

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

CP No. D-5001 of 2024

*(Sania Zehra & Atif Ali v Province of Sindh & others)*

Date

Order with signature of Judge

**Before:-**

Mr. Justice Salahuddin Panhwar

Mr. Justice Adnan-ul-Karim Memon

**Date of hearing and order:- 30.10.2024**

Mr. Muhammad Sabar and Majid Ali advocate for the Petitioners.

Syed Hassan Jafri advocate for the respondent Nos. 6 to 9.

Mr. Mumtaz Ali Shah APG.

Mr. Jan Muhammad Khuro AAG along with ASI Huzoor Bux Panhwar, Inspector Amir Alam PS Malir Cantt.

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**ORDER**

**Adnan-ul-Karim Memon, J:** Petitioner Sania Zehra and Atif Ali have approached this court, seeking direction to the police officials not to cause harassment to them at the behest of private respondents No. 6 to 9, they also seek annulment of FIR No. 412 of 2024 registered for offense under Section 365-B, PPC of PS Malir Cantt, Karachi. They also submit that one Raees Qurban Ali Magsi held Jirga on 12.10.2024 and imposed a fine of Rs.1500,000/- upon the petitioners and the family of the petitioner No.2 and ordered the petitioner No.2 and his family members to compensate the family of petitioner No.1 with another girl in lieu of marriage of petitioners, which is apathy on his part. They were also forced to pay Rs.5 lacs as part payment vide cheque bearing No. 07503653 dated 15.10.2024 to be drawn through UBL Karachi, such statement dated 30.10.2024 has been relied upon.

2. Today respondent No.6 to 9 have submitted that they have settled their dispute outside the court, as such their grievance is no more in existence, and seek disposal of the petition. The aforesaid stance has been refuted by the learned counsel for the petitioners on the ground that the petitioners are being forced to accept the decision of the Jirga conducted by one Rais Qurban Ali Magsi and a fine has been imposed upon them, which is illegal, and liable to be set aside by this court and the proceedings arising out of the subject FIR No. 412 of 2024 of PS Malir Cantt, District Malir, Karachi registered under section 365-B PPC. The police officials present in court submit that the case is in dormant file under 'A' Class.

3. Statement of Mst. Sania Zehra has been recorded by the Investigating Officer wherein she claims that she is an adult and neither she has been abducted by anyone else nor coerced by petitioner No.2 however she has contracted valid marriage with petitioner No.2 and the FIR lodged by her father respondent No. 6 is false and fabricated one which may be quashed.

4. We have heard the learned counsel for the parties present in court and perused the material available on record with their assistance.

5. The petitioners, a married couple, were married against their parents' wishes. The wife's family filed a false police report against the husband, leading to fears of his arrest. To resolve the dispute, a Jirga (tribal council) intervened and imposed a fine on the husband's family. The husband's family is also obligated to provide for a girl in marriage, which is illegal. The petitioners seek legal protection against potential harassment and unlawful demands.

6. It is reported that a local chieftain namely Raees Qurban Ali Magsi, held a jirga to resolve a dispute between two families who married against their wishes. The chieftain declared the couple guilty and imposed a fine of Rs.1500,000/-. (Rupees Fifteen lacs only) and the petitioners were forced to pay 500,000/- as part of payment on the subject issue. Additionally, it is further reported that he ordered the exchange of a girl as wani to settle the dispute. Despite the illegality of these actions, local authorities/police have taken no action. It appears from the various pronouncements of the judgments of the superior courts, wherein it has been observed that Jirgas, all-male councils, have been a long-standing issue in Pakistan, settling disputes through local customs, often at the expense of women's rights. These councils have been used to enforce discriminatory practices like forced marriages, honor killings, and denial of women's rights.

7. In a landmark 2019 judgment, the Supreme Court of Pakistan in the case of the *National Commission on Status of Women v Government of Pakistan* **PLD 2019 SC 218** declared jirgas illegal, citing violations of international human rights laws and the Constitution of Pakistan. The Supreme Court emphasized the

importance of equal protection before the law, due process, and fair trial, rights that are often denied in jirga proceedings. This judgment is a significant step towards upholding women's rights and ensuring that justice is administered through legal channels. It is crucial to continue to monitor the implementation of this decision and to address the social and cultural factors that contribute to the persistence of harmful practices. In this regard, FIR can be lodged against the holding of illegal jirga by the chieftain and all others who participated in the Jirga in violation of the 2019 Supreme Court judgment. This judgment declared the jirga system as illegal and against the fundamental rights of citizens. Law enforcement agencies are obligated to take action against those who organize or participate in such jirgas. Let at the first instance, FIR be lodged by the SSP concerned and bring the culprits into justice without fail.

8. So far as FIR No.412 of 2024 of PS Malir Cantt, District Malir, Karachi registered under Section 365-B PPC is concerned the same is hereby quashed and such summary report be submitted before the concerned Magistrate for disposal of the case. He is directed to take action against all concerned police officials who failed and neglected to perform their duties to curb this menace.

9. The IGP Sindh is directed to take stock of the things and take prompt disciplinary action against all police officials of the concerned district/police station in accordance with the law.

10. In view of the statement of the parties, the private respondents are directed to furnish an indemnity bond of Rs.500,000/- each before the Nazir of this Court for the aforesaid purpose.

11. In view of the above, this Constitutional Petition is disposed of.

JUDGE

JUDGE