

IN THE HIGH COURT OF SINDH AT KARACHI

C.P No. D-2026 of 2025 (Karachi)
C.P No. D-128 of 2025 (Larkana)

PRESENT: Mr. Justice Muhammad Saleem Jessar
Mr. Justice Adnan-ul-Karim Memon

Petitioner Naveen Jatoi	:	Through M/s. Muhammad Omer Soomro, Abdul Haseeb Qazi, Irshad Ahmed Jatoi, Najiullah Siddiqui, Abdul Qudoos Jatoi & Fiza Chaudhri, Advocates along with Accused Ghulam Murtaza Jatoi, nominated accused in impugned FIRs.
Province of Sindh & Others	:	Through Mr. Muntazir Mehdi, Acting Prosecutor General, Sindh along with Mr. Muhammad Iqbal Awan, Addl. Prosecutor General, Sindh & Mr. Hakim Ali Shaikh, Addl. Advocate General, Sindh as well as Mr. Sagheer Ahmed Abbasi, Assistant Advocate General, Sindh along with M/s. Muhammad Zaman Awan, Circle Officer, ACE, Naushero Feroze, Pannah Shah, DSP (Legal) Dadu, P.I Muhammad Qasim & SI Faiz Ali of P.S Darakhshan, Karachi & Muhammad Yousuf, Deputy Superintendent on behalf of I.G Prison, Karachi (present in Court).
Dates of hearing	:	20.02.2025, 27.02.2025, 13.03.2025, 24.04.2025 & 17.05.2025
Date of Judgment	:	17.05.2025

JUDGMENT

MUHAMMAD SALEEM JESSAR. J- Through this petition, petitioner Naveen Jatoi, wife of Ghulam Murtaza Khan Jatoi (the alleged accused), has approached this Court seeking quashment of three FIRs; viz. FIR No. 02 of

2025 registered at Police Station Dokri, FIR No. 09 of 2025 registered at Police Station Badah, and FIR No. 17 of 2025 registered at Police Station Hingorja (District Khairpur Mirs), lodged against her husband. In the petition she has sought for following reliefs:

- i. Declare the arrest and detention of Ghulam Murtaza Jatoi to be illegal and without any lawful grounds and violation of his fundamental rights.
 - ii. Suspend three (3) FIRs, i.e., FIR No.02/2025 (P.S. Dokri), FIR No.09/2025 (P.S. Badalt), both filed in District Larkana, and FIR No.17/2025 (P.S. Hingorja), in District Khairpur, presently known to the Petitioner, in terms of the previous Orders of this Hon'ble Court dated 01.04.2024 and 22.11.2024 made in CP D-1655 of 2024.
 - iii. Restrain the Respondents from registering any further FIRs or arresting Ghulam Murtaza Jatoi and his family members without prior permission of this Court, in terms of the previous Orders of this Court dated 01.04.2024 and 22.11.2024 made in CP D-1655 of 2024.
 - iv. Order release of Ghulam Murtaza Jatoi from unlawful custody.
 - v. Quash the three (3) FIRs, ie, FIR No. 02/2025 (P.S. Dokri), FIR No.09/2025 (P.S. Badah), both filed in District Larkana, and FIR No.17/2025 (P.S. Hingorja), in District Khairpur, presently known to the Petitioner.
 - vi. Direct the Respondents to provide complete details before this Court of all/any cases, FIRs, complaints (if any) registered against the Petitioner.
 - vii. Restrain the Respondents from registering any further FIRs against Ghulam Murtaza Jatoi and his family members.
 - viii. Restrain the Respondents from arresting Ghulam Murtaza Jatoi and his family members in any other FIRs without laying information before this Court and seeking permission from this Court for arrest or otherwise.
 - ix. Restrain the Respondents from illegally and unlawfully raiding the residences of Ghulam Murtaza Jatoi and his family members and further not to harass, threat, pressurize or coerce Ghulam Murtaza Jatoi and his family members in any manner.
 - x. Any other relief as this Hon'ble Court may deem fit and proper in the circumstances of the case.
2. Instant petition was filed at Circuit Court, Larakana on 20.02.2025 and it was numbered as C.P. No.D-128 of 2025. On the same day notices were issued to Additional A.G., Additional P.G. as well as the respondents for

13.03.2025 and it was ordered that if the petitioner's husband has not been arrested in the three impugned FIRs, he shall not be arrested. The respondents were also directed to submit complete records / details of the said FIRs. Thereafter, the petitioner moved Misc. Applications praying therein for immediate suspension of the 14 days' judicial remand of petitioner's husband Ghulam Murtaza Jatui, his immediate release and initiation of contempt proceedings for violating Court's aforesaid order dated 20.2.2025. Vide order dated 27.2.2025 notices were issued to the alleged contemnors except contemnor No.9 i.e. Abdul Waheed Abbasi, Civil Judge and Judicial Magistrate, Sukkur-III to explain as to why contempt proceedings should not be initiated for willfully violating aforesaid Court's order. The operation of remand order in Crime No.17/2024 passed by Judicial Magistrate, Sukkur was also suspended, so also registration of any further FIR against petitioner's husband was stopped. On 13.03.2025 the respondents / alleged contemnors appeared in the Court and filed their respective compliance reports and statements which were taken on record. The case was adjourned to 24.04.2025 and the I.Os of the impugned FIRs were directed to submit reports under Section 173 Cr.P.C. in case the investigation has been completed.

3. On 24.04.2025, comments were filed on behalf of respondents No.6, 7 and 8. Learned Addl. A.G. and Addl. P.G. submitted that challans have been submitted in all the cases / crimes before the concerned courts, therefore, according to them, the purpose of instant petition stood served in view of the dicta laid down by Honourable Supreme Court in the case of **Director-General Anti-Corruption Establishment, Lahore and others v. Muhammad Akram Khan and others** reported in PLD 2013 SC 401, hence the petition has become infructuous. However, as the counsel for the petitioner was not in attendance, as such the case was adjourned to 08.5.2025. On the said date one of the members of the Division Bench which was hearing the petition (Nisar Ahmed Bhambhro, J.) showed his inability to hear the instant petition. In the circumstances, it was ordered that since this is a part-heard matter and was previously heard by a Bench comprising, Mohammad Saleem Jessar, J. and Adnan-ul-Karim Memon, J. and as at that time, the latter was holding sitting at Karachi, therefore, the Office was directed to send instant petition to the Principal Seat of this Court at Karachi for placing the same before Honourable Chief Justice and the Head of Constitution Benches for passing appropriate

orders. Accordingly, the said order was complied with by the office and new number i.e. C.P. No. D-2026 of 2025 (KHI) was allotted.

4. On 17.05.2025 when the matter was fixed before us at the Principal Seat of Karachi, the matter was argued by the learned counsel for the petitioner as well as learned Acting Prosecutor General assisted by Addl. P.G. and Additional Advocate General on behalf of State / Official Respondents. As regards the question of maintainability which was raised on the very first day i.e. 20.2.2025, as to how the petition in hand is maintainable, more particularly when the petitioner is not directly charged or named in any impugned FIRs, learned counsel for the petitioner submitted that being wife of the accused, she could be termed as attorney and therefore, as an attorney, she is competent to proceed and file the case on behalf of directly aggrieved party. Learned counsel placed reliance upon the cases of Begum Nusrat Bhutto Vs. Chief of Army Staff and Federation of Pakistan (PLD 1977 SC 657) and Khalid Safdar Makhdoom Vs. Government of the Punjab through Secretary Specialized Healthcare and Medical Education Department and 8 others (2023 P.Cr.L.J 1373).

5. Learned counsel further submitted that prior to filing this petition, the accused Ghulam Murtaza Jatoi had filed C.P No. D-1655 of 2024 before this Court, wherein, by order dated 01.04.2024, protection was granted to him against any kind of harassment and it was also directed that if any FIR were to be registered against him, prior information should first be laid before this Court. In support of his contention, learned counsel filed statement dated 17.05.2025 annexing therewith a set of orders passed by learned Division Bench of this Court in C.P No. D-1655 of 2024 which were taken on record. He; however, when confronted with the legal position that the cases have already been investigated and reports under Section 173 Cr. P.C. have been submitted by the police/I.Os before the Courts having jurisdiction, conceded that the purpose of this petition, in view of the dicta laid down by the Hon'ble Apex Court in the case of **Director-General Anti-Corruption Establishment, Lahore and others v. Muhammad Akram Khan and others** (PLD 2013 SC 401), has been served. Therefore, he sought disposal of this petition by submitting that the official respondents may be directed not to cause any kind of harassment to the petitioner or her family. Learned counsel for the petitioner further submitted that in exercise of powers vested under Article

199 of the Constitution, this Court can quash FIRs and proceedings registered/initiated against the husband of the petitioner and there is no necessity to approach the trial court by filing application under section 249-A or 265-K. Cr. P.C. As per learned counsel, the cases were registered against the husband of the petitioner with *mala fide* intention to cause humiliation and harassment and to involve him in the false criminal cases as many as possible to compel him to bow-down before the illegal wishes of the ruling political party, therefore it is a fit case in which the husband of the petitioner may be discharged from the charges leveled against him, which are based on political rivalry. Learned counsel next submitted that when evidence of *mala fide* actions is readily apparent, this court can intervene. Learned counsel lastly prayed for allowing instant petition.

6. Conversely, learned law officers present, raised objection to the maintainability of this petition on the ground that petitioner, not being an accused or nominated in any of the impugned FIR(s), is not competent to seek its quashment. According to them, as far as, her husband/the alleged accused is concerned, consequent upon orders having been passed by this Court, he has been released and is on bail; hence, now best course for him is; to approach the Courts where the cases against him have been filed and/or pending adjudication. As far as contention of learned counsel for the petitioner that after submission of reports in terms of Section 173 Cr. P.C, the Magistrates/Courts have not taken cognizance of the offences; as such, the accused is unable to approach or appear before the Courts for appropriate relief. They submitted that since the investigation in all the cases has been completed and reports in terms of Section 173 Cr. P.C. have also been submitted before the Courts having jurisdiction; hence, the Courts have to determine the accusation against him by accepting the reports or declining the same; however, in both of the situations, the purpose of instant petition, particularly to the extent of prayers seeking quashment of impugned FIRs, in view of the dicta laid down by learned Apex Court in the case of Director General Anti-Corruption Establishment, Lahore and others (*supra*), has been served. Therefore, the accused husband of the petitioner is required to approach the Courts below where after completion of the investigation, reports in terms of Section 173 Cr. P.C. have been submitted. The Law Officers further submitted that any adverse order or certain observations of the Courts below would be a fresh cause of action and the accused in such an eventuality

can approach the proper forum for seeking appropriate reliefs, strictly in accordance with law.

7. The Law Officers further submitted that an individual may press one petition for a single quashment and quashment of multiple FIRs cannot be sought or granted in one petition, as is embodied under Sindh Chief Court Rules. Moreover, the petitioner though is the wife of accused, is not competent or aggrieved person to seek quashment of impugned FIRs; hence, on this score alone, petition cannot be entertained. However, the law officers undertook that they will direct the official respondents not to cause any kind of harassment to the petitioner or her family except in accordance with due course of law.

8. The Law Officers further submitted that under the provisions of the Specific Relief Act, 1877, any state functionary(ies) cannot be restrained from registering criminal cases against an accused who has committed a cognizable offence; hence, if any individual or the party is given such protection in the constitutional petition, it will be violative and in contravention of the provisions of the Specific Relief Act, 1877, as the complainant/victim has also got constitutional protection which cannot be denied. According to them, this court cannot interfere with ongoing investigations and should allow the legal process to proceed. According to them, since the petitioner has been released from the prison and is now present before this court, the primary issue raised in this petition has been resolved and the purpose for filing this petition is fulfilled, and no further action, including contempt proceedings, needs to be taken by this court.

9. We have taken into consideration the submissions made by learned counsel for the petitioner as well as learned Law Officers appearing for the State / official respondents and perused the material available on record.

10. It may be observed that the petitioner in instant case is the wife of accused against whom the FIRs, sought to be quashed, have been registered. From bare perusal of impugned FIRs, it seems to be an admitted position that the petitioner has not been named and / or nominated in these FIRs, nor during investigation conducted after registration of said FIRs, she has been involved in any manner in these cases. In the circumstances, on the face of it, she is not an aggrieved person to seek quashment of the FIRs. In this

connection, reference may be made to an unreported case of Mst. Sadori in C.P. No.D-694 of 2020 which by Order dated 16.7.2020 was decided by a Division Bench of this Court. The judgment in said case was authored by one of us (Adnan-ul-Karim Memon, J.) wherein it was held that the petitioner, who was sister of the two accused persons and was not herself nominated or involved in the case, had no *locus standi* to maintain the constitutional petition for quashment on behalf of her brothers / accused. The relevant portion from the judgment is reproduced as under:

"2. We asked learned Counsel to satisfy this Court with regard to maintainability of instant petition on the premise that the petitioner is not an aggrieved person as the aforesaid FIR has been lodged against the brothers of the petitioner and not from any of the accused has approached for quashment of FIR, he replied that petitioner, being sister, may approach this Court for quashment of aforesaid FIR, as the same is based on concocted/false story."

Ultimately, the petition was dismissed, *inter alia*, holding as under:

"Even otherwise, the petitioner lacks locus standi in the matter. This petition being non-maintainable and without any merits is hereby dismissed."

In view of above legal position, the petitioner is not competent to maintain instant petition.

11. It is also an admitted position that investigation in the impugned FIRs has already been completed with and charge sheet / challan under Section 173 Cr. P.C. has been submitted before the concerned Court and cognizance has been taken by the trial Court. In such circumstances, it does not seem to be proper to quash the FIRs, rather it is for the trial Court to determine the fate of the case. In the case of **DIRECTOR-GENERAL, ANTI-CORRUPTION ESTABLISHMENT, LAHORE and others (supra)**, Honourable Supreme Court has dealt with this legal point and held as under:

"Apart from that the impugned order had been passed by the learned Judge-in-Chamber of the Lahore High Court, Lahore at a time when a Challan in the relevant criminal case had already been submitted before the learned trial court and the learned Trial court had already taken cognizance of the case. The law is quite settled by now that after taking of cognizance of a case by a trial court the F.I.R. registered in that case cannot be quashed and the fate of the case and of the accused persons challaned therein is to be determined by the trial court itself. It goes without saying that if after taking of cognizance of a case by the trial court an accused person deems himself to be innocent and falsely implicated and he wishes to avoid the rigours of a trial then the law has provided him a remedy under sections 249-A/265-K, Cr.P.C. to seek his premature acquittal if the

charge against him is groundless or there is no probability of his conviction."

On the basis of such legal position too, instant petition appears to be non-maintainable.

12. It is also noteworthy that prayers seeking injunction / restraint orders with regard to criminal proceedings are hit by the provisions of Section 56(e) of the Specific Relief Act, 1877 which lays down that *an injunction cannot be granted to stay proceedings in any criminal matter*. Superior Courts have also laid down such dictum. In this connection, reference may be made to the case of **NATIONAL PETROCARBON (Pvt). Ltd. and 2 others Vs. REGISTRAR OF TRADE UNIONS and 6 others**, reported in 1989 CLC 1975 [Karachi], wherein it was held as under:

"9. The proposition that no injunction can be granted to stay proceedings in any criminal matter as is provided under section 56 clause (e) is well settled. In the famous book of Spelling on Injunction in Article 24 it has been observed that "Equity has no jurisdiction to interfere for the prevention of crime or to enforce moral obligation nor will it interfere for the prevention of illegal acts merely because they are illegal." In Boorewala Textile Mills v. Zeenat Textile Mills reported in PLD 1978 Lah. 305 it was held that grant of stay order with respect to stolen property subject-matter of revision, having effect of stay of criminal proceedings, cannot be granted in view of prohibition under section 56(e), Specific Relief Act. In AIR 1942 Mad. 756 re N.P. Essappa Chettiar it was held that in view of the provisions of section 56(e), Specific Relief Act a civil Court cannot stay the criminal proceedings by preventing the Court or the complainant from continuing the proceedings by issuing an injunction."

13. Reference can also be made in this context to the case of **NATIONAL ACCOUNTABILITY BUREAU CHIEF EXECUTIVE SECRETARIAT CONSTITUTION AVENUE ISLAMABAD and 2 others Vs. Mst. ZAHIDA SATTAR and 2 others**, reported in PLJ 2001 Karachi 291 (DB), wherein a Division Bench of this Court held as under:

"Next it would be seen that Section 56-E of the Specific (Relief) Act specifically enjoins that an injunction cannot be granted to stay proceedings in any criminal matter... .. Consequently, we are of the opinion that embarking upon an inquiry as to the ostensible ownership of the properties and the source of money would be in violation of Section 56-E of the Specific Relief Act, which particularly prohibits grant of any injunction to stay proceedings in a criminal matter. Reference in this connection can be made to National Petrocarbon (Pvt.) Ltd. and 2 others v. Registrar of Trade Unions and 6 others (1989 CLC 1975) and Burewala Textile Mills Ltd., Burewala v. Zeenat Textile Mills Ltd., Lyallpur and 2 others (PLD 1978 Lahore 305)."

14. Besides above, it seems that the petitioner by means of instant single petition has sought quashment of three FIRs viz FIR No. 02 of 2025 registered at Police Station Dokri, FIR No. 09 of 2025 registered at Police Station Badah, and FIR No. 17 of 2025 registered at Police Station Hingorja, Needless to emphasize that such conduct is not appreciable and it was appropriate that separate petitions should have been filed for quashment of each FIR. Of course, had all the impugned FIRs been the result of one and the same incident, the situation would have been different but, as stated above, in instant case all three impugned FIRs were lodged in respect of three different incidents, that too lodged in different police stations on different dates and times. On this score too, the petition does not seem to be maintainable.

15. Even otherwise, now it is well settled that consequent determination of the guilt or innocence of an accused falls within the domain of the trial Court and that resort to the provisions of section 561-A, Cr. P. C. or to the provisions of Article 199 of the Constitution seeking quashment of a criminal case was an extraordinary remedy which could be invoked only in extraordinary circumstances and exceptional cases. For this view, we are fortified by the judgment pronounced by Honourable Supreme Court in the case of **MUHAMMAD MANSHA Vs. STATION HOUSE OFFICER, POLICE STATION CITY, CHINIOT, DISTRICT JHANG and others**, reported in **PLD 2006 Supreme Court 598**, wherein it was held:

"5. This Court has been repeatedly reminding all concerned that determination of the correctness or falsity of the allegations levelled against an accused person; the consequent determination of the guilt or innocence of such an accused person and the ultimate conclusion regarding his conviction or acquittal, was an obligation cast on the Court prescribed by the Code of Criminal Procedure for the purpose on the basis of legal evidence led at the trial after a proper opportunity to both the parties to plead their causes. It is a principle too well-established by now that a resort to the provisions of section 561-A, Cr. P. C. or to the provisions of Article 199 of the Constitution seeking quashment of a criminal case was an extraordinary remedy which could be invoked only in extraordinary circumstances and the said provisions could never be exploited as a substitute for the prescribed trial or to decide the question of guilt or innocence of an accused person on the basis of material which was not admissible in terms of Qanun-e-Shahadat Order of 1984.

6. No such extraordinary circumstances could be indicated to us which could have permitted the learned High Court to deviate from the normal course of law and to quash the F.I.R. by exercising the extraordinary constitutional remedy under Article 199 of the Constitution."

16. The upshot of above discussion is; that it falls outside the scope of extra-ordinary constitutional jurisdiction of this Court to determine the innocence or otherwise of the petitioner's husband or whether he was falsely implicated in the criminal cases or not? In view of legal position discussed hereinabove, it would be proper for the accused to seek appropriate remedies from the relevant Courts where his cases are currently pending. However, it is directed that the Sindh police or, for that matter, any other State functionary shall not harass or intimidate the petitioner's husband or his family members in any manner in terms of previous orders passed by this Court.

17. These are the reasons of our short order dated 17.05.2025.

JUDGE

JUDGE

Karachi
Dated. 17.05.2025
Approved for Reporting