

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

**Constitutional Petition No. D-1122 of 2023**

Mr. Imam Ali Chang, advocate for the petitioner.

Date of hearing: 26.07.2023

Date of decision: 26.07.2023

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**KHADIM HUSSAIN TUNIO, J-** The petitioner filed the instant petition seeking quashing of criminal proceedings initiated against him vide FIR No.80/2023 for the offences punishable u/s 365-B and 34 PPC lodged at Police Station Husri/Pabban, District Hyderabad.

2. Learned counsel for the petitioner has contended that the petitioner was arrested for the abduction of respondent No. 6 and she then appeared before the Civil Judge & Judicial Magistrate/Consumer Protection Court-I, Tando Muhammad Khan where she got her statement u/s 164 Cr.PC recorded and admitted that she had left the house of her father (respondent No. 4) on her free will and on this statement the petitioner was released by the police, however instead of submitting a report u/s 173 Cr.PC, respondents No. 3 and 4 are bent upon harassing the petitioner and his family and keep seeking time from the concerned Court.

3. We have decided to refrain from making any observation about the merits of the cases lest it may prejudice the case of either party during the trial. Suffice to say at this juncture, the petitioner has been charged for the commission of a cognizable offences and was named in the FIR along with other accused. If the contents of instant petition and that of the FIR are put in juxtaposition, it brings the case of the parties within the area of disputed questions of facts and law which cannot be resolved by this Court in the exercise of its Constitutional jurisdiction as the same require proper probe, investigation and evidence of the parties.<sup>1</sup> All that is absolutely the job of the trial Court.<sup>2</sup> Even otherwise, the nature of the Constitutional jurisdiction of this Court is not to be invoked at the drop of a hat. Article 199(1) of the Constitution of the Islamic Republic of Pakistan, 1973, carves out this jurisdiction with a great sense of caution, permitting the High Court's intervention when the legal landscape presents no other adequate remedy and by its very wording, the Article itself is an embodiment of restraint and an interpretation any other way would disrupt this intricate balance. Directly

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<sup>1</sup> See Rai Ashraf v. Muhammad Saleem Bhatti, PLD 2010 SC 691

<sup>2</sup> See DG Anti-Corruption v. Muhammad Akram Khan, PLD 2013 SC 401

approaching the High Court under its Constitutional jurisdiction is not meant to bypass the usual legal channels or procedures rather it exists **only** to ensure that justice is neither denied nor delayed when all other doors to said justice are shut. However, if another door, another remedy still exists, then the Constitution mandates that such a course be pursued first before seeking the High Court's intervention under its Constitutional jurisdiction.<sup>3</sup> The fate of the case of the petitioner, considering that the FIR has already been lodged, is to be decided by the trial Court after taking cognizance or otherwise. The petitioner can approach the trial Court by invoking provisions of S. 249-A or S. 265-K Cr.PC, instead of approaching this Court under its Constitutional jurisdiction.

4. For what has been discussed above, the instant petition being meritless was dismissed in *limine* vide short order even dated. These are the reasons for the same.

**JUDGE**

**JUDGE**

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<sup>3</sup> See Muhammad Farooq v. Ahmed Nawaz Jagirani, PLD 2016 SC 55