

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Constt: Petition No. S-54 of 2026
(Jinsar Ali Jagirani Vs. P.O Sindh & Ors)

DATE	ORDER WITH SIGNATURE OF JUDGE
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01. For orders on office objection "A".
02. For orders on M.A.No.162/2026 (E/A).
03. For hearing of main case.

06.03.2026

Syed Kazim Raza Shah, Advocate for the petitioner.

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The case of the petitioner, as set out in the petition, is that respondent No.2 is petitioner's wife and out of their wedlock they have two children; a son Nisar Ali, aged about 13/14 years and a daughter Arifa, aged about 11/12 years and in the year 2015 respondent No.2 left petitioner's house taking away minor daughter Arifa while leaving son with the petitioner and obtained Khulla. It is also stated that the respondent No.2 contracted a second marriage with respondent No.3 and handed over the custody of minor daughter Arifa to respondent No.4, who failed to maintain minor and, therefore, the petitioner filed Guardian Application No.90/2024 seeking custody of the minor, which was dismissed by the learned Judicial Magistrate-IV/Family Judge, Larkana vide order dated 28.10.2024. It is further submitted that the petitioner had filed Petition No.S-52/2025 before this Court, which was also dismissed being not maintainable vide order dated 22.04.2025 with the observation that the petitioner may avail the remedy available under the law, however, petitioner was granted visiting rights on a fortnightly basis, subject to payment of costs. The petitioner has alleged that respondent No.4 along with her son and brothers intends to sell the minor girl Arifa to some unknown person and has allegedly received payment in that regard, therefore the life and honour of the minor girl is stated to be at stake. The petitioner claims that despite demanding return of the custody of the minor girl, respondent No.4 has refused to hand over the same

hence, he has filed this petition with prayers for registration of case against private respondents and seeking custody of minor Arifa.

2. Heard learned counsel for the petitioner and perused the material placed on record.

3. It is an admitted position that the petitioner had previously filed a Guardian Application No.90/2024 before the competent Family Court, Larkana which was dismissed vide order dated 28.10.2024, which was never assailed in an appeal and, therefore, it has attained finality. It also appears that the petitioner subsequently approached this Court through another petition, which too was dismissed with the observation that the petitioner may avail the remedy available under the law. In the present petition, the petitioner once again seeks custody of the minor girl despite the fact that the matter regarding custody has already been adjudicated upon by the competent Family Court, Larkana. It is settled that questions relating to custody of minors are to be determined by the competent Family Court keeping in view the paramount consideration of the welfare of the minor, which requires appreciation of evidence and examination of surrounding circumstances.

4. It may also be observed that matters relating to custody and guardianship of minors fall within the exclusive domain of the Family Court under the Family Courts Act, 1964, which provides a complete and efficacious mechanism for adjudication of such disputes. Where a specific statutory remedy is available and has already been invoked by the petitioner, the same cannot ordinarily be bypassed by invoking the constitutional jurisdiction of this Court.

5. In the circumstances, when the custody of the minor girl presently remains with her mother (respondent No.2) in pursuance of the order passed by the competent Court of law, and the said order has not been challenged before the appellate forum, the instant petition is not maintainable. It is well settled that the constitutional jurisdiction of this Court is discretionary in nature and is ordinarily not exercised where an adequate and efficacious remedy is available under the law, particularly when the matter has already been adjudicated upon by the competent Family Court.

6. Consequently, the present petition is dismissed in *limine*, along with the all pending applications.

7. Needless to observe that if any fresh cause of action arises, the petitioner shall be at liberty to avail the appropriate remedy available under the law, if so advised.

JUDGE