

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1490 of 2026

[Gulzar Ali Lashari v. Province of Sindh and others]

Before:

Justice Arbab Ali Hakro

Justice Muhammad Osman Ali Hadi

Petitioner by : Mr. Mansoor Hussain Maitlo, Advocate

Date of Hearing : 01.09.2026

Date of Decision : 01.09.2026

ORDER

ARBAB ALI HAKRO, J. – Through this petition, the petitioner, who is serving as an Investigating Officer in FIR No. 136 of 2026 registered at Police Station Pir Jo Goth, has challenged the order dated 22.08.2026 passed by the learned Civil Judge & Judicial Magistrate, Pir Jo Goth, which made certain observations regarding the manner of investigation conducted by the petitioner, disagreed with the release of a nominated accused under section 169 Cr.P.C, and directed the examination of the petitioner's conduct and the assignment of further investigation to another officer. The consequential orders passed by the police authorities have also been assailed.

2. Learned counsel for the petitioner contended that the learned Magistrate acted beyond jurisdiction in passing the impugned order; that the petitioner had released one of the nominated accused after finding him innocent during the investigation; that adverse remarks and directions were issued without affording an opportunity of hearing; that the learned Magistrate had no authority to direct the replacement of the Investigating Officer or the initiation of departmental proceedings; and that the impugned observations have seriously prejudiced the petitioner's service career. It was, therefore, prayed that the impugned order and all consequential actions be set aside.

3. We have heard learned counsel for the petitioner and have reviewed the material on record.

4. The principal challenge in the present petition is directed against an order passed by a learned Judicial Magistrate in the course of criminal proceedings, while exercising powers under the Code of Criminal Procedure. The grievances raised by the petitioner relate to the legality, propriety and correctness of the observations and directions contained in the said judicial order. Such matters fall within the ambit of the revisional jurisdiction provided under Sections 435, 439 and 439-A Cr.P.C.

5. It is a settled principle of law that where an adequate and efficacious statutory remedy is available, constitutional jurisdiction is ordinarily not invoked. In Ali Gohar and others¹, the Supreme Court held that where the Code provides a specific remedy of revision, recourse to constitutional or inherent jurisdiction under Section 561-A Cr.P.C, is not ordinarily maintainable. A similar view was reiterated in Muhammad Farooq², wherein it was observed that where a remedy is available under the law, the aggrieved person must first avail the same before invoking extraordinary jurisdiction.

6. The impugned order admittedly emanates from criminal proceedings before a subordinate criminal court. Therefore, the proper course available to the petitioner was to avail the remedy provided under the Code. The petition does not disclose any exceptional circumstances warranting a bypass of the statutory remedy and direct invocation of Article 199 of the Constitution.

7. Even otherwise, the consequential departmental proceedings are admittedly at a preliminary stage. A mere show-cause notice does not furnish grounds for interference in constitutional jurisdiction. We further note that the complainant in the FIR, whose rights may be affected by any order relating to the investigation, has not been impleaded as a party. The office objections also point out this defect. No satisfactory explanation has been offered in that regard.

¹ Ali Gohar and others v. Pervaiz Ahmed and others (PLD 2020 SC 427)

² Muhammad Farooq v. Ahmed Nawaz Jagirani (PLD 2016 SC 55)

8. For the foregoing reasons, we are of the considered view that the instant petition is not maintainable. The petitioner, if so advised, may avail such remedy as may be available to him under the Code of Criminal Procedure and other relevant law. Consequently, this Constitution Petition is dismissed in limine, along with all pending applications, being not maintainable.

JUDGE

JUDGE

Naveed Ali