

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-6435 of 2024.

Date: Order with signature(s) of the Judge(s)

Mr. Justice Salahuddin Panhwar
Mr. Justice Jan Ali Junejo

Priority.

1. For Orders on Office Objections.
2. For Hearing of CMA No.28717/2024.
3. For Hearing of Main Case.

03rd February, 2025.

Mr. Imtiaz Ali advocate for the Petitioners a/w Petitioners.
Mr. Bahzad Akbar advocate for Respondent No.5.
Mr. Jan Muhammad Khuhro, AAG.
Mr. Ali Haider Salim, Addl. P. G. Sindh a/w I.O DSP Mushtaq Ali.

Salahuddin Panhwar, J:- By order dated 14.01.2025, Petitioner No.1 was nestled in Pannah Shelter Home till the ossification test to determine whether there was a violation of the Sindh Child Marriage Restraint Act, 2016. However, the medical board failed to conduct the ossification test. It is pertinent to mention that the marriage cannot be declared invalid.

2. The Investigation Officer present contends that the Nikahkhuwan, as named in the Nikahnama, is not available in District Khairpur. Apparently, the Justice of Peace, namely Sher Muhammad Buriro advocate, managed all the relevant documents. It seems the Petitioners may have been deceived by the Justice of Peace. Additionally, it has been observed that no standardized procedures (SOPs) exist for the appointment and oversight of Justices of Peace by the Home Department. This regulatory gap creates room for potential misuse of authority, necessitating an immediate policy review. Accordingly, the Home Secretary, Government of Sindh, is directed to constitute a high-level committee to thoroughly review the appointment process, scope of authority, and accountability mechanisms for Justices of Peace. The committee shall:

- i. Review the current criteria for appointing Justices of Peace and propose necessary reforms to enhance transparency, accountability, and prevent any misuse of authority.
- ii. Identify instances where Justices of Peace have exceeded their legal authority and recommend appropriate disciplinary measures. In cases of misconduct, consider revoking their powers.
- iii. Develop clear and comprehensive SOPs for the appointment, training, and oversight of Justices of Peace, ensuring alignment with constitutional and legal mandates.
- iv. Include senior police officials, not below the rank of Deputy Inspector General (DIG), to ensure a comprehensive and impartial review.
- v. Submit a detailed report with findings and recommendations within two months, ensuring full compliance with the directives of this Court.

3. It is essential to emphasize that Petitioner No.1 cannot be unlawfully detained against her will, as she has lawfully entered into a marital union. Consequently, the previous order stands modified to uphold her fundamental rights. Petitioner No.1 is at liberty to reside with her husband and continue her marital life within the boundaries set by *Shariat-e-Muhammadi*.

4. With respect to the First Information Report (FIR No. 259/2024), registered under Section 365-B of the Pakistan Penal Code (PPC) at PS Panoakil, it is imperative to consider the statements and evidence presented before the Court. Petitioner No.1, who appeared on multiple occasions, has unequivocally denied the allegations, asserting that they are false and baseless. Additionally, the star witness in the case has provided testimony that directly contradicts the claims made in the FIR, further undermining its credibility. In light of the absence of corroborative evidence and the inconsistencies in witness testimonies, it is evident that the allegations do not establish a prosecutable offense. Continuing the proceedings under these circumstances would constitute a miscarriage of justice and an abuse of legal process. Therefore, this Court finds it appropriate to quash FIR No. 259/2024 in the interest of justice. Accordingly, FIR No. 259/2024 of Police Station Pano Akil is hereby quashed.

5. However, it is important to clarify that this order does not preclude the Investigation Officer or the complainant from pursuing legal remedies under the Sindh Child Marriage Restraint Act, 2016, should any actionable violation of the law be substantiated through proper investigation and due process. The appropriate legal forums remain available for addressing any legitimate concerns within the framework of child protection laws.

6. Petitioner No.2 is present before the Court and asserts that he is fully capable of providing financial and emotional support to Petitioner No.1. He further undertakes that Petitioner No.1 will be allowed to continue her education as per her wishes and will not face any restrictions on visiting her parents. In light of this commitment, Petitioner No.2 is directed to furnish a Personal Recognizance (PR) Bond in the sum of rupees One Million with the Nazir of this Court, ensuring compliance with the stated assurances.

For the going reasons, the instant petition is hereby disposed of, along with all pending applications.

JUDGE

JUDGE

M.Zeeshan