



4. Mr. Allah Bachayo Soomro, Additional Advocate General Sindh files comments on behalf of official respondents and submits that the petitioners have not availed their remedy before the competent forum before filing this petition, however, he submits the official respondents are ready to provide legal protection to the petitioners strictly as per law as and when the need be.

5. I have heard learned counsel for the parties on the point of maintainability of this petition 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 in the case of Abdul Hameed & another vs. the Province of Sindh through the Secretary Home Department & 8 others (PLD 2019 Sindh 168) has already passed a detailed and elaborative order dated 30.05.2018, 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.”

16. From the allegations and prayer made in this petition, it appears that the petitioners have filed this petition against the alleged harassment by the respondents and for providing protection to them and their families.

17. Police officials in their comments have categorically stated that they have not caused any harassment to the petitioners and have supported the contention of Respondents about registration of FIR No. 80 of 2020 under Section 365-B PPC. The I.O of the case has recorded the statement in verbatim of petitioner No.1 under Section 161 Cr.P.C. At this juncture, learned counsel for the petitioners seeks disposal of the instant petition in terms of the statement of petitioner Mst.Majdan present in court.

18. In view of the above, the captioned petition stands disposed of in terms of the statement of petitioner Mst. Majda with direction to the Investigation Officer to submit a summary report to the concerned Magistrate for disposal of the case as per law. The learned Magistrate on receipt of the summary report shall pass speaking order after hearing the parties within a reasonable time, leaving the aggrieved party to approach the proper forum for redressal of their grievances. Meanwhile, the official respondents shall act strictly as per law and ensure that no harassment shall be caused to the petitioners.

JUDGE