

*Order Sheet*  
 IN THE HIGH COURT OF SINDH AT KARACHI  
 C. P. No. S-854 of 2017

Date	Order with Signature of Judge
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| 1. | FOR ORDERS ON CMA NO. 3400/2019.          |
| 2. | FOR ORDERS ON CMA NO. 3320/2019.          |
| 3. | FOR ORDERS ON CMA NO. 2462/2019.          |
| 4. | FOR ORDERS ON CMA NO. 7036/2018.          |
| 5. | FOR ORDERS ON OFFICE OBJECTION AS AT "A". |
| 6. | <u>FOR HEARING OF MAIN CASE.</u>          |

31.07.2019.

Syed Ali Ahmed, advocate for the Petitioner.  
 Mr. Shabbir Ahmed Shar, advocate.  
 Shaikh Javed Mir, advocate.  
 Mr. Mustafa Safvi, advocate.  
 Mr. Waseem Akhtar, Assistant Attorney General.  
 Mr. Abdullah Rajput, A.P.G.

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I have heard the matter partly and also gone through the entire record. I am astounded to see that during the period of more than 2 years, the authorities remains failed even in tracing any clue about the minor children of the petitioner. It is worth noting that regarding recovery of the minors, this Court has passed several Orders but so far no fruitful result is produced and even nothing has come on record about the respondent No. 4. Admittedly, the petitioner is an educated woman being a Doctor working in Government Hospital and so also the brothers of the respondent No. 4, one of whom Saleem Ahmed Baloch is a Doctor and another Javed Ahmed Baloch is a District & Sessions Judge and they are also relatives. The petitioner is crying for her minor daughters namely Aina Asif and Aiman Asif, whom she has even not seen since they were allegedly snatched by the respondent No. 4 and being girls of tender age, there wellbeing and safety is seriously at risk and even serious question of their welfare is involved in the present scenario. It is alleged by the petitioner that the respondent No. 4 remained jobless since beginning and he used to take drugs and there are other several assertions and accusations by the petitioner against the respondent No. 4. It is also a

matter of surprise that the entire family and more particularly brothers of the respondent No. 4 are not aware about respondent No. 4 and even not in contact with him, as it is claimed on their behalf before this Court. One of the brothers of respondent No. 4 Dr. Saleem Ahmed Baloch earlier moved an application, which was dismissed by order dated 07-06-2017. In spite of that, he is appearing in the instant petition though he is neither party nor has any locus standi. At this stage, I feel it necessary to give brief history of the earlier few Orders:

- i) By Order dated 04-05-2017, SHO Police Station Azizabad, F.B. Area was directed to ensure the recovery and production of both the minor girls on the next date of hearing. However, he failed to recover and produce both the minor girls before this Court.
- ii) By Order dated 07-06-2017, this Court took a serious view by holding that the conduct of the concerned SHO is not fair and he failed to perform his official act by not recovering both the minors. In these circumstances, the concerned D.I.G. of Karachi-East and Karachi-South were directed to locate the respondent No. 4 on his mobile numbers and CNIC number in any manner as they deem fit and recover both the minors and handover their interim custody to the petitioner. The concern D.I.G. was also directed to give full protection to the petitioner, who apprehended dire consequences from the respondent No. 4 and his family.
- iii) By Order dated 11-07-2017, office was directed to call report from Sessions Judge Malir as to how and why he has passed order for registration of FIR against police officials, who were conducting raids on direction of this Court.
- iv) By Order dated 10-08-2018, minor children were considered as missing children and JIT was formed for tracing out their whereabouts and Home Secretary was directed to form JIT comprising responsible officials of Police, FIA and ISI.
- v) By Order dated 21-01-2019, it was observed that JIT failed to understand the object or they have deliberately avoided to comply with the directions. Accordingly, SSP South shall ensure production

of minors on next date and in case of failure he shall appear in person with explanation.

- vi) By Order dated 13-02-2019, SHO PS Frere Town was directed to provide complete protection to the petitioner Dr. Mahreen Baloch. It was further directed that AVCC shall provide every assistance to SSP South and concerned police/police team would be competent to approach concerned Magistrate with the permission of District & Sessions Judge, who shall ensure to join/supervise with concerned team of such raid.
- vii) By Order dated 02-04-2019, SSP South was given last chance to recover minors and in case of failure contempt proceedings can be initiated against the delinquent officer.
- viii) By Order dated 19-04-2019 it was observed that law itself provides a complete mechanism for conducting raid/search of a place hence if such course is, per law, same cannot be said to be a harassment.
- ix) By Order dated 24-05-2019, it was observed that prima facie AVCC has lost trust and therefore contempt notice of non-compliance of Order dated 19-04-2019 was issued to SP AVCC.
- x) By Order dated 30-05-2019 Anti-Human Trafficking Unit, FIA as well as any representative of ISI would be involved in JIT. Accordingly SSP AVCC, Additional Director FIA Anti-Human Trafficking Unit Karachi and officer not below the rank of Major/AD to be nominated/assigned by Director ISI to probe the issue and highly competent committee shall use all efforts with modern technology and ensure recovery of minors;
- xi) By Order dated 09-07-2019 office was directed to send copies of all the orders passed in the instant petition so far to the Secretary of Interior, Government of Pakistan with direction to furnish a report after checking all the exit points of the country whether the minors as well as respondent No. 4 has succeeded in going out of Pakistan and if so then requisite letters should be issued to the Interpol. Office was further directed to also send copies of all the orders passed in the instant petition so far to the Law Secretary, Government of Sindh as well as the Law Secretary, Government of Pakistan, to take action in this respect.

Since JIT was constituted earlier as is apparent in the earlier Orders referred to above but I am sorry to say that the JIT and all the departments involved in the instant matter have failed to recover the respondent No. 4 and both the minor girls, therefore, I reconstitute JIT and issue the following directions:-

- a) Dr. Aftab Ahmed Pathan, AIG Establishment shall now head the JIT which was earlier constituted and he shall be fully empowered to take any Department Federal as well as Provincial including FIA, IB, ISI or any other agency in JIT for recovery of minors. He should call JIT meeting within a week and he should also maintain record (minutes of meetings duly signed by all members of JIT)s. He is also authorised to add and delete any member of JIT and may go up to any extent for the sound and secure recovery of minors, if he thinks that their safety is in danger;
- b) JIT shall be empowered to raid any place for recovery of respondent No. 4 and minor girls as per directions in the earlier Orders and more particularly Order dated 19-04-2019 and in case of any obstruction from any person whosoever he may be, JIT shall take legal action against such person by lodging FIR;
- c) JIT shall be empowered to call any person, whosoever he may be because no one is above the law, for investigation and to record his statement as per directions in the earlier Orders and more particularly Order dated 19-04-2019;
- d) During investigation, if it is found that the respondent No. 4 and both the minor girls are in other Province, then, JIT should immediately without delay take permission from Home Secretary of Sindh, as per law, or approach any Federal Agency to raid and recover respondent No. 4 and both the minor girls;
- e) Upon recovery of both the minor girls, their custody should be handed over to petitioner immediately, who shall immediately get check-up of both the minors girls from the Agha Khan Hospital and submit their medical report to this Court;

- f) JIT shall give report regarding the whereabouts of respondent No. 4 during the last 30 months and who was providing financial help to the respondent No. 4 and who was looking after both the minor girls during the last 30 months and whether the family of respondent No. 4 including his brothers Mr. Javed Ahmed Baloch and Dr. Saleem Ahmed Baloch or any brother, were in touch directly or indirectly with the respondent No. 4 or not;
- g) DIG and SSP South should immediately provide full protection to the petitioner and her family, who apprehends dire consequences ;
- h) JIT should submit progress report every fortnightly to this Court.

All the male family members of the respondent No. 4 (i.e. brothers) are also directed to file their Affidavits by stating on Oath regarding non-awareness of the whereabouts of respondent No. 4 during the last 30 months and non-providing financial help to him directly and / or indirectly that they are not in contact with the respondent No. 4 since last 30 months through any means or person within a week time of this order. If such affidavit is filed then they may be put at an ease with a direction to cooperate with the authorities regarding recovery of minors. Nevertheless, in case of failure to file required Affidavits, serious action shall be taken against them by considering that they are in league with the respondent No. 4.

Office is directed to send copy of this Order to IG Sindh, Additional I.G Establishment Sindh, Karachi, Home Secretary, Government of Sindh, Karachi, Federal Ministry of Interior, Islamabad, Federal Ministry of Defence, Rawalpindi and Federal Ministry of Law and Justice, Islamabad and also to Chief Secretary/Home Secretary of all the Provinces of Pakistan and DG FIA, Islamabad, DG IB, Islamabad, DG, ISI, Islamabad for immediate compliance.

Since, Criminal Misc. No. 211/2019 is having some nexus with the instant matter, as such the same is directed to tag with the instant petition. So far, the requisite report from the Secretary of Interior, Government of Pakistan has not been received in compliance of order dated 09-072019, as such further directions will be given regarding the recovery of minors after receiving

such report and perusing the progress report of JIT, and being a part heard matter, it may be placed on 22-08-2017.

J U D G E