

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1349 of 2026

[Mst. Shamshad Bhutto and another v. Province of Sindh and others]

Before:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

Petitioners by : Mr. Ghulam Abbas Akhtar, Advocate

Respondents by : M/s Agha Athar Hussain Pathan, Assistant Advocate General Sindh and Khalil Ahmed Maitlo, Deputy Prosecutor General along with along with SIP Moula Bux Khokhar, I.O., Police Station Kotri

Date of Hearing : **17.09.2026**

Date of Decision : **17.09.2026**

ORDER

ARBAB ALI HAKRO J. – Learned counsel for the petitioners is present; however, petitioners are not present today.

2. It is recalled that on the first date of hearing, petitioner No.1 (Mst. Shamshad), who appeared in person, had categorically submitted that, being sui juris, she had married petitioner No.2 (Ghulam Ali) of her own free will and choice, and that her mother, namely Mst. Basra (respondent No.5), had registered a false FIR alleging her abduction by petitioner No.2 and others, solely to exert illegal pressure upon them. She had further submitted that she had not been abducted or enticed by anyone, including petitioner No.2, and had therefore approached this Court for legal protection and for the quashing of FIR bearing Crime No.339 of 2026, registered at Police Station Site, Kotri, District Jamshoro, under Section 365-B, PPC.

3. Comments have been filed on behalf of SSP Dadu (respondent No. 2), stating that he is a pro forma respondent; however, in compliance with the order dated 11.08.2026, legal protection shall be provided to the petitioners whenever required under the law, and no subordinate shall be permitted to cause undue harassment or take any action contrary to law against the petitioners.

4. I.O./SIP, P.P. Site, Kotri (respondent No.4), is present in Court and has filed his report, in which he states that on 26.07.2026, following a complaint by Mst. Basra (respondent No.5), the subject FIR was registered against the nominated accused Idrees and others, regarding the abduction of petitioner No.1. He states that accused Aqib s/o Muhammad Suleman was arrested on 31.07.2026, i.e., prior to the order dated 11.08.2026 passed by this Court, and that one day's physical remand was obtained. He further states that petitioner No.1 voluntarily appeared before him on 07.09.2026, when her statement under Section 161, Cr.P.C. was recorded; her medical examination was conducted; and her statement under Section 164, Cr.P.C. was recorded before the learned Civil Judge & Judicial Magistrate, Jamshoro, pursuant to an order dated 07.09.2026 passed by the learned Additional Sessions Judge, Jamshoro, allowing the application for recording such a statement. He further states that, as per his information, petitioner No.1 is presently residing with her mother, Mst. Basra (respondent No.5).

5. A perusal of the statement under Section 164, Cr.P.C., placed on record, reflects that petitioner No.1 disclosed her age as 13 years and gave a version materially at variance with the submissions earlier recorded before this Court: that she was forcibly abducted, confined, raped, and coerced into stating that she had married of her own free will and choice.

6. This discrepancy goes to the root of the matter and involves disputed questions of fact, including the actual age of petitioner No.1, the voluntariness of the alleged marriage, and the veracity of the allegations levelled in the FIR. These matters cannot be resolved by this Court in its constitutional jurisdiction and require proper factual enquiry, evidence, and adjudication by the forum(s) competent to examine them. In the absence of petitioner No.1 today, and given the seriousness of the conflicting versions on record, this Court is not inclined to grant the protection or quashment sought.

7. Accordingly, this petition is **disposed of**, with liberty to the parties to seek their respective remedies, and with the following directions:

- i) The investigation of the subject FIR already entrusted vide order dated 15.09.2026, issued by the SSP Jamshoro, shall proceed and be concluded strictly in accordance with law, without being influenced by any observation made in this order or in the earlier orders of this Court;
- ii) The I.O. shall specifically verify the actual age of petitioner No.1, including through ossification/medical age determination, if considered necessary, and shall reconcile the same with her statement recorded under Section 164, Cr.P.C;
- iii) The concerned trial Court/Judicial Magistrate shall proceed further in the matter, including in respect of the custody and welfare of petitioner No.1, strictly in accordance with law, uninfluenced by any observation made hereinabove; and
- iv) All parties are at liberty to raise all factual and legal contentions before the concerned forum(s), which shall decide the same independently and on their own merits.

8. The petition is **disposed of** and the interim order passed earlier stands **recalled**. Office to send a copy of this order to the I.O./SHO PS Site, Kotri through SSP concerned and to the concerned trial Court/Judicial Magistrate, for information and compliance.

J U D G E

J U D G E

Abdul Basit