty or property is brought to the notice of the competent police authorities, the same shall be dealt with strictly in accordance with law by extending lawful protection to the petitioners without discrimination or delay.

17. The petition, along with all pending applications, stands **disposed of** in the above terms and these are the reasons of our short order dated 07.07.2026.

JUDGE

JUDGE