

**HIGH COURT OF SINDH CIRCUIT COURT,
MIRPURKHAS**

C.P No.D-761 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
<u>26.11.2025</u>	

Before:

JUSTICE ADNAN-UR-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Mr. Muhammad Sharif Solangi, Assistant A.G Sindh

ORDER

ADNAN-UL-KARIM MEMON J:- The petitioner prays that this Court to:

1. Set aside the orders dated 04-08-2025 and 22-08-2025 passed by the Civil Judge & Judicial Magistrate-I Umerkot.
2. Direct the private respondents to produce Meena before this Honourable Court and hand over her custody to the petitioner.
3. Grant any other relief deemed just and proper in the circumstances.

2. The petitioner, a Hindu by faith, was lawfully married to Meena, and their marital life remained peaceful. However, on 28-05-2025, Meena left her parents' home while her mother, brother Herchand, and nephew Prem Chand were present. She converted to Islam and contracted marriage with private respondent Allah Dino, after which she filed a protection application before the Sessions Court Umerkot. Meena's mother then lodged FIR No. 34/2025 under Sections 3-4-5 of the Sindh Child Marriage Act, 2013 at Women Police Station Umerkot. Meena, who is the petitioner's legally wedded wife and a minor as per official documents, was converted and married by the private respondent. The learned Civil Judge & Judicial Magistrate-I Umerkot, through an order dated 04-08-2025, sent her to Darul Aman Hyderabad, and later, on 22-08-2025, ordered her release by declaring her to be 20 years of age. Both orders are unlawful, passed in haste, and contrary to the record. He submitted that Meena is now in the custody of private respondents, who are not allowing the petitioner to meet her. The trial court ignored documentary proof of her minority, misread the material on record, and failed to uphold fundamental principles of criminal justice. Her medical examination was either not properly conducted or appears manipulated. Having no alternate remedy, the petitioner is constrained to invoke the extraordinary constitutional jurisdiction of this Court and seeks permission to raise additional grounds during the hearing.

3. The learned Magistrate, vide order dated 22-08-2025, noted that SIP Mehnaz Awan had produced the medical certificate of Mst. Mariam was issued by the Special Medical Board constituted under the court's order dated 04-08-

2025. The Board, after examining her, opined that she is about 20 years old. The certificate was placed on record. The Magistrate observed that on 04-08-2025, SIP Mehnaz Awan had moved an application for recording Mariam's statement. As she appeared underage at that time and her educational record was also produced, the court directed the Director General of Health, Hyderabad to constitute a Medical Board comprising a Radiologist, Dental Surgeon, Orthopedic Surgeon, and Professor of Medicine to determine her actual age. Until then, she was sent to Dar-ul-Aman, Hyderabad. In compliance, the Special Medical Board examined her and again concluded that she is approximately 20 years old, meaning she is a major. The learned Magistrate held that since she is sui juris and the purpose of her stay at Dar-ul-Aman has been fulfilled, she cannot be kept there any longer. Accordingly, Mariam was ordered to be released forthwith, with directions to appear before the court on 01-09-2025, and the SHO Women Police Station Umerkot was instructed to provide legal protection if needed.

4. Learned Assistant PG has supported the impugned order, keeping in view the findings of the Special Medical Board, whereby they opined that the age of Mst. Mariam was/is 20 years vide report dated 18.8.2025.

5. Primarily, the petitioner's assertions have already been examined by this Court through order dated 19-11-2025. However, today he remains absent without any intimation. In his absence, we have heard the parties present in Court.

6. Upon perusal of the entire record, the pleadings, and the material available, it appears that the case raises significant questions concerning the actual age of Meena, the legality of the impugned orders dated 04-08-2025 and 22-08-2025, and the propriety of placing her custody with the private respondents.

7. As to the petitioner's contention that the marriage of Ms. Mariam is void under the Sindh Child Marriages Restraint Act, 2014 on the ground that she is below 18 years, it is sufficient to note that the Act and the 2016 Rules provide that offences under Sections 3 and 4 can only be taken cognizance of by a Judicial Magistrate First Class under Rule 5. Moreover, the petitioner himself claims Meena was married to him, which implies she was of majority age; therefore, his plea is an afterthought and cannot be accepted at this stage.

8. At this stage, reference is made to Mauj Ali v. Syed Safder Hussain (1970 SCMR 437), wherein the Supreme Court held that once a girl has attained puberty and has married of her own free will, the marriage is valid under Muhammadan Law. The Supreme Court further held that the Child Marriage Restraint Act does not invalidate such a marriage, and the husband is recognized as the lawful guardian. The Court declined to interfere, observing that substantial justice had been done.

9. It is undeniable that marriage is an event tied to a family's honor, particularly when it is openly solemnized. Therefore, authorities questioning its validity must act carefully, verify the authenticity of the information, and avoid actions that may unfairly harm the family or the girl involved. If the information later proves false, the damage cannot be undone.

10. In view of the above, no further action is required against the couple, and they shall be provided due protection. As the parties are in conflict, Ms. Mariam may meet her parents whenever she wishes, subject to her consent, and no obstruction shall be caused by the respondents. If any issue arises, she may approach the concerned SSP for protection, which shall be provided without delay.

Petition stands disposed of in the above terms.

JUDGE

JUDGE