

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

**C.P No.D-199 of 2025**  
[Mumtaz v. DIG Mirpurkhas& Others]

**C.P No.D-200 of 2025**  
[Mumtaz v. Province of Sindh & Others]

**Before:**

**Mr. Justice Arbab Ali Hakro**

**Mr. Justice Riazat Ali Sahar**

Petitioner : Mumtaz through Mr. Hussain Bux  
Mari, Advocate.

Respondents: Through Mr. Shahzado Saleem  
Nahiyon Deputy Prosecutor  
General Sindh.

Date of Hearing : **19.03.2025**

Date of Decision : **19.03.2025**

**JUDGMENT**

**RIAZAT ALI SAHAR J:** -Through the instant constitutional petitions, the petitioner seeks the quashment of FIR No. 06 of 2025, registered at Police Station Dhoro Naro, District Umerkot, at the behest of Mustafa Kamal Wassan, Principal of Government Degree College, Dhoro Naro, under sections 353, 189, 337-H(ii), 506(ii), and 34 of the Pakistan Penal Code. Additionally, the petitioner also assails FIR No. 07 of 2025, lodged by SIP Imdad Illahi Arain under Section 23-I of the Sindh Arms Act, 2013, at the same police station.

Both FIRs relate to the petitioner's son, namely Allah Bachayo, and are factually and contextually interlinked. Accordingly, in the interest of judicial economy and consistent adjudication, both petitions are being decided through this consolidated judgment.

2. In his petition, the petitioner avers that his son, Allah Bachayo, is a diligent and meritorious student, having successfully passed his matriculation examination in the year 2024 with Grade 'A'. He is further stated to be of good moral character, as duly certified by the Principal of Government Higher Secondary School, Dhoro Naro. The petitioner alleges that on the day of the incident, his minor son was attending classes at Government Degree College, Dhoro Naro, when, at approximately 10:00 a.m., the Station House Officer of Police Station Dhoro Naro, accompanied by Head Constable Salahuddin Arain, Police Constable Khalid Soomro, and two other unidentified police officials, arrived at the college premises in a police mobile. It is alleged that, with the active facilitation of the college Principal, Mr. Mustafa Kamal Wassan, the aforementioned police officials unlawfully entered the classroom and forcibly apprehended the petitioner's son without any prior intimation, complaint, or registered FIR, and subsequently detained him at Police Station Dhoro Naro in an unlawful manner.

3. The petitioner submits that he had filed an application under Section 491 of the Code of Criminal Procedure, 1898, which led to the conduct of a judicial raid. However, prior to the arrival of the learned Sessions Judge, it is alleged that Respondent No.4 unlawfully removed the petitioner's minor son from the police

station and transferred him to an undisclosed location. Subsequently, the minor was falsely implicated in FIR No. 06 of 2025, registered under Sections 353, 189, 337-H(ii), 506(2), and 34 of the Pakistan Penal Code, 1860. It is pertinent to note that although the name of the petitioner's son does not appear in the said FIR, he was nonetheless illegally apprehended, subjected to physical torture, and handcuffed in clear violation of his fundamental rights. Thereafter, he was presented before the competent Juvenile Court, which, upon examining the circumstances, was pleased to grant him bail. However, in a continuation of what the petitioner alleges to be a mala fide and vindictive campaign, SHO Imdad Illahi Arain subsequently implicated the minor in yet another fabricated case — FIR No. 07 of 2025 — under Section 23-I of the Sindh Arms Act, 2013. As a consequence, the minor was again taken into custody and detained in a juvenile correctional facility, from which he was eventually released on bail following the orders of the concerned court.

4. Pursuant to Court notice, Respondents No. 4 and 5 in C.P. No.D-199 of 2025 filed their comments. Respondent No. 4 stated that the matter pertains to Government Degree College Dhoro Naro, which falls under the administrative control of the Regional Director, Colleges, Mirpurkhas Division and the College Education Department. Respondent No. 5 stated that he deals only with the Elementary, Secondary and Higher Secondary sectors of the Education Department, whereas the matter pertains to the College Education Department.

5. Learned counsel for the petitioner has argued that the petitioner's son, a minor aged 15 years, was unlawfully detained by the police in collusion with the Principal of Government Degree College, Dhoro Naro. He submits that despite the issuance of a direction under Section 491 Cr.P.C. and the conduct of a judicial raid, the police deliberately failed to produce the minor before the learned Sessions Judge, thereby evidencing their intent to falsely implicate him in criminal proceedings post-raid. It is further submitted that, initially, the petitioner's son was not nominated in FIR No. 06 of 2025; however, he was subsequently shown as arrested and maliciously involved in the said case, despite having already been taken into illegal custody and concealed at an undisclosed location. Learned counsel further contended that the minor was deliberately and unlawfully implicated in another fabricated case, being FIR No. 07 of 2025 registered under the Sindh Arms Act, 2013. This, he asserts, is a manifest example of the abuse of police authority and is indicative of mala fide intent. He emphasises that the accused is a juvenile, entitled to the protection of the Juvenile Justice System Act, 2018, which prioritises the principles of welfare, rehabilitation, and restorative justice over retribution. The treatment meted out to the minor, including his unlawful detention and the denial of due process, constitutes a gross violation of his fundamental rights enshrined under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973, which guarantees the right to a fair trial and due process of law. It is further argued that the prosecution has failed to adduce any credible, independent, or corroborative evidence to substantiate the

allegations levelled against the minor in either of the two FIRs. The entire case hinges solely on the uncorroborated statements of the two complainants — namely, the Principal of the College and the concerned Police Officer — both of whom are interested parties. In such circumstances, where mala fide intent and ulterior motives are clearly discernible, and where the continuation of criminal proceedings amounts to an abuse of the process of law, this Honourable Court is vested with inherent powers to quash the proceedings under its constitutional jurisdiction. Accordingly, learned counsel prays that the proceedings arising out of FIR Nos. 06 and 07 of 2025 be quashed in the interest of justice, to prevent further miscarriage thereof.

6. On the other hand, the learned Deputy Prosecutor General (D.P.G.), Sindh, has opposed the petitions and submitted that both FIRs were lawfully registered in response to legitimate complaints duly received by the police. He argued that the Principal of the College, being the administrative head of the institution, was well within his legal rights to report any alleged act of indiscipline or misconduct occurring within the academic premises. Consequently, the police were duty-bound under the law to take cognisance of the complaint and proceed in accordance with the prescribed legal framework. The learned D.P.G. further submitted that FIR No. 06 of 2025 encompasses offences under Sections 353, 189, 337-H(ii), 506(ii), and 34 of the Pakistan Penal Code (PPC), all of which are cognisable in nature. As such, the police were not only authorised but obligated to initiate proceedings and investigate the matter. Similarly, FIR No. 07 of 2025 pertains to an alleged offence

under the Sindh Arms Act, 2013, which relates to the unlawful possession of arms and ammunition — an offence considered grave in the eyes of the law due to its implications on public safety and order. He further contended that any premature intervention by this Honourable Court at the pre-trial stage, through quashment of the FIRs, would impede the lawful investigative process. The law, as settled by superior courts, dictates that the investigative process should be allowed to take its natural course, and evidence should be examined in the appropriate forum i.e., the trial court. Courts, he submitted, ought to refrain from forming any opinion as to the guilt or innocence of the accused until the trial has been conducted and both sides have been given an opportunity to present their case. He maintained that police actions are presumed to have been undertaken in good faith unless mala fide is conclusively demonstrated. Accordingly, he prayed for the dismissal of the instant petitions on the ground that no exceptional circumstances warrant judicial interference at this stage.

7. We have heard learned counsel for the petitioner, learned D.P.G. Sindh for the State and perused the material available on record.

8. We have thoroughly examined the material placed before us and find that the facts speak for themselves. The initial alleged illegal detention of the minor, which prompted the filing of an application under Section 491 Cr.P.C. and resulted in a judicial raid on the police station—where the detainee was notably absent—provides strong prima facie evidence that the respondents were

conscious of the illegality of their actions. Rather than following due process of law, the police, in apparent collusion with the college administration, sought to retrospectively legitimise their misconduct by fabricating criminal proceedings against the minor. The timing of both FIRs, particularly FIR No. 07 of 2025, which was lodged subsequent to the judicial raid, significantly strengthens the petitioner's contention that his son was subjected to retaliatory and vindictive action solely to create a justification for his earlier unlawful custody. This sequence of events, viewed holistically, reveals a mala fide intent and a calculated misuse of authority, demonstrating that FIRs No. 06 and No. 07 of 2025 were registered not in pursuit of justice but rather to conceal institutional overreach and misconduct. Such conduct, involving the registration of false or exaggerated criminal cases to justify illegal detention, constitutes a grave abuse of the legal process. It undermines the rule of law and erodes public trust in law enforcement institutions as established in *Malik Mumtaz Qadri v. The State* [PLD 2016 SC 17]<sup>1</sup>. Particularly disturbing is the fact that the person targeted was a minor, merely 15 years of age, engaged in his academic pursuits at the time of the alleged incidents. The law, including the Juvenile Justice System Act, 2018, provides enhanced protections to minors, placing emphasis on rehabilitation rather than punitive action. In light of these considerations, the mala fides underlying both FIRs are manifest and leave no room for doubt.

8. The absence of any independent witnesses and the prosecution's exclusive reliance on statements from the

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<sup>1</sup>"FIR was not a substantive piece of evidence."

complainants—one being the Principal, who notably did not nominate any individual in his FIR but appears complicit in the alleged unlawful detention, and the other being a police officer whose own conduct is mired in suspicion—renders both prosecutions highly questionable. Such reliance on partisan and potentially self-serving testimony, without any corroborative or impartial evidence, casts serious doubt on the veracity of the charges levelled against the minor accused. Furthermore, the prosecution has failed to establish the essential ingredients required to constitute offences under Sections 353, 189, 337-H(ii), 506(ii), and 34 of the Pakistan Penal Code, as well as under Section 23-I of the Sindh Arms Act, 2013<sup>2</sup>. In a criminal prosecution, it is a well-established principle of criminal jurisprudence that the burden lies squarely upon the prosecution to prove the guilt of the accused beyond reasonable doubt. This burden must be discharged through credible, admissible, and substantive evidence, which is conspicuously absent in the present case. Crucially, no material has been brought on record that could establish any nexus between the accused and the alleged offences. The fact that no accusations were forthcoming until the petitioner invoked the jurisdiction of the Court under Section 491 Cr.P.C. for the recovery of his unlawfully

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<sup>2</sup>See Mst. Sughran Bibi v. The State [PLD 2028 SC 595] 27. "(vi) Ordinarily no person is to be arrested straightaway only because he has been nominated as an accused person in an FIR or in any other version of the incident brought to the notice of the investigating officer by any person until the investigating officer feels satisfied that sufficient justification exists for his arrest and for such justification he is to be guided by the relevant provisions of the Code of Criminal Procedure, 1898 and the Police Rules, 1934. According to the relevant provisions of the said Code and the Rules a suspect is not to be arrested straightaway or as a matter of course and, unless the situation on the ground so warrants, the arrest is to be deferred till such time that sufficient material or evidence becomes available on the record of investigation prima facie satisfying the investigating officer regarding correctness of the allegations levelled against such suspect or regarding his involvement in the crime in issue."



detained minor son, clearly undermines the bona fides of the subsequent FIRs. The belated initiation of criminal proceedings, particularly in the wake of judicial scrutiny, appears to be a retaliatory measure designed to shield the unlawful actions of the respondents and to create an after-the-fact justification for an act that was prima facie without legal sanction. Such conduct is not only reprehensible but also constitutes an abuse of the legal process, warranting judicial intervention.

9. Moreover, the Juvenile Justice System Act, 2018, expressly provides a comprehensive legal framework aimed at the protection, fair treatment, and rehabilitation of minors who come into conflict with the law. It is a well-settled legal principle that children are to be treated with special consideration and dignity, and under no circumstances should they be subjected to procedures that infringe their constitutionally guaranteed rights, particularly those enshrined in Article 10-A of the Constitution of the Islamic Republic of Pakistan, which guarantees the right to a fair trial and due process. The alleged unlawful arrest and detention of the minor, followed by his false implication in fabricated criminal cases and subsequent incarceration, represent not only a flagrant disregard for statutory protections but also a gross miscarriage of justice. Such actions are entirely inconsistent with the rehabilitative spirit of the juvenile justice regime and amount to punitive treatment of a child who, under the law, is entitled to be dealt with through a welfare-oriented and reformatory approach. This abuse of process must be deprecated in the strongest possible terms, and any

proceedings initiated in contravention of these protections warrant urgent judicial scrutiny and correction.

10. The continuation of the impugned proceedings clearly amounts to harassment and constitutes an abuse of the legal process. Where First Information Reports (FIRs) are registered with mala fide intent and in the absence of any legal justification, it is incumbent upon this Court, in the exercise of its constitutional jurisdiction, to intervene and quash such proceedings. It is a well-settled principle of law that criminal jurisprudence must not be invoked or exploited as an instrument of oppression, personal revenge, or administrative overreach. In cases where the facts alleged do not disclose the commission of any cognisable offence, or where the FIR is manifestly actuated by ulterior motives, the courts are fully empowered to intercede to prevent the miscarriage of justice. The present case unmistakably reflects such misuse of criminal law, having been initiated with the sole object of harassing a minor who is entitled to the protections afforded under juvenile justice legislation. In this context, the legal maxim "*ex debito justitiae*"—meaning "as a matter of right and justice"—applies squarely, as the petitioner's son is entitled to relief not as a concession, but in the interest of justice.

11. In view of the foregoing discussion, and having carefully considered the conduct of the police authorities and the complainant Principal, it is evident that there has been a clear abuse of authority in the present matter. We are of the considered view that the continuation of criminal proceedings against the

minor, Allah Bachayo, would not only be devoid of any lawful purpose but would also amount to a grave miscarriage of justice. It further risks irreparably damaging the future of a young student whose educational prospects and psychological well-being have already been compromised. Accordingly, both FIR No. 06/2025 and FIR No. 07/2025, registered at Police Station Dhoro Naro, District Umerkot, are hereby quashed. As a consequence, all proceedings arising therefrom are also set aside. The accused, Allah Bachayo, is acquitted of all charges.

These petitions are **allowed** in the above terms.

**JUDGE**

**JUDGE**