

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. S-1193 of 2025

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

Date of hearing and order: 03.11.2025

Syed Qamber Abbas advocate for the petitioner.
Mr. Ali Safdar Depar, Assistant AG
Mr. Mumtaz Ali Shah, Assistant PG
Mr. Aamir Mansoob Qureshi, advocate for the intervener Abid Shah
Mr. Muhammad Farooq advocate for respondent No.9
Zulfiqar Ali Larik, PSP / Additional IGP, Special Branch
Muqadas Haider, DIGP CIA PSP
Amjad Ahmed Shaikh, SSP SIU PSP
Mustaq Ahmed Abbasi, AIGP (Legal)
DSP Muhammad Wasif Qureshi,
Inspector Mumtaz Mehar
SI Shahid Mustafa, Crime Branch
Mr. Raza Mian, DSP (Legal-II) CPO

ORDER

Adnan-ul-Karim Memon, J. Petitioner Syed Mushtaq Ali Shah has filed a petition under Article 199 of the Constitution of Pakistan, seeking the following relief(s).

- Direct Respondents No.3, 5, 6, 7, 9, 15 to appear in person and explain their actions.*
- Direct IG Sindh (Respondent No.2) to conduct an impartial inquiry under the supervision of this Court through DIG Crime Investigation (Respondent No.3) or DIG Tanveer Alam Odho (Respondent No.4) and submit findings within a specified time*
Suspend / remove police officials (Respondents No.7-14) involved in the incident during the inquiry.
- Direct the Home Department and IG Sindh to submit a report detailing the Legal basis and notifications under which SIU and CIA operate, Existence/absence of SOPs, Record of inquiries, punishments, and convictions against SIU and CIA officers over the last five years.*
- Declare acts of Respondents No. 7-14 in maintaining private torture cells, abducting citizens, and extorting money as illegal and unconstitutional.*
- Direct competent authorities to lodge FIRs and initiate criminal / departmental proceedings against responsible officials and private persons (Respondents No.15 and 16).*
- Restrain Respondents No.5 to 14 and other law enforcement agencies from harassing or abducting the petitioner.*

2. It is submitted that on 24.10.2025, in Orangi Town, Karachi, the petitioner was allegedly abducted by SIU police officials along with private respondents (Nos.15 and 16), confined in a private torture cell, and tortured. A ransom of Rs.20.00,000 was demanded, and threats were made to kill the petitioner in a fake encounter if he complained. Respondent No.9, Raja Khalid (suspended police

officer), allegedly and higher authorities (SHO Saddar, IG Sindh, DIG South, SSP South) yielded no action.

3. Respondent No.7 raised the question of maintainability of the petition on the premise that the petition is malafide and without cause of action; not maintainable. The petitioner lacks locus standi. Alternative remedy under Section 22-A Cr.P.C. exists; constitutional petition not maintainable. The matter involves factual controversies, not suited for constitutional jurisdiction (2006 SCMR 276). The petitioner suppressed material facts; filed on false/fraudulent grounds. No evidence is attached to support allegations; the petition is frivolous. He submitted that CDRs of 24–25.10.2025 show the petitioner's location in Orangi Town and Sharifabad Central. He further submitted that FIR No.443/2025 under Section 319/34 PPC lodged against SIU officers; two accused arrested, custody handed over to FIA per Torture & Custodial Death Act, 2022. SSP Investigation South Karachi requested FIA to take custody of the accused; the matter is under investigation. The Government of Sindh requested a judicial inquiry into the custodial death of Muhammad Irfan, FIR No.443/2025. SIU operates lawfully under notifications and the law. In view of the above, he prayed that this Court dismiss the instant constitutional petition with costs.

4. At this stage, the Intervenor Applicant seeks to be added as Respondent No.17 in the instant petition, being a proper and necessary party, as he is presently in police custody in FIR No.443/2025 at PS Saddar, Karachi. The petitioner, in Para-6, refers to the incident forming the subject of the FIR, and proceeding without impleading the intervenor may prejudice his rights. Impleading him is necessary for the Court to effectively and completely adjudicate all questions in the petition. The intervenor, therefore, prays that he be allowed to be impleaded as Respondent No.17.

5. I am not persuaded by the intervenor's submissions, as the matter of custodial torture by police officials requires examination by the departmental authority. Since the F.I.A. is already conducting criminal proceedings, no further interference by this Court is necessary at this stage, who shall conduct investigation independently without fear and favour, in accordance with law.

6. So far as the subject custodial death is concerned, I am guided by the decision of the Supreme Court in the case reported as **PLD 2011 SC 799** (*Suo Motu Case No.10 of 2011, Brutal Killing of a Young Man by Rangers*), in 2011, the Supreme Court took suo motu notice of a viral video showing Sindh Rangers officials shooting and killing an unarmed young man, **Sarfraz Ahmed**, in Karachi. The video showed Rangers personnel catching him, shooting him even after he was subdued, and then failing to provide medical help as he cried for his life. The police registered misleading FIRs to portray the deceased as a robber and

to cover up the incident. The Court found this to be a case of barbarism and misuse of authority, violating Article 9 of the Constitution (*right to life*). Finding that senior police and Rangers officials were concealing facts and would not ensure a fair investigation, the Court ordered that the Provincial Police Officer (PPO) Sindh and DG Rangers Sindh be transferred within three days, and that a DIG Karachi should conduct an impartial investigation under Section 7 of the Anti-Terrorism Act, 1997, and submit the challan within seven days. The trial Court was directed to decide the case within 30 days. The Supreme Court condemned the custodial killing of an unarmed citizen by law enforcement personnel and held that such actions are a gross violation of the right to life and an abuse of power by state agencies. The Court emphasized that no one is above the law, that accountability of senior officials is essential, and that law enforcement agencies must protect, not destroy life.

7. The arguments of Judicial overreaching (or judicial overreach) occur when a Court goes beyond its constitutional limits and interferes in the functions of the executive or legislature, effectively taking over duties that are not judicial in nature. It is different from judicial activism, which means proactive enforcement of fundamental rights or ensuring adherence to the Constitution. This Court is not assuming executive powers or conducting the investigation itself; this Court wants to ensure that the competent authorities act impartially and promptly, which is well within the constitutional jurisdiction of this Court under Article 199 of the Constitution.

8. The facts brought before this Court concern the protection of fundamental rights of citizen; hence, this Court's intervention cannot be termed as judicial overreach as portrayed by the intervener. This Court's purpose is merely to examine whether such a brutal act by the police as informed occurred due to inaction and collusion of high police officials that undermined the course of justice. Therefore, applications of the intervener are dismissed having intervener no lawful justification to be made party in the present proceedings, whose right in criminal law has not been infringed as directions issued under Article 199 of the Constitution merely ensure lawful performance of duty by the executives and caused no prejudice to any party including the intervener.

9. On the issue of Custodial Death, this Court, in CP. No S 1139 of 2025 vide order dated 27.10.2025, directed as follows, which matter has already been disposed of vide order dated 03.11.2025. Relevant portion of the order dated 27.10.2025 is reproduced as under: -

“During the hearing, it was apprised that Sindh Police conducts investigations through various units, including the Special Investigation Unit (SIU) and CIA. Primarily, in view of the Supreme Court judgment in Gul Hassan Jatoi v. Faqeer Muhammad Jatoi (2016 SCMR 1254), the police constitutes a single force under the command of the IGP, and all

internal divisions, including the Investigation Wing, must operate strictly in accordance with the Sindh Police Act, 2019. Sindh Police presently operates several units, including the Crime & Investigation Branch (C&IB), Special Branch, CTD, RRF, SIU, and others, but all investigative activities must conform to the law and the principles laid down in *Gul Hassan Jatoi's* case.

In view of allegations of custodial torture and ransom, the officer of the SIU present in Court was asked about the recent SIU incident involving the death of a youth, Muhammad Irfan, in custody on 22.10.2025. He is clueless. The rising incidents of custodial torture and deaths highlight the need for strict accountability and preventive measures. Police officers must adhere to established guidelines during arrests and detentions to ensure transparency and the protection of human rights. The IGP Sindh may consider the following key guidelines as deemed fit and appropriate.

1. Identification: Arresting and investigating officers must wear badges and carry ID cards with their name and designation. Their details must be recorded in a register.
2. Memo of Arrest: A memo must be prepared at the time of arrest stating the date, time, and attested by a family member or a respectable local witness, with the arrestee's countersignature.
3. Information and Notification: The arrest must be communicated to a friend or relative immediately. If they are outside the district, they must be informed within 8 to 12 hours through the legal aid authorities.
4. Right to Inform: The arrestee must be informed of their right to communicate about their arrest and detention.
5. Detention Diary: A diary at the detention place must record details of the arrest, officials involved, and persons informed.
6. Right to Meet Lawyer: The arrestee may meet their lawyer during interrogation, though the lawyer cannot be present throughout.
7. Medical Examination: On arrest, the arrestee's physical condition and injuries must be recorded and attested. A medical check-up must be done every 48 hours by an approved doctor.
8. Intimation to Magistrate: Copies of all related documents must be sent to the Magistrate, who shall supervise the detention of the suspect under the judicial orders as provided under the law.
9. Police Control Room (PCR): Within 12 hours, all details of arrest and custody must be displayed at the district PCR.

Failure to follow these guidelines will lead to departmental action and contempt of court proceedings. These measures safeguard detainees' rights and ensure humane treatment in custody. The power to punish must remain with the judiciary, not the investigating authorities, thereby upholding the rule of law and preventing custodial deaths. In such circumstances of the new development as discussed supra, the IGP Sindh is directed to submit a comprehensive report on the functioning of these units under the garb of investigation law and furnish his personal source report regarding the said incident, meanwhile all torture cells in all police station under the garb of investigating units be closed forthwith and the police officials be brought to justice forthwith, with proper SOP guidelines as discussed supra. IGP shall not ignore the directions."

An operative part of order dated 03.11.2025 passed in Constitutional Petition No. S-1139 of 2025 is also reproduced as under: -

“6. The IGP Sindh confirmed the ongoing FIA investigation but submitted an incomplete report, failing to address departmental accountability of senior SIU Police officials. This custodial torture is not permissible under the law as such this is unlawful under the Cr.P.C. and Police Rules, and this Court emphasizes that accountability within the police hierarchy cannot be ignored.

7. Accordingly, this Court orders a departmental inquiry against all SIU Police officials, from the SSP downward, to be supervised by the Chief Secretary Sindh through a DIGP of good repute, with a report to be submitted to this Court within fifteen (15) days for appropriate orders. The Chief Secretary Sindh and the IGP Sindh are directed to ensure strict compliance, without fail, enforcement of guidelines, and accountability to prevent recurrence of such incidents, meanwhile all the officers shall not be given posting to avoid undue influence in the departmental inquiry as well as criminal investigation by the FIA in terms of law laid down by the Supreme Court in reported case **PLD 2011 SC 799**. Chief Secretary and IGP Sindh to comply this direction forthwith.

8. This petition stands disposed of along with all pending application(s) in the above terms.

9. The office shall fax this order to the Chief Secretary Sindh and the IGP Sindh, for information and strict compliance.”

10. On the aforesaid issue, the IGP has submitted a report with the narration that the Sindh Police operates as a single force under IGP Sindh, organized under the Sindh Police Act, 2019. Regarding the custodial death of Muhammad Irfan (FIR No.443/2025), he submitted that the case was registered against SIU officials for negligence. ASI Abid Shah and PC Asif Ali were arrested on 25.10.2025. Home Department requested a Judicial Inquiry; FIA was directed to investigate under the Torture and Custodial Death (Prevention & Punishment) Act, 2022.

11. Prima facie, the report submitted by the IGP Sindh is incomplete, as it fails to address the remaining SIU officials named in the F.I.R. and does not comprehensively respond to the Court’s order dated 27.10.2025. Referring the matter to the F.I.A. alone is insufficient, as it overlooks the issue of accountability within the police department. The role of senior SIU officers, including the in-charge and other supervising officials, requires examination by the competent authority departmentally as well as on criminal side. The IGP ought to have ordered a departmental inquiry not only against the directly involved officers but also against their superiors under whose command they acted. The arrest and custody of the deceased must have been within the knowledge of these senior officers, and such negligence cannot be ignored on their part.

12. This Court, being the custodian of citizens’ fundamental rights, cannot tolerate custodial deaths or inaction in such grave matters and if such sort of incident takes place in future, the SSP, DSP, SHO and police personnel posted at concerned police stations shall be held personally and severely responsible for such an act on the part of subordinates as SSP and concerned police officials have also supervising role to look into the conduct of the subordinate police officials as

the I.G. Police Sindh has to strictly direct the subordinates to act in accordance with law and no harassment shall be caused to any one. Therefore, a departmental inquiry is ordered against all SIU officials, from the SSP downward, to be supervised by the Chief Secretary Sindh, who shall appoint a DIGP of good repute as inquiry officer. This Court strongly condemns any form of torture in custody, as it is neither permissible under the Criminal Procedure Code nor the Police Act and rules framed thereunder. All police officials are expected to understand the serious legal consequences of such misconduct. The report shall be submitted within **15 days** to this Court through the Registrar, who shall also seek compliance of the order positively. In case, the respondents failed to comply the order, he shall place the matter before the learned Bench for appropriate order in terms of Article 204 of the Constitution.

13. This petition stands disposed of in the above terms.

14. The office shall fax this order, along with the memo of both petitions, to the Chief Secretary of Sindh and IGP Sindh for information and compliance.

JUDGE

