

ORDER SHEET
**IN THE HIGH COURT OF SINDH
CIRCUIT COURT HYDERABAD**

C.P. No.D-292 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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Before:

Mr. Justice Amjad Ali Sahito.

Mr. Justice Jan Ali Junejo.

1. For order on MA No.2149/2025.
2. For order on office objection.
3. For order on MA No.1078/2025.
4. For hearing of main case.

18.08.2025

Mr. O.M Parkash H. Karmani advocate for petitioner.

1. Urgency granted.

Amjad Ali Sahito, J:- Through this constitutional petition, petitioner Saifal has challenged the impugned order dated 07.04.2025 passed by learned the District & Sessions Judge, Tharparkar At Mithi in Crl. Revision Petition No.05 of 2025 [Re-Saifal v. Badal & others) whereby dismissed the revision, which was filed against the impugned order 12.03.2025 passed in Criminal Misc Application No.06 of 2025 [Re-Saifal v. Badal & others] by learned Civil Judge and Judicial Magistrate (Family Judge), Mithi wherein Miscellaneous Application under section 133 of the Code of Criminal Procedure (Cr.P.C) filed by the petitioner/applicant was dismissed. Hence, the petitioner has approached this Court for setting aside the impugned orders passed by the Courts below.

A specific question was put to the learned counsel for the petitioner as to whether any remedy is available with the petitioner after filing Criminal Revision against the order of learned Judicial Magistrate/Family Court and as to whether the writ jurisdiction of this Court can be exercised as a substitute of revision despite fact that revision against the order of Judicial Magistrate/Family Court is final.

So far, learned counsel questioned the impugned orders of the courts below, we are not influenced with his arguments as this Court has to look into the matters under constitutional jurisdiction which are passed without lawful authority and jurisdiction. Nevertheless the impugned orders have been passed by the courts below within lawful authority and jurisdiction,

therefore, the same are not open to Constitutional jurisdiction. More so, the petitioner is possessed with remedy of revision and he cannot invoke the Constitutional jurisdiction after exhausting the remedy of revision, which is final. If the Constitutional jurisdiction is exercised without any jurisdictional defect or infringement of fundamental rights then the intent and purpose of Legislature would be frustrated. So far question regarding appreciation of evidence is concerned, it needs no reiteration that appraisal of evidence is the function of the trial court firstly and then the Appellate Court. Nothing is pointed out that there is mala fide, arbitrary, perverse or the Court has acted in excess of its jurisdiction, which may consider to exercise of writ jurisdiction. In this regard, we are also fortified with the observations of Hon'ble Supreme Court of Pakistan made in **ARIF FAREED v. BIBI SARA and others [2023 SCMR 413]** and **M. HAMAD HASSAN v. Mst. ISMA BUKHARI and 2 others [2023 SCMR 1434]**.

For what has been discussed above, instant petition is **dismissed** in limini along with listed applications.

JUDGE

JUDGE