

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-5466 / 2026
(Muhammad Younus Vs. Province of Sindh & Others)

Present:

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and order:- 08.09.2026.

Mr. Muhammad Saleh Mallah, Advocate a/w Petitioner
Muhammad Younus.
Ms. Amna, Assistant Prosecutor General Sindh.
Ms. Aftab Bano Rajput, Law Officer for Panah Sheltor Home.
PI Muhammad Asif P.S. Baloch Colony.
I/O ASI Shaghufra Khan.
Mst. Ayesha produced by Panah Sheltor Home.

Adnan-ul-Karim Memon, J. Petitioner Muhammad Younus has filed this Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan seeking quashment of FIR No. 110/2026 U/s 364-A PPC R/w Section 3/4/5 of Sindh Child Marriage Act

2. The petitioner has invoked the constitutional jurisdiction of this Hon'ble Court, contending that Mst. Ayesha, daughter of Respondent No.4, is a mature girl aged about 18 years and, of her own free will and without any coercion, married the petitioner in accordance with Muslim law. After learning about the marriage, Respondent No.4 allegedly became annoyed and started threatening and tracing the petitioner and his wife with the intention of causing them harm. He thereafter lodged FIR No.110/2026 under Section 364-A PPC read with Sections 3, 4 and 5 of the Sindh Child Marriage Act, which the petitioner claims is false and motivated by personal grudge. The petitioner further submits that Mst. Ayesha recorded her statement under Section 164 Cr.P.C., clearly expressing that she was 18 years old, had married the petitioner voluntarily and desired to reside with her husband due to apprehension to her life and liberty. Her age was subsequently verified through the Police Surgeon, Karachi, and an age certificate was obtained showing her age between 17 and 18 years. The petitioner therefore contends that the offences alleged in the FIR are not attracted and seeks quashment of the FIR and any other related FIRs. It is further stated that, after recording her statement and verification of age, Mst. Ayesha was placed at Panah Shelter Home for her safety. The petitioner seeks production of his wife before the Court, recording of her statement and, subject to her free will, handing over of her custody to him. He also seeks protection for himself and his wife against harassment, threats, blackmail or harm from Respondent No.4 and his family members, along with any other appropriate relief.

3. The Respondent No.2, SSP District East, Karachi, submits that on 15.03.2026, Respondent No.4, Muhammad Ishaq, reported at Police Station Baloch Colony that his 13-year-old daughter, Ayesha, was missing from their house. Consequently, FIR No.110/2026 was registered under Section 364-A PPC read with the relevant provisions of law, and investigation was entrusted to Lady ASI Shafquta. During investigation, the petitioner, Muhammad Younus, was arrested and the girl was recovered and produced before the learned Judicial Magistrate, South Karachi, as well as before the Medical Board. He submitted that the Medical Board assessed Ayesha's age to be approximately 17/18 years. Thereafter, the Investigating Officer submitted charge-sheet No.90/2026 dated 07.04.2026 against the petitioner under the applicable child/under-age marriage law before the competent Court. The Respondent further submits that the police acted upon the complaint of the girl's father strictly in accordance with law and provided all lawful protection to the petitioner.

4. The I.O. of the case present in Court has recorded the statement of the alleged abductee Mst. Ayesha who was produced by the Panah Shelter Home. In her statement she has narrated that she is approximately 18 years of age, has voluntarily left her home, and has gone with petitioner Muhammad Younus of her own free will and without any fear, pressure or coercion. She states that nobody abducted or forcibly took her away and that she wishes to remain/go with petitioner Muhammad Younus.

5. We have noticed that the Petitioner and Mst. Ayesha have contracted marriage and with their own choice and freewill and were performing marital obligations and living with each other happily however, in the intervening period her statement was recorded under Section 164 Cr.P.C in which she also reiterated the position of the case and she stated that she had neither been abducted by anyone and so far FIR No. 110/2026 is concerned, the same is false one, if this is the position of the case the continuation of the impugned criminal proceedings, insofar as the allegation of abduction is concerned, would serve no lawful purpose as she has consistently maintained that she voluntarily left her parental home, accompanied the petitioner of her own free will and without any fear, pressure, threat or coercion, and that nobody abducted or forcibly took her away. She has further expressed her unequivocal desire to reside with the petitioner; and now she is free to go wherever she wants and it is up to her will and wish.

6. It is an established principle of criminal jurisprudence that the very foundation of an offence under Section 364-A PPC must be supported by material showing the ingredients of kidnapping or abduction as contemplated by law. In the present case, the alleged victim herself has denied having been abducted and has

categorically stated that she accompanied the petitioner voluntarily. Her statement under Section 164 Cr.P.C., coupled with her subsequent statement before the Court, substantially demolishes the factual basis of the allegation of forcible abduction. No material has been brought on record demonstrating that the petitioner used force, fraud, coercion or any unlawful means to take or detain Mst. Ayesha.

7. We are also mindful of the fact that Mst. Ayesha, being the person directly concerned, has repeatedly affirmed that the marriage was of her own free will and that she does not support the allegation contained in the FIR. Her statement cannot be brushed aside merely because the FIR was initially lodged by her father alleging that she was missing. So far as the material concerning her age, she states that she is about 18 years of age, the Medical Board has assessed her age at approximately 17/18 years. Thus, she voluntarily intends to accompanying the petitioner. In the absence of any allegation or material establishing force, coercion, deceitful inducement, unlawful taking or confinement, and in view of the consistent voluntary statements of Mst. Ayesha, the essential ingredients of the said offence are not prima facie made out against the petitioner. The continuation of FIR No.110/2026 for the offence under Section 364-A PPC, on the facts presently available, would therefore amount to an abuse of the process of law.

8. It is a settled principle governing the constitutional jurisdiction of this Court that where the admitted or undisputed material placed before the Court demonstrates that the continuation of criminal proceedings would be futile, oppressive or an abuse of the process of law, the constitutional jurisdiction of the Court may be exercised to prevent such abuse and to secure the ends of justice. The present case falls within that exceptional category to the extent indicated above, particularly as the alleged victim herself has disowned the allegation of abduction and has expressed her free and independent choice before the competent forums.

9. Accordingly, this Constitutional Petition is disposed of the extent that FIR No.110/2026, insofar as it alleges the commission of an offence under Section 364-A PPC, needs to be quashed by the Magistrate, as the essential ingredients of kidnapping/abduction are not established from the statements and material presently available on record., therefore, her statement be brought before the Magistrate for disposal of the case under C class by the report of Investigating Officer under Section 173 Cr.P.C.

10. As regards the custody and protection of Mst. Ayesha, the concerned authorities shall ensure that she is not subjected to any unlawful pressure, harassment, threat or coercion from either side. Her expressed free will shall be

respected, subject always to the requirements and safeguards prescribed by law.
The respondents shall ensure her safety and liberty in accordance with law.

11. The petition stands disposed of in the above terms.

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