

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.

C.P No. D-7457 of 2022

Dated Order with signature of Judge.

Fresh case

1. For order on Misc. No.31555/2022
2. For order on Misc. No.31556/2022
3. For hearing of main case.

07.12.2022.

Petitioner is present in person.

YOUSUF ALI SAYEED, J.- The Petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the screening of a motion picture titled “Joyland”, on the ground that it portrays a relationship between man and a transgender woman. Per the Petitioner, such a portral is contrary to Islamic and social values, and the screening is liable to be stopped as a challenge to the Transgender Persons (Protection of Right) Act 2018 is pending before Hon’ble Supreme Court and the Federal Shariat Court. The sole prayer thus advanced merely seeks that this Court be pleased to grant an “Interim stay order against screening of Joyland until C.P 914-K of 2022 and the case in Federal Shariat Court against the Transgender Act is decided.”

As it stands, an earlier challenge against the same film came up before this very Bench in a Constitutional Petition No. D-7170 of 2022 and was dismissed vide Order dated 25.11.2022, with it being held in the detailed reasons as follows:-

“7. Moreover, in our view, where a cinematic work has passed through the censors, who have examined its content and cleared it for release with an appropriate certification, an individual cannot be allowed to trump that decision through a Court proceeding based on his conception of morality. Indeed, it is not the function of the Court under Article 199 to make a moral judgment so as to curtail the freedom of speech and expression of a filmmaker, as safeguarded under Article 19 of the Constitution, which provides that:

“Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence.”

8. On the contrary, the default position of the Court under Article 199 ought to be that of fully safeguarding the fundamental right by giving as expansive an interpretation to Article 19 as possible, and in the event of a restriction being imposed by the Board or any other authority that may be competent in that regard, testing the reasonableness of that restriction stringently, so as to ensure that the same is “reasonable” in the strictest conceivable sense. As such, in the absence of any restriction imposed by the concerned quarter, whether that be the Board or Provincial Government, it does not fall to the Court to morally police the public by making a determination of what should or should not be viewed and to take on the function of itself devising and imposing a restriction. Suffice it to say that unnecessary censorship suffocates a society and stifles its creativity and growth.”

Furthermore, the screening of the film and the pending challenge to the aforementioned Act bear no co-relation inter se.

That being so, it is apparent that the Petition is misconceived, hence while granting the application for urgency we hereby dismiss the same in *limine* along with the other pending miscellaneous application.

JUDGE

CHIEF JUSTICE