

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

**C.P. No. 3- 615 of 2022**

Nawab ----- Petitioner

VERSUS

Province of Sindh  
& others ----- Respondents

**Date of hearing: 22.08.2022**

**Date of decision: 22.08.2022**

None present for Petitioner  
Mr. Allah Bachayo Soomro, Addl. A.G.

**ORDER**

**ADNAN-UL-KARIM MEMON, J-.** Through instant petition, the petitioner has prayed as under:-

- a. That, this Honourable court may very graciously be pleased to issue directions to respondents No. 2 to 4 to take departmental action against respondent No.5 who misused his power and position upon the petitioner and took illegal gratification and gold ornaments from the petitioner on the instigation of respondents No. 6 and 7 without any cogent reason.
  - b. That, this Honourable Court may be pleased to direct respondents No. 1 to 4 to provide legal protection to the petitioner and his family members in the instance of respondents No. 5 to 7.
  - c. That, this Honourable Court may be pleased to issue directions to the respondent No. 6 and 7 to appear in person before this Honourable Court and file their undertaking that they will not cause harm to the petitioners and their family members without due course of law.
  - d. That, this Honourable Court may be pleased to issue direction to respondents No. 1 to 6 not to lodge any FIR case / FIR against the petitioner and his family members at the instance of private respondents Nos. 5 to 7 without permission of this Honourable Court.
2. Mr. Allah Bachayo Soomro, Addl. A.G present in court in some other cases waives notice of the subject petition on the premise that the issue of alleged harassment has already been set at naught by this Court; therefore, this petition may be disposed of in the terms that the official respondents shall act under the law.
3. I have heard learned AAG on the subject issue. Since the petitioner is called absent; however, the case of the petitioner is that since 17/18 years he is running a hotel at Bacha Bund, Pithoro City district Umerkot where respondents 6 and 7 who besides

criminals are touts of respondent No.5 and used to take illegal gratification and harass the petitioner; He alleged that he was forced to leave his house and remain outside. He prayed for direction to the Police to stop the atrocities. He further alleged that on 19.7.2022 about 3:30 p.m. the petitioner along with his family members were present at his home when respondent No.5 along with his subordinates and respondents 6 and 7 barged into his house and forcibly took away the petitioner to the police station and demanded Rs. 5,00,000/- for his release. The family members of the petitioner gave Rs.50,000/- and precious ornaments of Rs.3,00,000/- a total of Rs.3,50,000/- but he did not release him and when the nephew of the petitioner was taking the remaining Rs. 1,50,000/- to respondent No.5 on the way respondents 6 and 7 forcibly snatched the amount and thereafter on 22.7.2022 at 11:00 p.m. respondent No.5 released the petitioner; besides above the respondent No.5 also snatched two mobile phones from the petitioner and further issued him threats of false implication in criminal cases. He is also seeking return of his gold ornaments and other belongings. He also prayed for thorough inquiry into the atrocities committed by the Police and the imposition of punishment on those who were responsible.

4. Before parting with this order it is noted with grave concern illegal detention and custodial torture were/are recognized as violations of the fundamental rights of life and liberty: when a court trying the constitution petition proceeds to inquire into the violation of any right to life or personal liberty, it does so, not to adjudicate upon the guilt of any particular officer to punish him but to decide whether the fundamental right of the petitioner has been violated and the State is liable to pay compensation to them for such violation. Custodial violence, in the lock-ups, strikes a blow at the Rule of Law, which demands that the powers of the executive should not only be derived from law but also that the same should be limited by law. Custodial violence is a matter of concern. It is aggravated by the fact that it is committed by persons who are supposed to be the protectors of the citizens. It is committed under the shield of uniform and authority in the four walls of police station or lock-up, the victim being helpless. The protection of an individual from torture and abuse by the police and other law enforcement officers is a matter of deep concern in a free society. Police is, no doubt, under a legal duty and have a legitimate right to arrest a criminal and to interrogate him during investigation of an offense but it must be remembered that the law does not permit the use of torture of the accused in custody during interrogation and investigation to solve the crime. The interrogation and investigation into a crime should be in a true sense purposeful to make the investigation effective. By torturing a person, the police would be accomplishing behind closed doors what the demands of our legal order forbid. No society can permit it. Every illegal detention irrespective of its duration, and every custodial violence, irrespective of its degree or magnitude, is outright condemnable and per se actionable. Remedy for such violations is available in civil law and criminal law.

5. Since serious allegations have been leveled against respondent No.5; therefore, DIGP MirpurKhas Division is directed to appoint an honest officer of high rank to conduct an inquiry into the matter, fix responsibility on the delinquent official, and take stern action if at all the official is involved in such state of affairs; and submit, report to this court through Additional Registrar within one month of receipt of this order.

6. In view of the above instance, the petition is disposed of.

Let a copy of this order be transmitted to IGP Sindh for circulation in all over Sindh through DIGPs concerned and for compliance of paragraph 4 of the order.

**JUDGE**

Karar\_hussain/PS\*