

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**C.P No.D-1958 of 2026***[Asad Ali vs. Province of Sindh and others]***Before:**Justice Adnan-ul-Karim Memon.Justice Muhammad Jaffer Raza.

Petitioner : By Ms. Fareeda Naz, Advocate

Private respondent : By Mr. Mohsin Zameer Tunio, Advocate

Official respondents : By Mr. Allah Bachayo Soomro, Additional A.G. Sindh, a/w Inspector Manzoor Ali and IO ASI Allah Bachayo Khaskheli

Date of Hearing : 15.10.2026.

Date of Decision : 15.10.2026.

O R D E R

ADNAN-UL-KARIM MEMON J:- The petitioner seeks quashment of FIR No. 517/2026, registered at P.S. City Badin under Sections 365-B, 382 and 35 PPC, alleging it to be false and fabricated. He submits that the alleged detainee, Dua Fatima, is his maternal cousin and has voluntarily chosen to reside with her paternal aunt, i.e., the petitioner's mother.

2. Upon appearance, Dua Fatima stated that she had not been abducted and supported the petitioner's stance.

3. The Investigating Officer has also recorded her statement and undertook to submit a C-class report before the learned Magistrate having jurisdiction.

4. Conversely, the counsel for the private respondents contended that, being a minor, she should reside with her natural guardian, i.e., her mother and not paternal aunt. However, it is for Dua Fatima to take the decision, as she has preferential right, having full knowledge of her welfare; as such, this Court will not interfere in such decision of Dua Fatima under Article 199 of the Constitution.

3. The question of custody of Dua Fatima, if she is a minor, may be agitated before the competent Guardian and Wards Court, which shall decide any such application expeditiously in accordance with law after hearing the concerned parties, more particularly Dua Fatima.

4. Upon consideration of the statement made by Dua Fatima before this Court, wherein she categorically denied having been abducted and expressed her willingness to reside with her paternal aunt, the petitioner's mother, no sufficient ground presently appears to warrant interference by this Court in the matter of the alleged abduction, particularly when the

Investigating Officer has undertaken to submit a C-class report before the competent Magistrate. Her statement, having been made before the Court, cannot be disregarded; nevertheless, her welfare and safety remain paramount.

5. As the question of her minority has been raised but her age is not apparent from the material available, no definitive finding regarding her age or legal capacity can be recorded at this stage. If she is a minor, her expressed preference, though relevant, cannot by itself conclusively determine the question of custody, which must be decided by the competent Guardian Court after examining her age, maturity, circumstances, wishes and overall welfare, with due opportunity of hearing to the concerned parties. Conversely, if she is found to be a major and capable of making her own decisions, her voluntary choice of residence, subject to the law, must be respected.

6. Accordingly, without expressing any opinion on the merits of the allegations or the question of custody, this petition and pending applications are disposed of with directions to the Investigating Officer to proceed in accordance with law and submit the proposed C-class report before the competent Magistrate in terms of the statement of girl, who shall consider the same. The parties shall remain at liberty to approach the competent Guardian Court, if so advised, for determination of the question of custody in accordance with law. Meanwhile, the SSP concerned shall ensure the safety and protection of Dua Fatima and the petitioner against any unlawful harassment or coercion, take appropriate preventive measures in accordance with law, and ensure that no harm is caused to Dua Fatima.

JUDGE

JUDGE