

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-4495 of 2025
(Mst. Mehak D/o Momin v. Province of Sindh and others)

Date	Order With Signature Of Judge
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1. For orders on office objection.
2. For hearing of CMA No.18922/2025.
3. For haring of main case.

02.10.2025

Syed Kashif Hussain, advocate for the petitioners, along with the petitioners.
Mr. Ali Safdar Depar, AAG
Mr. Ali Hyder Saleem, APG, along with ASI / I.O. Moula Bux, PS Kotri
District, Jamshoro, and PI Abdul Ghaffar, SHO Maymar.

Mohammad Karim Khan Agha, J:- The Petitioner requests this Court to:

- a) QUASH the FIR No. 361/2025 of PS: Kotri.
- b) Direct the provision of protection to the Petitioner, her husband, and her husband's family members.
- c) Direct the respondents (police/authorities) not to harass her or her husband's family at the instance of her mother.
- d) Suspend the operation of the aforementioned FIR.

2. The Petitioner (a married woman) has filed this petition seeking to quash a First Information Report (FIR) and protection for herself and her husband. The Petitioner, who is present with her husband, states that she is an adult who married Azizullah, son of Muhammad Laiq, of her own free will and consent. She recounted her ordeal and explained that she willingly left her mother's house to marry Azizullah because her family refused to accept the marriage and wanted to prevent it: the Petitioner's mother, Mst. Shahida filed a "false and fabricated" FIR (No. 361/2025 at PS: Kotri) against Azizullah and others, accusing them of her abduction/kidnapping. The Petitioner affirms that she was not abducted and left her house voluntarily. She fears her arrest, the arrest of her husband and his relatives, the filing of additional false cases, and a threat to their lives from her mother and her family.

3. The Investigating Officer (I.O.) reported to this court that Mst. Mehak's 161 Cr.P.C. statement was recorded. In it, she exonerated Azizullah, stating she was neither kidnapped nor coerced, but expressed a fear of being killed by her family. Subsequently, Mst. Mehak's family appeared and disrupted court proceedings, inside and outside the courtroom, by claiming the petitioner is a minor and cannot legally marry under the Sindh Child Marriage Restraint Act, 2014. The family members of the petitioner began raising their voices and completely disrupted the decorum of the Court. This conduct is prima facie, amounted to Contempt of Court. However, this

Court decided to refrain from issuing notices as an act of indulgence and maximum judicial restraint, though such conduct was/is highly deprecated. When we called security, they were unavailable, leaving the court vulnerable.

4. However, this cannot give a definitive finding on the issue of the minority under Article 199 of the Constitution. It is held that the matter must be taken up by the concerned forum by the aggrieved party. This position is reinforced by the Supreme Court's ruling in M. Hamad Hassan (2023 SCMR 1434), which strongly discouraged using writ petitions to escalate family disputes after other remedies are exhausted, particularly since the High Court should not ordinarily re-examine evidence in such cases.

5. So far as the question raised by the family of the petitioner that under the Sindh Child Marriages Restraint Act 2014, the purported marriage of petitioner with Azizullah, is illegal on the plea that she has not attained the age of 18 years, suffice it to say that the offenses under the Sindh Child Marriages Restraint Act, 2014 and the Rules 2016 framed thereunder explicitly provide that cognizance of offenses under Sections 3 and 4 of the Act 2014 can be taken by the Judicial Magistrate of the first class and the police has not been set free as the complaint is to be made before the Magistrate under Section 5 of the Sindh Child Marriages Restraint Rules, 2016. At this juncture, it would be significant to refer to the case of *Mauj Ali v. Syed Safder Hussain* (1970 SCMR 437), wherein the Child Marriages Restraint Act 1929 was an issue while deciding such controversy, the Supreme Court held as under:

‘It is not disputed that Mst. Musarrat has attained the age of puberty, and she had married with respondent No.1 of her own free will. Such a marriage is valid according to Muhammadan Law. It was urged that such a marriage is invalid under the Child Marriage Restraint Act and, therefore, it should not have been recognized by the High Court. This contention also has no force. Since the marriage is valid under the Muhammadan Law, respondent No.1, is the guardian of Mst. Musarrat and the High Court were perfectly justified in allowing her to go with her husband. We are satisfied that substantial justice has been done in this case. We, therefore, do not consider this as a fit case to interfere in our special jurisdiction.’

6. There can be no denial to the fact that the event of the “marriage” is always an event of honor of family particularly, when it is being solemnized without an attempt to keep it secret, therefore, all authorities, otherwise, are entitled to question the validity thereof, should strictly act keeping this aspect in mind and should not act in a manner prejudicial to the honor of such family or girl. The authority should try to first satisfy itself about the genuineness of the information and then decide whether to proceed or otherwise, because if, at the end of the day, the information is found false or causeless, there would be nothing to compensate the loss sustained by the family complained against. However, in terms of the statement made by Ms. Mehak before this Court in the aforesaid proceedings, no further action is required to be taken against the couple and due protection shall be provided to them accordingly

as the parties are at daggers drawn, as stated by Ms Mehak in her statement before this Court; therefore, she is free to meet with her parents, which is subject to her consent, at any time and no hindrance shall be created by her husband at all and in case something happens on the part of private respondents, Ms Mehak shall be free to approach SSP concerned for her protection which shall be provided to her upon approach, without fail.

7. Based on this, the I.O. undertakes to file a "C" Class report, a police report concluding the case is false or a mistake of fact, before the Judicial Magistrate within three days. The Magistrate shall pass an order in terms of the statement of the petitioner. The SHO of Police Station Maymar and the I.O. of the case are directed to protect the petitioner and her husband immediately; in case of failure, they shall be held responsible if any harm is caused to them.

8. The Registrar of this Court and the IGP Sindh are directed to post two SSU police commandos and two lady police constables (inside and outside each of the Sindh High Court courtrooms) to secure the sanctity of the High Court and prevent any disruption due to such acts of the parties.

9. The instant petition is disposed of in the above terms along with pending application.

A copy of this order shall be sent to the Registrar of this Court and IGP Sindh for compliance.

HEAD OF CONST. BENCHES

JUDGE

Shahzad Soomro