

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-3258 of 2026
(Muhammad Athar Chotai v Federation of Pakistan & others)

Date	Order with signature of Judge(s)
------	----------------------------------

Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhary

Date of hearing and Order: 14.07.2026

Mr. Munir Ahmed, Advocate, for the Petitioners.
Ms. Mehreen Ibrahim DAG along with
SI, Waqar Ahmed PS. FIA, Hyderabad

ORDER

Adnan-ul-Karim Memon, J. – The petitioner, presently residing and working in Dubai, has invoked the constitutional jurisdiction of this Court challenging the call-up notices dated 17.04.2026 and 15.05.2026 issued by the FIA under Section 160 Cr.P.C. in connection with an inquiry arising out of a failed Hajj quota business venture.

2. Learned counsel for the petitioner submits that the dispute stems from a private business arrangement between the petitioner and his business partners, which subsequently failed but was amicably settled, with substantial payments having been made by the petitioner through documented banking transactions. It is submitted that despite the settlement, the private respondents allegedly approached the FIA with mala fide intent to harass and pressurize the petitioner in what is essentially a civil and commercial dispute. It is further submitted that no cognizable offence is disclosed, the criminal process is being misused as a debt recovery mechanism, and the impugned proceedings are arbitrary, without lawful authority, and violative of Articles 4, 9, 10-A, 14 and 18 of the Constitution. Learned counsel further submits that the petitioner is presently abroad and apprehends arrest upon his arrival in Pakistan. However, he undertakes to join the inquiry within such reasonable time as may be directed by this Court and to fully cooperate with the investigation. Accordingly, the petitioner seeks suspension of the impugned notices, protection against coercive action, permission to appear through an authorized representative until he arrives in Pakistan, and directions restraining the respondents from placing his name on any immigration watch list or converting the inquiry into coercive proceedings without due process of law.

3. Learned DAG, submits that the impugned notices under Section 160 Cr.P.C. were lawfully issued during Enquiry No. ENQ-CC-HYD (AHTC)-19/2026, initiated on a complaint alleging that the petitioner dishonestly induced the complainant to invest Rs.20.8 million for Hajj quota arrangements and also received money on the pretext of arranging visas and travel facilities, but failed to

fulfil his commitments. He submits that the notices were issued merely to allow the petitioner to explain his version and no coercive action has been taken against him. Learned DAG further contends that the petitioner's plea that the dispute is purely civil and has already been settled raises disputed questions of fact, which can only be examined during the pending enquiry. She adds that the alleged settlement, banking transactions and repayments constitute the petitioner's defence and do not by themselves negate the allegations under inquiry. He denies the allegations of mala fide, harassment or abuse of authority, submitting that the enquiry is being conducted fairly, impartially and strictly in accordance with law. She further submits that the petitioner, instead of joining the enquiry, has prematurely invoked the constitutional jurisdiction of this Court. It is emphasized that the petitioner is at liberty to appear before the Enquiry Officer, where his statement and supporting material will be duly considered, and that he will not be arrested during the enquiry proceedings. She, therefore, prays that the petition, being premature and not maintainable, be dismissed with a direction to the petitioner to join the lawful enquiry.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. Admittedly, the impugned notices have been issued under Section 160 Cr.P.C. during the pendency of an enquiry and merely require the petitioner to appear before the Enquiry Officer and explain his version. At this stage, no FIR has been registered, no adverse order has been passed against the petitioner, and the respondents have categorically stated before this Court that no coercive action, including arrest, shall be taken against the petitioner during the course of the enquiry.

6. It is a settled principle of law that constitutional jurisdiction under Article 199 of the Constitution is ordinarily not invoked to interdict a lawful enquiry at its threshold, particularly where disputed questions of fact are involved, and the competent statutory authority has yet to complete the fact-finding process.

7. The petitioner's plea that the dispute is purely civil in nature, that the matter already stands settled between the parties, and that substantial repayments have been made through banking channels constitutes his defence, which requires factual examination by the Enquiry Officer. Likewise, the allegations levelled in the complaint regarding inducement, misappropriation, and fraudulent representations cannot be conclusively adjudicated in constitutional proceedings without recording evidence. It is neither appropriate nor permissible for this Court, in exercise of its constitutional jurisdiction, to determine such disputed factual controversies or to prejudge the outcome of a pending enquiry.

8. The scope of a notice issued under Section 160 Cr.P.C. is limited to securing the attendance of a person acquainted with the facts and circumstances of the case. Such a notice, by itself, does not determine civil rights nor does it amount to a coercive action warranting interference by this Court. The petitioner has an adequate opportunity to appear before the Enquiry Officer, place his defence, produce the alleged settlement, banking transactions and all other relevant material, which shall be considered strictly in accordance with law by the inquiry officer.

9. In these circumstances, we do not find any jurisdictional defect, mala fide, or patent illegality in the issuance of the impugned notices to warrant interference under Article 199 of the Constitution. However, keeping in view the statement made by the learned DAG that the petitioner shall not be arrested during the pendency of the enquiry and that he will be afforded a fair opportunity to place his version before the Enquiry Officer, the respondents are directed to adhere to the said statement and to conduct the enquiry strictly in accordance with law, without being influenced by any observation made herein.

10. Consequently, the petition is disposed of with the understanding that the petitioner shall appear before the Enquiry Officer within the time to be fixed by the FIA and shall extend full cooperation in the enquiry proceedings. however petitioner shall not be harassed. Needless to observe that if any adverse order is passed in violation of law or any fresh cause of action arises, the petitioner shall be at liberty to avail such remedy as may be available to him under the law.

JUDGE

JUDGE