

IN THE HIGH COURT OF SINDH AT, KARACHI

C.P.NO. 1634 of 2015

Presented on 27.3.15

Mst.Sofia daughter of Noor Muhammad,  
Muslim, adult Resident of  
Goth Hiro Khan Mangwano,  
Taluka Kankhkot,  
District Jacobabad  
presently residing at  
House No.304,  
Sector B-20-C,  
Shah Latif Town,  
Malir Karachi .....

  
Deputy Registrar (Writ)

Petitioner

Versus

1. Province of Sindh,  
Through Home Secretary  
Sindh Secretariat Karachi.
2. Inspector General of Police Sindh,  
CCPO, Head office,  
I.I.Chundrigar, Road,  
Karachi.
3. D.I.G. East Zone,  
New Town Police Station,  
Karachi
5. S.S.P. District Sanghar
6. D.S.P. District Sanghar.
7. S.H.O. P.S. Mangli,  
District Sanghar.
8. Muhammad Khan s/o Noor Muhammad  
Muslim, adult by caste Unar,  
r/o Chak No.83, Taluka and District  
Sanghar.
9. Muqem Lalan s/o Lal Muhammad  
@ Lalan, Muslim, adult r/o  
Goth Heero Khan Mangwano,  
Taluka Kandkhot District Jacobabad.
10. Noor Muhammad s/o Jalal  
r/o Chak No.83,  
District Sanghar.....Respondents





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ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

C.P.No. D-1634 of 2015

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

1. For orders on office objection.
2. Katcha Peshi
3. For hearing of Misc. No 7093/2015.

06.05.2015

Mr. Muhammad Haroon Advocate for the Petitioner.  
Mr. Saeed Ahmed Khoso state counsel.  
Mr. Abrar Ali Khichi, A.P.G and Mr. Shahzad Saleem A.P.G.

Petitioner, through instant petition, seeks following reliefs:-

- (i) Direct the respondents particularly respondent No. 8 to 10 not to harass the petitioner and provide complete protection to her and her husband's life and liberty.
- (ii) Declare the F.I.R. No. 04/2015 dated 21.1.2015 u/s 496-A, 147, 148, 149 PPC as void ab initio lodged on mala fide and declare the Nikahnama dated 15.6.2014 as forged and fabricated.
- (iii) Any other relief(s) which this hon'ble court may deem fit and proper under the circumstances may be granted.

Notices were issued against the respondents as well as Advocate General, Sindh and Prosecutor General, Sindh. During investigation of the case, I.O recorded the statement of Mst.Sofia under Section 161 Cr.P.C, in which, Mst. Sofia clearly stated that she has married to Noor Hassan against the wishes of her parents on 18.09.2014. She denied allegation of abduction or detaining her with criminal intent. Copy of affidavit of Freewill and Nikahnama have been placed alongwith memo of petition as annexures A & A/1.

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On 30.04.2015, I.O placed on record copy of statement of Mst. Sofia recorded by him under section 161 Cr.P.C, therefore, we directed trial Court to pass appropriate orders well before the next date of hearing i.e. 06.05.2015. However, today Report has been received, which reflects that the matter is still pending before the Court of Civil Judge & Judicial Magistrate-II, Sanghar.

Mr. Abrar Ali Khichi, learned A.P.G. submits that contents of F.I.R. after recording the statement of Mst. Sofia are not made out.

Mr. Muhammad Haroon, advocate appearing on behalf of the Petitioner submits that F.I.R. No. 04/2015 regarding abduction of Petitioner lodged by the Respondent No. 8, who happens to be brother of Petitioner, may be quashed as the same are based on malafides. In support of his contention, learned Counsel for the petitioner has rightly placed his reliance on the cases of *Mst. Rizwana Bibi vs. The State and another* reported in (2012 SCMR 94) and *Hakim Ali and another vs. Province of Sindh through Secretary and 10 others* (PLD 2009 Karachi 278).

In the case *Hakim Ali and another vs. Province of Sindh through Secretary and 10 others*, it is held as under:

“19. Accordingly, petitioner No.2 gave sworn testimony before this Honourable Court that although she does not know the exact date of her birth she knows that she is 19. She has stated that before marriage she appeared before a Magistrate and swore an affidavit of free will. That she is happily married to petitioner No.1 with whom she lives and that they have had a son together. She further stated that she was not abducted by the petitioner or Dani Bux and that she left with the petitioner on her own free-will. During cross-examination by respondent No.8 petitioner No.2 stuck to her evidence.

20. The Court record shows that on 17-9-2008 the police surgeon reported that the age of the petitioner was 19. The petitioner has also now reached the age of puberty, which is evidenced by the birth of her son. Her statement under oath



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before this Court that she married out of free will is corroborated by her affidavit of free will dated 18-1-2008 on the Courts record. The F.I.R. itself was registered after a delay of 7 months after the alleged incident of abduction. The challan was prepared on 28-8-2008 and reveals that the investigation has found hardly anything to support the allegations in the F.I.R. against the accused. In fact, the challan seems merely to repeat the allegations contained in the F.I.R. without shedding any further light on the alleged crimes."

In above stated circumstances, as Mst.Sofia, being sui-juris, has clearly stated in her 161 Cr.PC statement that she has married with her own choice by exercising her constitutional right. We find that accusations made in the aforementioned FIR are not made out and the FIR No. 04/2015, registered at Police Station Mangli, District Sanghar under Sections 496-A, 147, 148, 149 PPC is based upon malafide. During investigation, no incriminating material/evidence has been collected to connect the accused in the commission of offence. As such, there is no probability of conviction of accused in this case. Therefore, the proceedings pending before Civil Judge & Judicial Magistrate-II, Sanghar arising out of aforesaid F.I.R are hereby quashed. As regards to Nikahnama dated 15.06.2014 is concerned, Petitioner may approach Family Court concerned, if advised so.

For the above stated reasons, instant Constitution Petition is allowed in the above terms.

*Sr. Naimatullah*  
 6.5.2015  
 JUDGE

*Sr. Shaukat Ali*  
 JUDGE

