

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Misc. Application No.S-765 of 2025
[Gulam Mustafa vs. Province of Sindh and Others]

Applicant by : Mr. Zulfiqar Ali Chandio advocate
Private respondents by : Mr. Bahram Khan A Ujjan advocate
Official respondents by : Mr. Irfan Ali Talpur D.P.G
Date of hearing : 29.06.2026
Date of decision : 29.06.2026

ORDER

TASNEEM SULTANA, J: Through the instant Criminal Miscellaneous Application under Section 491, Cr.P.C., the applicant Ghulam Mustafa seeks recovery of alleged detainee Mst. Zulekhan daughter of Ali Madad Ujjan, aged about 35 years, on the allegation that she was being kept in wrongful confinement by the private respondents.

2. Brief facts set out in the application are that the alleged detainee is the real sister of the applicant. It has been alleged that on 10.10.2025, the applicant along with the alleged detainee was returning to his village on motorcycle, when private respondents, namely Ali Akbar son of Yar Muhammad Ujjan, Asghar Ali son of Jian Ujjan, Abdul Hakeem son of Rab Dino and Abdul Razzaque son of Shafi Muhammad, along with three unknown persons, allegedly intercepted them, issued threats and forcibly took away the alleged detainee. The applicant claims that despite approach to the police and efforts made through respectable persons, the alleged detainee could not be recovered; hence, the present application was filed.

3. Notices were issued to the official as well as private respondents. Private respondents have been served today and learned counsel has appeared on their behalf.

4. Learned counsel for the applicant contends that the alleged detainee was forcibly taken away by the private respondents and was being kept in wrongful confinement; that despite approach to the police, she could not be traced earlier; however, during pendency of the present proceedings, the alleged detainee has been produced before the police and her statement under Section 161, Cr.P.C. has also been recorded. He submits that, in view of the allegations levelled in the

application, appropriate order may be passed and action may be taken against the private respondents in accordance with law.

5. Learned counsel for the private respondents controverts the allegations and submits that the private respondents have neither abducted nor confined the alleged detainee. He submits that the application has been filed on account of family dispute between the parties and that the allegations levelled in the application are not correct. He further submits that the alleged detainee has not been recovered from the custody of any private respondent; therefore, the application is liable to be disposed of in view of the subsequent compliance report.

6. Conversely, learned D.P.G., while placing reliance upon the reports submitted by the police officials from time to time, submits that pursuant to the directions of this Court, repeated efforts were made for tracing the alleged detainee. He further submits that the applicant had earlier approached the learned Sessions Court through proceedings under Section 491, Cr.P.C. regarding the same alleged detainee, which stood disposed of; that during pendency of the present proceedings, the alleged detainee has been traced and produced and her statement under Section 161, Cr.P.C. has also been recorded; therefore, the present application has served its purpose.

7. Heard. Record perused.

8. The record reflects that the applicant had earlier approached the learned Sessions Court through Criminal Miscellaneous Application No.430 of 2025 under Section 491, Cr.P.C. regarding the same alleged detainee. The said application was disposed of by the learned Additional Sessions Judge-II, Shaheed Benazirabad, vide order dated 14.10.2025, with the observation that despite issuance of rule nisi twice, the alleged detainee could not be recovered and the application could not be kept pending for an indefinite period. It further appears that the applicant also approached the learned Ex-Officio Justice of Peace through Criminal Miscellaneous Application No.752 of 2026 under Sections 22-A & 22-B, Cr.P.C., which too was dismissed vide order dated 15.04.2026. During pendency of the present proceedings, various compliance reports were submitted by the police authorities, reflecting that raids/searches were conducted within different jurisdictions, including P.S. Daur, District Shaheed Benazirabad and different police stations of District Khairpur, but initially no clue regarding the whereabouts of the alleged detainee could be obtained.

9. The compliance report submitted by SDPO Gambat further reflects that both parties belong to the same community and are involved in a dispute arising out of family/matrimonial affairs. The report also refers to FIR No.78 of 2025, dated 08.08.2025, lodged by Makhum Din Ujjan, a close relative of the applicant, under Sections 365-B, 511, 506(ii), 148 and 149, P.P.C. at Police Station Khuhra against, amongst others, private respondents Ali Asghar, Ali Akbar and Abdul Razzaque, wherein the present applicant Ghulam Mustafa was cited as a prosecution witness. As per the report, after completion of investigation, final report under C-Class was submitted before the competent Court, which is pending for summary order. The report also refers to FIR No.49 of 2026, dated 03.03.2026, lodged by Muhammad Ishaq, brother of the applicant, under Sections 506(ii), 147, 148, 149 and 504, P.P.C. at PP Faiz Zone @ P.S. Tando Masti Khan against private respondents Ali Akbar, Abdul Razzaq, Abdul Hakeem and Ali Asgar, wherein the applicant was again cited as a prosecution witness. In the said matter too, final report under C-Class was submitted before the competent Court and is pending for summary order.

10. Proceedings under Section 491, Cr.P.C. are summary in nature and are confined to the question whether a person is illegally or improperly detained in public or private custody and whether such person is required to be brought before the Court to be dealt with according to law. The jurisdiction is not meant to decide disputed questions between the parties beyond the limited object of securing production of the alleged detinue. In the present matter, the alleged detinue Mst. Zulekhan daughter of Ali Madad Ujjan is an adult lady, stated to be about 35 years of age.

11. The latest compliance report reflects that pursuant to the directions of this Court, the alleged detinue has been traced and produced and her statement under Section 161, Cr.P.C. has also been recorded. Thus, the immediate object of proceedings under Section 491, Cr.P.C. stands achieved. Since the alleged detinue is an adult lady, no direction for handing over her custody to the applicant can be issued in these proceedings.

12. So far as the F.I.R., if any, registered on the allegations forming subject matter of these proceedings is concerned, the Investigating Officer shall proceed strictly in accordance with law. The record reflects that the alleged detinue has been found from a place and not from the custody of private respondents, namely Ali Akbar son of Yar Muhammad Ujjan, Asghar Ali son of Jian Ujjan, Abdul Hakeem son of Rab Dino and Abdul Razzaque son of Shafi Muhammad. The

Investigating Officer shall, therefore, examine the matter independently, including the place and circumstances from where the alleged detinue was found, her statement recorded under Section 161, Cr.P.C., the earlier litigation/FIRs between the parties and the nature of allegations levelled by the applicant, and thereafter submit an appropriate report before the competent Court. It is clarified that this Court has not expressed any final opinion regarding the truth or otherwise of the allegations or criminal liability of any person.

13. The official respondents shall ensure that no harassment is caused to either side except in accordance with law. The observations made hereinabove are tentative in nature and confined only to the present proceedings under Section 491, Cr.P.C.

14. In view of the above, the instant Criminal Miscellaneous Application is disposed of accordingly.’

JUDGE