

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

**C.P. No.S-96 of 2020**

Mst. Rozina & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-101 of 2020**

Mst. Kazbano	-----	Petitioner
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-102 of 2020**

Mst. Kainat & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-111 of 2020**

Mst. Farzana & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-119 of 2020**

Mst. Naila & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-164 of 2020**

Mst. Samia Gulzar & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-181 of 2020**

Mst. Salma Khatoon & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-190 of 2020**

Mst. Darya Khatoon & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-192 of 2020**

Sikandar Ali & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-218 of 2020**

Miss Shanaz Anwar	-----	Petitioner
	VERSUS	
D.I.G. Shaheed Benazirabad & others	-----	Respondents

**C.P. No.S-222 of 2020**

Mst. Farhana	-----	Petitioner
	VERSUS	
SSP Dadu and others	-----	Respondents

**C.P. No.S-230 of 2020**

Mst. Haseena & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-234 of 2020**

Mst. Hidayat Khatoon	-----	Petitioner
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-239 of 2020**

Mst. Shazia & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-241 of 2020**

Mst. Haseena & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-244 of 2020**

Mst. Lateefan & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-245 of 2020**

Mst. Faiza Bibi & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-246 of 2020**

Sht. Kiran & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-253 of 2020**

Mst. Azma & another	-----	Petitioner
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-258 of 2020**

Ali Asghar	-----	Petitioner
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-292 of 2020**

Mst. Ume-e-Rubab & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-293 of 2020**

Gulab Dewan	-----	Petitioner
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-307 of 2020**

Govind Ram	-----	Petitioner
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-319 of 2020**

Mst. Nisha & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-320 of 2020**

Mst. Samina & another	-----	Petitioners
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-940 of 2019**

Haroon	-----	Petitioner
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.S-948 of 2019**

Jhenwar	-----	Petitioner
	VERSUS	
SSP Tharparkar & Mithi & others	-----	Respondents

**Date of hearing and decision: 07.09.2020**

Mr. Hemandas S. Sanghani advocate for petitioners in C.P. No. S- 90 of 2020

Mr. Nouman Sahito advocate for petitioners in C.P. No. S- 111 of 2020

Mr. Karim Bux Rind advocate for petitioners in C.P. No.S-192 & 230 of 2020

Mr. Ahmed Nawaz Chang advocate for petitioners in C.P. No. S- 244 & 245 of 2020

Mr. Bhoopat Kohli advocate for petitioner in C.P. No. S- 307 of 2020

Mr. Muhammad Hassan Chang advocate for petitioner in C.P. No. S- 948 of 2019

Mr. Allah Bachayo Soomro Additional Advocate General, Sindh along with SIP Mansoor Ai Bhatti P.S. Saeedabad in C.P. No.S-320/2020, ASI Ali Akbar Siyal P.S. Sinjhorro in C.P. No.S-319/2020, ASI Shabeer Ahmed P.S. Jamshoro in C.P. No.S-292 of 2020, SIP Mirzo Khan on behalf of SSP Hyderabad and SIP Najam Din on behalf of SHO P.S. Qasimabad in C.P. No.S-253/2020, ASI Mushtaque Ahmed P.S. Khipro in C.P. No.S-246/2020, SIP Imdad Hussain P.S. Digri in C.P. No.S-244 of 2020, ASI Syed Bilawal Shah P.S. Pabban in C.P. No.S-241 of 2020, ASI Muhammad Rafique P.S. Karyo Ghanwar in C.P. No.S-190/2020, ASI Haider Baloch P.S. Mehmoodabad in C.P. No.S-164/2020, ASI Abdul Majeed P.S. Hala New in C.P. No.S-111 of 2020, Inspector Lalo P.S. Kunri and ASI Roshan Din P.S. Taluka Umerkot in C.P. No.S-102 of 2020.

## **ORDER**

**ADNAN-UL-KARIM MEMON, J.** All these petitions have been filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. Since common questions of law were involved in these petitions, they were heard together and are being disposed of through this common order with the consent of learned counsel for the parties as well as learned A.A.G.

2. In all these petitions the petitioners have alleged harassment either against police officials or against the private individuals. Now the questions arises as to whether the extraordinary Constitutional jurisdiction of High Court under Article 199 of the Constitution can be invoked by a person alleging harassment by private individuals or police officials, without availing the remedy provided under the law for such cases / situations.

3. It was mainly contended by learned counsel for the petitioner(s) that the remedy provided under Sections 22-A & B Cr.P.C. is not speedy and effective, and the Ex-Officio Justice of Peace cannot exercise such powers that can be exercised by the High Court. It was further contended that in case of harassment in more than one district, the Ex-Officio Justice of Peace can exercise jurisdiction only in his own district and not in other districts. Regarding the cases of free will marriages, it was contended by them that the parties contracting marriage without the consent of their elders are usually under serious threat as they are declared karo kari either by the elders or by a jirga held at the instance of the elders ; and, in such cases it is difficult for the parties to approach the police or Ex-Officio Justice of Peace in their own district. It was also pointed out by them that in most of such cases FIR for

kidnapping, abduction and rape is registered against the person who marries a girl without her elders' consent. Finally they all seek protection to the petitioners in accordance with law. They also seek direction to the official respondents not to cause them harassment in any manner of whatsoever nature.

4. Mr. Allah Bachayo Soomro, Additional Advocate General Sindh files comments on behalf of official respondents in C.Ps. No. 96, 102, 111, 190, 192, 239, 241, 244, 245, 246, 253, 258, 293, 307, 319, 320 of 2020 and submits that the petitioners have not availed their remedy before the competent forum before filing these petitions, therefore, the petitions are not maintainable and have been filed against the law laid down by a Division Bench of this Court in the case Abdul Hameed & another vs. Province of Sindh through Secretary Home Department & 8 others (PLD 2019 Sindh 168); however, he submits the official respondents are ready to provide legal protection to the petitioners strictly in accordance with law as and when the need be.

5. I have heard learned counsel for the parties on the point of maintainability of these petitions at considerable length and also reviewed the record available before me.

6. I have noticed that on the aforesaid subject learned Division Bench of this court has already passed a detailed and elaborative order dated 30.05.2018 in the case of Abdul Hameed & another vs. Province of Sindh through Secretary Home Department & 8 others (PLD 2019 Sindh 168), hence the issue requires no further deliberation on my part. An excerpt of the order is reproduced as under:-

“ 15. The apprehension expressed on behalf of the petitioners regarding the safety of parties contracting free will marriages and FIR lodged in such cases against the person marrying a woman without the permission of her wali, cannot be ignored. Keeping this apprehension and all other aspects in mind we had passed a short order on 30.05.2018 whereby all these petitions were dismissed with a direction to Ex-Officio Justice of Peace in the following terms:

“In all these petitions under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioners have alleged that they are being harassed by the official and/or private respondents and on the basis of such allegations, they have prayed that protection be granted to them against the respondents. Prior to the filing of these petitions, admittedly none of the petitioners have availed or exhausted the remedy against such wrong by approaching the competent forum provided under the law i.e. the Ex-Officio Justice of Peace. It has been observed that this practice has become very common and at one stage the total number of such petitions was about 20% of the total cases pending before this Court. Not only this, about 2/3rd of the cause list used to have such cases daily for hearing. Due to this

reason, the Court was unable to hear important / main cases, both of civil and criminal nature, resulting in an alarming increase in the number of pending cases. In this background, all these petitions were heard at length to decide whether this Court should continue to entertain such petitions at the cost of serious and actual litigation or should an order be passed that such persons should avail their remedy by approaching the competent forum provided by law. It was mainly contented on behalf of the petitioners that cases cannot be filed before the Ex-Officio Justice of Peace if petitioners and respondents reside in different districts, and police officials do not obey if any order for protection is passed by the Ex-Officio Justice of Peace. As regards their first contention, the person seeking protection can approach the Ex-Officio Justice of Peace of such district where the protection is required by him. Their second contention can also be addressed by the Ex-Officio Justice of Peace himself. Both the learned AAGs as well as both the learned amicus curiae and learned counsel for one of the private respondents have strongly opposed these petitions by contending that such matters should not be filed before this Court as Ex-officio Justice of Peace is the proper forum for such matters according to law and if this Court has concurrent jurisdiction, even then the cases should be filed at the lowest level according to the settled law.

Learned counsel for the petitioners, learned counsel for one of the private respondents, learned AAGs and learned amicus curiae have been heard at length. For the reasons to follow, all these petitions are dismissed with no order as to costs. As an interim measure till the reasons of this short order are handed down office is directed to entertain only such petitions in which:

- i) the petitioner has already approached Ex-Officio Justice of Peace and his application / complaint has been finally decided by Ex-officio Justice of Peace, provided certified true copy of the final order is filed with the petition ; and
- ii) F.I.R. has been lodged against the husband in case of free will marriage, provided true copy of the F.I.R. is filed with the petition. etc. Learned Ex-Officio Justice of Peace of all districts are directed that if any order of protection etc. is passed by them in future on an application / complaint of a party, the S.H.O. concerned should be directed by them to submit compliance report to them within seven (07) days.”

7. From the allegations and prayers made in these petitions, it appears that the petitioners have filed these petitions against alleged harassment by the respondents and for providing protection to them and their families.

8. In view of above, the captioned petitions stand disposed of in terms of common order dated 30.05.2018 passed in the case of Abdul Hameed (supra) with direction to official respondents to provide legal protection to the petitioners strictly in accordance with law, if the need be and ensure that no harassment shall be caused to the petitioners.

**JUDGE**