

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI
CP D-1214, 1215, 42, 5746 & 919 of 2016;
3367, 3998, 4135, 4158, 4159, 4160 & 4284 of 2017; 180 of 2019

DATE

ORDER WITH SIGNATURE OF JUDGE(S)

14.09.2021

For Petitioners

Mr. Iftikhar Hussain Advocate a/w Mr. Fazal M Sherwani, Advocate
Mr. Mehfoozyar Khan Advocate
Mr. Shafqat Zaman Advocate
Ms. Fozia Rasheed Advocate

For Respondents

Mr. Kafeel Ahmed Abbasi Deputy Attorney General
Mr. Hussain Bohra, Assistant Attorney General.
Mr. Muhammad Zubair Advocate
Mr. Javed Hussain Advocate
Mr. Mohsin Imam Advocate
Mr. Muhammad Aqeel Qureshi Advocate
Mr. Azam Nafees AD (Audit) I.I.O, I & I-IR Karachi

Admittedly, these petitions primarily seek to vitiate criminal proceedings, pending trial before the competent court/s, and have *inter alia* obtained the concession of *bail* as an interim measure, before the civil tax bench of this Court. The crux of the petitioners' case is that notwithstanding the registration of criminal proceedings, vide the respective FIRs, and submission of *challans* before the competent trial court, it was incumbent upon this Court to determine the viability of the criminal proceedings and regulate the custody of the accused, while exercising jurisdiction under Article 199 of the Constitution.

This Court has disapproved of such unmerited recourse to writ jurisdiction in *Syed Jawad Arshad vs. Federation of Pakistan & Others*¹ ("*Arshad*") and held, in view of a preponderance of binding authority², that the ordinary course of criminal proceedings could not be allowed to be deflected by resort to writ jurisdiction as the statutory fora are competent to determine the viability of the relevant criminal proceedings and regulate the custody of the accused. It is observed that the ratio of *Arshad* is squarely applicable herein.

In view hereof and in *mutatis mutandis* application of the reasoning and rationale so assigned in *Arshad*, it is found that no case has been set forth before us to merit the invocation of the discretionary³ writ jurisdiction of this Court; hence, the subject petitions, along with listed applications, are hereby dismissed. The office may place a copy hereof in each listed petition.

JUDGE

JUDGE

¹ Judgment dated 03.09.2021; CP D 1083 of 2020.

² *Muhammad Abbasi vs. SHO Bhara Kahu & Others* reported as PLD 2010 Supreme Court 969; Per Hamoodul Rehman J. in *Ghulam Muhammad vs. Muzammal Khan & Others* reported as PLD 1967 Supreme Court 317; Per Aslam Riaz Hussain J. in *Abdul Rehman Bajwa vs. Sultan & Others* reported as PLD 1981 SC 522; Per Muhammad Afzal Zullah J. in *Abdul Aleem vs. Special Judge (Customs) Lahore & Others & Others* reported as 1982 SCMR 522; A Habib Ahmed vs. *MKG Scott Christian & Others* reported as PLD 1992 Supreme Court 353; Per Chaudhry Ijaz Ahmed J. in *Haji Sardar Khalid Saleem vs. Muhammad Ashraf & Others* reported as 2006 SCMR 1192.

³ Per Ijaz Ul Ahsan J. in *Syed Iqbal Hussain Shah Gilani vs. PBC & Others* reported as 2021 SCMR 425; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as 2010 SCMR 105.