

IN THE HIGH COURT OF SINDH, KARACHI

C.P No. D- 2045 of 2025

Asif Razaak Deenar V. Federation of Pakistan & others

C.P No. D- 2046 of 2025

Abdul Qadir & another V. Federation of Pakistan & others

Present:

Mr. Justice Yousuf Ali Sayeed,

Mr. Justice Muhammad Osman Ali Hadi

Dates of hearing: 03.02.2026, 25.02.2026 & 30.03.2026

Date of decision: 25.05.2026

Petitioners: Through M/s. Ahmed Masood and Mirza Moiz Baig, Advocates.

Respondent No.3: Through Mr. Faiz Ahmed, Advocate.

Federation of Pakistan: Through Ms. Mehreen Ibrahim, DAG.

JUDGEMENT

Muhammad Osman Ali Hadi, J:

FACTS & SUBMISSIONS

The Petitioners have filed the instant Petitions seeking quashment of FIR No. 01 of 2025 (“**Impugned FIR**”) registered by the Deputy Commissioner - Directorate of Intelligence and Investigation, Inland Revenue, Hyderabad (“**Respondent No. 3**”) dated 14.05.2025.

2. Learned counsel for the Petitioners opened the arguments and submitted that the Petitioners in C.P No. D- 2046 of 2025 are Directors in MD Industries (Private) Limited (“**Company**”), whereas the Petitioner in C.P No. 2045/2025 is a former Director in the Company.

3. He continued that since the matters arise from the same FIR, these Petitions have been argued collectively.

4. Counsel for the Petitioners contended that the Company received a Show Cause Notice¹ under (the now erstwhile) Section 11² of the Sales Tax Act 1990 (“**STA 1990**”), in May 2024 (“**1st Notice**”), pertaining to alleged tax fraud. Subsequently, the Petitioners submitted a comprehensively detailed reply to the Respondents’ allegations, after which the Respondents issued the Petitioners a second Notice³ dated 14.11.2024, under Section 37 of the STA 1990 (“**2nd Notice**”).

5. This 2nd Notice was assailed by the Petitioners through a Constitutional Petition (No. D-6140/2024), whereby a learned Division Bench of this Court directed that the Respondents were to act strictly in accordance with law and settled jurisprudence⁴.

6. Subsequently, the Deputy Commissioner Inland Revenue Zone-II, Regional Tax Officer Quetta passed an Order-in-Original (“**ONO**”), in which the Company was held liable to pay an amount of Rs. 3,145,172,773/-. The same ONO was appealed before the Appellate Tribunal Inland Revenue - Karachi, who passed an Order dated 21.03.2025,⁵ in which, a *stay against recovery* order was passed, effective for a period of seven (7) days. The said *stay* order was further extended vide Order of the Tribunal dated 25.04.2025.

7. It is pursuant to the findings of the Respondents in the ONO, and whilst the appellate proceedings were underway, that the Impugned FIR No. 01/2025 dated 14.05.2025⁶ was lodged against the Petitioners. Following the lodging of the said FIR, the

¹ Available at Page 69 of the file in C.P No. D-2046/2025

² Omitted vide Finance Act 2024

³ Available at Page 87 of the file in C.P No. D-2046/2025

⁴ Available at Page 117 of the file in C.P No. D-2046/2025

⁵ Available at Page 207 of the CP No. D- 2046/2025

⁶ Available at page 15 of the CP No. D- 2046/2025

Petitioners filed the instant Petitions, *inter alia*, primarily seeking quashment of the Impugned FIR.

8. Learned counsel for the Petitioners has contended that under the *dicta* settled by the Supreme Court in the case of *Directorate of Intelligence and Investigation v. Taj International*,⁷ no such criminal proceedings could have been initiated. The Petitioners submitted that since the matter was pending before the Appellate Tribunal, and since, as per counsel for the Petitioners, the said Tribunal had issued certain injunctive orders, there was no finding against the Petitioner in effect, and accordingly no First Information Report (“FIR”) could have been lodged. Counsel has relied (almost entirely) on the findings in the *Taj International* case (*supra*), which (relevant for the instant purposes) *inter alia* has held that prior to any criminal prosecution commencing, there must first be a determination established.

9. Learned counsel has submitted that the actions for filing of the Impugned FIR are contrary to the legal structure provided under the relevant tax regime, as well as settled law, and that this Court has jurisdiction to quash the said FIR as actions of the Respondents were unlawful.

10. Counsel has further averred that the entire base of the criminal proceedings is predicated upon an assessment and finding of liability under the STA 1990, without which there cannot be any criminal action. Learned counsel concluded by stating that since no such liability has been established against the Petitioners, therefore the Impugned FIR was premature and unlawful, hence liable to be quashed. In support of his contentions, counsel has relied upon documents annexed with the Petition as well as various case laws, such as *FLA through Director General, FLA and others v. Syed Hamid Ali*

⁷ 2025 PTD 1270

*Shah and others*⁸, *Waseem Ahmed and another v. Federation of Pakistan through Chairman and 4 others*⁹ and unreported Judgement dated 28.01.2026 of Honourable Supreme Court in Criminal Petition No. 10-L of 2026 (*Liaquat Ali v. The State through PG Punjab and another*).

11. Learned counsel for the Respondents vehemently controverted the assertions put forth by the Petitioners, and submitted that the Impugned FIR was lodged after a proper investigation was conducted, once the Petitioners were found by the investigation to have been involved in serious tax fraud. Learned counsel next referred to certain amendments brought under the Finance Act 2024, whereby sections 2(37), 33 Sr. (11) and 37A of the STA 1990 were specifically changed for the purposes of clarifying that not only is punishment available when tax is *actually* evaded, but it is now also punishable when tax is "sought to be evaded". He explained that the insertion of the words "sought to be evaded" in the amended statute, would include proceedings to be initiated even against persons who were guilty of abetting in tax fraud, and against whom a determination need not necessarily have been established.

12. Counsel contended that the Petitioners are part of a mega tax evasion scheme, and that their liability was not only established at the time the Impugned FIR was launched, but that there were further amounts which were sought to be evaded by the Petitioners, along with others who were part of the abetment process. He asserted that collectively the Petitioners and accomplices were not only guilty of tax evasion, but also guilty of intention to further evade taxes.

13. Counsel next argued that the ratio of the *Taj International* judgment, which has been heavily relied upon by the Petitioners,

⁸ PLD 2023 SC 265

⁹ 2014 PTD 1733

could also not be benchmarked for interpreting the matter as the current matter was different from the facts of *Taj International*. He continued that in any event, in light of amendments to the STA 1990 (as highlighted above), no binding interpretation has yet been established by the Courts relating to the term “[taxes] sought to be evaded”, and that the ratio of the *Taj International* judgement would remain inapplicable to the matter at hand. He reiterated the amendment in the STA 1990 clarifies that a definite determination of liability would not need to be established before criminal proceedings could be initiated against any miscreant.

14. Counsel continued that the prerequisites for invoking criminal proceedings against the Petitioners was fulfilled, as the criterion provided under sections 33 and 37-A STA 1990 were met, and hence nothing stood in the way of further proceedings against the Petitioners (and their accomplices) for tax fraud, as per the special criminal process provided therein.

15. Counsel then informed the Court that it was only due to the *interim stay* orders obtained earlier by the Petitioners in these Constitutional Petitions, that no further progress could be made in the criminal proceedings. He stated that there were several other persons whom the Respondents wished to nominate as part of this ring of massive tax evasion, but were prevented from doing so by virtue of the said *interim* orders operating.

16. He concluded by stating that though the Petitioners have come before this Court, the quashment of an FIR under article 199 of the Constitution of Pakistan was not an appropriate remedy in the circumstances, as the Petitioners should go before the Special Trial Court and let the matter proceed, where they would always be at liberty to file an appropriate application(s) (e.g. under section 265-K Criminal Procedure Code 1898) seeking their removal from the proceedings. He asserted that his submissions on these

grounds alone establish the Petitions are not maintainable. In support of his contentions, he placed reliance upon certain judgements.¹⁰

17. Learned counsel for the Petitioners then exercised his right of rebuttal. He submitted that the Impugned FIR was filed before the mentioned amendments in the STA 1990, and therefore those amendments would not be relevant to the instant situation. He further contended that the Impugned FIR only nominates the Petitioners and no other person, therefore, the Petitioners' grievance is held to be of substance, since no massive tax fraud syndicate has been shown by the Respondents. He closed his rebuttal arguments by asserting that no impediment was present in granting the Petitioners a *writ* under Article 199 of the Constitution of Pakistan. In support of his contentions, he also placed reliance upon case law.¹¹

DELIBERATIONS

18. We have heard the learned counsels and with their assistance have gone through the facts and law on the matter. It appears that an Order-in-Original (“**ONO**”) ¹² was passed against the Petitioners, whereby they were held to be liable for payment of tax in the amount of Rs. 3,145,172,773/-. The said ONO was passed by an extremely detailed thirty-seven (37) page order, in which details of the Petitioners, along with names of several other persons, all alleged to have been involved in tax evasion and/or its abetment, was detailed.

¹⁰ 2014 PTD 1807; 2025 PTD 1270; Crim. Misc. App. 298/2021 (unreported); Crim. Petition No. 120 of 2026 (unreported); [PLD 2023 SC 265](#); [Crim. Petition No. 10-L of 2026 \(unreported\)](#)

¹¹ PLD 2006 SC 602; PLD 1965 SC 139; 2018 SCMR 1444; PLD 1969 SC 446; PLD 1969 SC 208; 2015 PTD 2004; 2016 PTD 1913; [(2011) 3 SCC 581];

¹² Available at Page 121 of the file

19. This ONO was challenged by the Company in appeal before the Appellate Tribunal (“**Appeal**”), under Section 46 of the STA 1990, which illustrates the statutory process was followed by the Petitioners.

20. An *interim stay order* dated 21.03.2025¹³ was given by the Appellate Tribunal, which granted “**stay against recovery of the impugned tax demand for a period of Seven (07) days**” (*emphasis supplied*). It is relevant to note the said *stay order* was subsequently extended for a period thirty (30) days vide order of the Tribunal dated 25.04.2025.

21. The Impugned FIR was lodged on 14.05.2025, i.e. within the thirty-day period during which the *stay* was extended. It is the case of the Petitioners (who have placed reliance on the *Taj International Judgement*) that due to the Appeal and the *stay order* operating, there was no determination in effect at such time, and therefore the Impugned FIR could not have been lodged against the Petitioners.

22. We are in disagreement with the Petitioners on this view. The *dicta* of *Taj International* provided that criminal proceedings were not to commence against a taxpayer unless there was a determination, which is separate to the case at hand. Firstly, the ONO was passed, which provided a clear determination against the Petitioners. Therefore, this argument put forth by the Petitioners, i.e. their reliance upon the *Taj International* case is misconceived, as a finding was in effect against the instant Petitioners at the time the Impugned FIR was launched.

23. Secondly, the Petitioners have relied upon equating the *interim stay order* granted by the Tribunal with there not being any determination made at all against the Petitioners. This too we find

¹³ Available at page 207 of C.P No. D-2046/2025

to be an incorrect understanding by the Petitioners. The *interim stay* order merely provided restraint against recovery of the demand, pursuant to the findings in the ONO. The Appellate Tribunal had not suspended the ONO, nor had they passed any order restraining criminal proceedings in the matter.¹⁴ There is a clear distinction between collection of tax versus having a tax liability. The *interim* order related to the former, and at such time, would have had no bearing on the liability itself, which remained pending (but only the collection process arising from the liability was restrained vide the *interim stay* order). We therefore find this line of argument by the Petitioners does not carry any weight, as the Respondents initiated criminal proceedings whilst findings against the Petitioners (and others) were in effect. For reasons aforementioned, we remain bolstered in our view that reliance placed by the Petitioners on the *Taj International* judgement is ill founded, as the circumstances are distinct.

24. Since the Petitioners have placed almost their entire reliance upon the said judgment, i.e. *Taj International*, therefore the inapplicability of the said judgment to the matter-at-hand deeply hampers the Petitioners' contentions.

25. The upshot of the above is that there was a finding in the field against the Petitioners, pursuant to which a statutory right of appeal was invoked by them. The said appeal did not suspend the ONO, nor (at such time) overturn the decision of the ONO.¹⁵ These Petitions were filed before this Court on 17.05.2025, after which a *stay* order against the Impugned FIR was obtained and the matter remained *in limbo*.

¹⁴ It should be noted we are not deliberating the powers of the Tribunal in passing orders restraining criminal proceedings, as the same is not a subject matter of the instant Petitions.

¹⁵ Though counsel submitted that subsequently after filing of the instant Petitions the Tribunal had overturned the ONO vide Appellate Order dated 05.08.2025

26. Criminal proceedings are a parallel set of judicial proceedings, against persons charged with various offences under the STA 1990.¹⁶ The said criminal proceedings are adjudicated upon by a Special Judge appointed under section 37C STA 1990, and an entire criminal process follows accordingly, which is governed primarily through the various segments located between sections 37A - 37I of the STA 1990. What constitutes an 'offence' under the STA 1990 is provided under Chapter-VII section 33 of the STA 1990.

27. The legislature, in its wisdom, provided a special mechanism for adjudication of criminal matters (falling within the definition of 'offences' under section 33 STA 1990), which also provides application of the Criminal Procedure Code 1898.¹⁷

28. It is trite law that where a special law governs a particular matter for redress, as in the instant case the STA 1990, then the process under such special statute should be followed. In a recently reported case of *SNGPL v Messrs S.K. (Pvt.) Ltd*,¹⁸ the Supreme Court observed:

8. *[sic] The provisions of the special law exclude the application of general law, subject to the context in which the special law has been enacted to deal with specific issues. Where a special law establishes a proper mechanism and procedure to challenge certain actions, recourse to general law through collateral proceedings may not be permissible. The Latin maxim "generalia specialibus non derogant" means "things general do not derogate from things special". This is a routine tenet of statutory interpretation, emphasizing that where there is a conflict between general and special law, the special law prevails...."*

¹⁶ In the instant matter

¹⁷ Section 37-F STA 1990 (as long as it is not inconsistent with any provision of the STA 1990)

¹⁸ 2025 SCMR 570

29. The proper course for the Petitioners would have been to respond to the proceedings initiated by the Respondents, and raise any objection before the Special Trial Court. However, instead of appearing before the Special Court, the Petitioners jumped the proverbial gun and approached this Court under its *writ* jurisdiction, despite an alternate adequate remedy being available. Even before the Special Court, the Petitioners could have filed appropriate applications (e.g. under section 265-K Criminal Procedure Code) seeking their removal from the proceedings, but they chose to avoid the mandated process.

30. Although there is no cavil that this Court under its Constitutional jurisdiction holds the power to quash an FIR, this power ought to be used sparingly and in exceptional circumstances, where there has been some gross injustice and no alternate adequate remedy is available. The Constitutional jurisdiction should not be approached where the relevant law already specifically provides an alternative forum for resolution.

31. Interfering in criminal proceedings, particularly those which are established under a special law, must be done cautiously. This topic was well-discussed by the Supreme Court in the case of *Col. Shah Sadiq v Muhd. Ashiq*.¹⁹ In the mentioned case, the Court deeply deliberated upon the power of interference (in criminal matters) under the Constitutional jurisdiction of this Court. A relevant portion(s) reads:

“15. We have examined the case from all angles and are of the view that learned High Court erred in law to quash the F.I.R. in question as we do not find any extra circumstances in the present case on the basis of which learned High Court had exercised discretion in favour of respondents. It is the duty of the Investigating Agency not only to investigate the matter in a manner to connect the accused with the commission of offence but also to

¹⁹ 2006 SCMR 276

investigate the matter in such a manner so as to save the innocent persons from the agony of endless investigation and trial.

16. It is a settled proposition of law that when there are extraordinary circumstances, High Court is duty bound to protect life, liberty, honour and dignity of every citizen. It must, therefore, take extraordinary measures specially when the statute law is not sufficient to meet a situation and provide protection to the citizens. It is here that the extraordinary jurisdiction under Article 199 of the Constitution must come to the aid of citizens.

17. In the present case, we do not find any extraordinary circumstances on the basis of which the learned High Court had exercised extraordinary jurisdiction.

18. No doubt, exercise of the jurisdiction under Article 199 of the Constitution is discretionary with the High Court but according to the principle laid down by the superior Courts, the discretionary powers must be exercised in good faith, fairly, justly and reasonably having regard to all relevant circumstances. Examining the case of the petitioner in the light of above principles, we are of the considered opinion that the High Court had not only exercised its jurisdiction improperly but also scrutinized the documents which were not proved and allowed the petitioner to rebut the same in terms of the provisions of Qanun-e-Shahadat Order, 1984.

19. The scheme of our Constitution is based on trichotomy as is held by the Supreme Court in Zia-ur-Rehman's case PLD 1973 SC 49 and this judgment was reconsidered and approved by the Full Bench of this Court in Mian Nawaz Sharif's case PLD 1973 SC 473. In the system of trichotomy, the judiciary has the right to interpret, the Legislator has right only to legislate and executive has to implement. The trichotomy of powers which is already delicately balanced in the Constitution, cannot be disturbed as it grants powers to each organ to decide the matters in its (K allotted sphere.

20. It is pertinent to mention here that established practice before the creation of country was that learned High Courts were very reluctant to quash the proceedings under constitutional jurisdiction. The object and reason behind this practice was that the High Courts had to quash the proceedings summarily which would create chaos due to the following reasons:

(i) All the procedure and authorities prescribed under Cr.P.C. would become redundant.

(ii) *To interfere in the sphere allotted to the executive organ.*

(iii) *There is every likelihood of injustice in a summary disposal.*

(iv) *The cases are quashed at initial stages then it would create law and order situation as the people may resort to taking revenge from the opposite party.*

(v) *Deviation from the past practice is always dangerous.*

(vi) *Superior Courts always keep judicial restraint in view of Article 4 of the Constitution read with Article 5(2) of the Constitution.*

21. *In view of what has been discussed above, the impugned judgment of the learned High Court is not sustainable in the eyes of law and is not in consonance with the law laid down by this Court in the aforesaid judgments, therefore, petition is converted into appeal which is allowed. The impugned judgment of the High Court is set aside. Let a copy of this order be sent to the S.H.O. concerned who shall proceed in the matter in accordance with law.”*

32. As already elaborated *ibid.*, the STA 1990 established an entire process which was specifically enacted to deal with offences under the STA 1990. It would therefore be directly contradictory to the statute, if the same system was allowed to be bypassed by the Petitioners by directly invoking the Constitutional jurisdiction in disregard of the alternate statutory process which was mandated. We accept the principles enunciated in the *Col. Shah Sadiq* case (*supra*), which in our view would be applicable, and any grievance of the Petitioners resulting from proceedings against them under the STA 1990, could be raised before the Special Court. Us interfering with the existing system when a statutory mechanism is in effect, would be tantamount to overriding the legislative process, which of course is impermissible.

33. The proceedings before the Special Court hold various safeguards in its procedure,²⁰ which can be relied upon by the

²⁰ Such as those provided under the Criminal Procedure Code 1898, applicable to the Special Court

Petitioners to seek protection against any undue attempted action by the Respondents. Should there still remain any blatant abuse of process, then in such case the Petitioners would possibly have grounds to approach the Higher Courts for redressal.²¹ But approaching this Court prior to any complaint of abuse of process by the prescribed forum below ought not to be entertained.

34. The Respondents have pointed out that post 2024, certain provisions of the STA 1990 has included the term “*sought to be evaded*”²², which shows an element of *mens rea* being involved and that a final determination need not be established, prior to instigating a criminal investigation or proceedings. However, since those amendments are not the subject matter of the instant Petitions, we restrain ourselves from any further observation on this aspect, and the same may be deliberated in an appropriate future case.

FINDINGS

35. In light of the forgoing, we summarize our findings as follows:

- (i) Irrespective of there already being a determination in place when the Impugned FIR was filed, an entire mechanism has been provided under the Special Law, i.e. the Sales Tax Act 1990, for dealing with initiation and conclusion of criminal trials.²³ The Petitioners ought to have adhered to the process, and if proceedings were commenced against the Petitioners, they remained at liberty to file the relevant application(s)²⁴ before the Special Court seeking their exoneration;

²¹ Under provisions such as section 561-A Cr. P.C. and in exceptional circumstances article 199 of the Constitution of Pakistan

²² Section 33(11)(13)

²³ Conducted under the STA 1990

²⁴ E.g. under section 265-K Cr. P.C.

(ii) The Petitioners are misconceived by premising their entire case on the basis of the citation reported as **2025 PTD 1270** (the *Taj International* case).²⁵ As already mentioned (*ibid*), the key difference from the *Taj International* case is that when the subject FIR was instigated against the Petitioners, there was a determination in place. Whereas, the entire crux of *Taj International* is that a criminal proceeding should not be invoked without any determination first being attained. Thereby, the findings against the Petitioners in the ONO would differentiate their case from the ratio in *Taj International*;

(iii) Notwithstanding all other facets of the Petitioners' assertions (discussed throughout this Judgement), the High Court under its *writ* jurisdiction should only interfere in the quashment of a First Information Report (“**FIR**”) in extremely selective circumstances, when there is a grave injustice / abuse-of-process apparent on record and no other adequate remedy is available, else the same would have the effect of overriding statutory law and process. In the instant case, the Petitioners had an adequate alternative process/remedy available, and by approaching this Court prior to allowing the statutory process to initiate, they have sought to circumvent the law, which is an inappropriate course of action.

In the light of foregoing, the instant Petitions stand dismissed.

Judge

Judge

Ayaz

²⁵ As can be seen in their prayer clause “i” in C.P No.No.D-2046/2025