

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-5400 / 2026

(Mir Hassan Ali Khan & Others Vs. Province of Sindh & Others)

Present:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

HEARING

- 1) For orders on office objection No. 1 & 3.
- 2) For hearing of CMA No. 21010/2026.
- 3) For hearing of CMA No. 21368/2026.
- 4) For hearing of CMA No. 21369/2026.
- 5) For hearing of main case.

31.08.2026.

Mr. Muhammad Jibran Nasir, Advocate for Petitioners.
Mr. Jawad Dero, Advocate General Sindh a/w Mr. Saifullah, Additional AG, Mr. Ali Safdar Depar, Assistant AG, Ms. Nusrat Sultana, Assistant AG and Ms. Anika Rizwan Qureshi, Special Counsel, Advocate General office.

Mr. Ghulam Shabbir Shah, Prosecutor General Sindh along with Mr. Abrar Ali Khichi, Additional PG.

Ms. Wajiha Mehdi, Deputy Attorney General

Mr. Muhammad Naveed Arain, Deputy Secretary, Home Department and Mr. Ali Asghar Mahar, Focal Person, Home Department, Government of Sindh

DSP Siraj Lashari, RRF/CMU
DSP Muhammad Hameed Khan, SIU/CIA Karachi
ASP Qurutulain on behalf of SSP Investigation East Karachi
IO/PI Shabbir Leghari PS Ferozabad Karachi
PI Arshad, SIO PS Ferozabad Karachi
PI Shahid Mustafa, Crime Branch Investigation Sindh Karachi
SI Asghar Cheema PS Gulistan-e-Jauhar Karachi

Muhammad Jaffer Raza, J. Instant Petition has been filed by the Petitioners who are parents and sister of the deceased Mir Raza Ali Khan in respect of whose disappearance and subsequent death FIR No. 795/2026 Police Station Ferozabad Karachi has been registered under Section 365, 302 and 201 PPC.

2. At the very outset, it has been contended by the learned counsel appearing for the Petitioners that the Petitioners are dissatisfied by the ongoing investigation, details of which have been specified in the memo of petition and aptly reflected in the order of this Court dated 24.08.2026. Learned counsel has most vehemently argued that this court ought to allow the instant Petition and direct the Respondents to constitute a Joint Investigation Team (JIT) to investigate the crime mentioned above. In this regard the Court vide order dated 24.08.2026 framed the following three (3) questions which are reproduced below, and the instant Judgment shall adjudicate the same: -

- "i) Whether the constitutional jurisdiction of this Court can be invoked to direct constitution of a JIT?*
- ii) Whether this Court can substitute, supervise or affect the statutory criminal investigation and submission of the report under Section 173 Cr.P.C. under Article 199 of the Constitution?*
- iii) Whether in absence of any gazette notification under the Sindh Tribunals of Inquiry Ordinance, 1969 a case of interference is made out?"*

3. For the sake of convenience, the first two (2) questions shall dealt with and adjudicated upon collectively after recording the contentions of the learned counsels present. Thereafter, decision will be rendered in respect of the third question noted above.

Questions (i) and (ii).

4. It has been contended by the learned counsel appearing for the Petitioners that this Court ought to exercise its extraordinary jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 ("Constitution") to direct the Respondents to constitute a JIT to investigate the crime as enumerated above, in addition to the consequential reliefs sought by the Petitioners. In support of his contention, learned counsel has placed

extensive reliance on the Judgment in the case of Sultan Ali¹ and judgments rendered by the Hon'ble Supreme Court in the case of Fake Bank Accounts².

5. In addition to his contentions noted hereinabove, the learned counsel has further maintained that this Court in its Writ jurisdiction also has the power to supervise an ongoing investigation to ensure that the ends of justice are met and the investigation is carried out in a fair, impartial and efficient manner. He has averred that the lapses in the investigation leave the Petitioners with no option but to approach this Court for the reliefs sought as the family of the deceased i.e. Petitioners have no confidence left in the investigative process currently underway. In this regard, he has invited our attention to the documents annexed by him with the memo of petition to illustrate the alleged discrepancies and inefficiency in the entire investigative process.

6. Learned Advocate General Sindh and learned Prosecutor General have affected appearance pursuant to the notices issued vide order dated 24.08.2026 and whilst empathizing with the Petitioners have collectively argued that this Court in its Writ jurisdiction has no power either to direct formation of a JIT or supervise/interfere in an ongoing investigation. They have further contended that the lack of faith in the investigative process by the Petitioners is unfounded and premature as investigation is still ongoing and no report has been submitted under Section 173 Cr.P.C. They have jointly argued that instant Petition is based on presumptions and unfounded allegations and ought to be dismissed.

¹ Sultan Ali & Another Vs. Province of Sindh & Others (C. P. No. D-1998/2025) Circuit Court, Hyderabad.

² Slackness in the progress of pending enquiries relating to fake bank accounts, etc: In the matter of Human Rights Case No. 39216-G of 2018 reported at 2018 SCMR 1851 in respect of order dated 5th September 2018 and 2019 SCMR 332 in respect of order dated 7th January 2019.

7. We have heard all the learned counsels and have perused the record with their able assistance. We specifically inquired from the learned counsel appearing for the Petitioners to cite any law in which this court is mandated with the jurisdiction to order a constitution of a JIT'. Learned counsel in response only cited Section 19(1)³ of the Anti-Terrorism Act, 1997 ("Act of 1997") and reiterated his submissions as noted above. With respect, we disagree with the contentions advanced by the learned counsel appearing for the Petitioner for the reason that the present FIR does not, till the time of writing this judgment, include any provision under the Act of 1997. Even if the said FIR included offences under the Act of 1997, it would still be the prerogative of the government⁴ to constitute a JIT pursuant to the above-noted provision⁵.

8. The reliance of the learned counsel for the Petitioner on the judgment rendered in the case of Sultan Ali (supra) is misplaced as the facts in the noted judgment are distinct insofar it was alleged that the prosecution against the Petitioner in the noted case was a result of political victimization. Even in those circumstances the learned Division Bench refused to grant the relief sought in reference to formation of a JIT'. The "institutional sabotage" referred to by the learned counsel cannot be established without adverting to contested factual

³ 19. Procedure and Powers of [Anti-terrorism Court]. –

[(1) An investigating officer under this Act shall be an officer or Police Officer not below the rank of Inspector or equivalent or, if the Government deems necessary Joint Investigation Team, to be constituted by the Government shall be headed by an Investigating Officer of Police not below the rank of Superintendent of Police (BS-18) and other officers of JIT may include equivalent rank from Intelligence Agencies, Armed Forces and Civil Armed Forces. The JIT shall comprise five members and for the meeting purposes the quorum shall consist of three members. [The Joint Investigation Team may co-opt any additional person from any Federal or Provincial institution or department as it deems appropriate for investigation.]

⁴ 2 (i) "Government" means the Federal Government or as the case may be, a Provincial Government;

⁵ The State through Prosecutor General Sindh Vs. Administrative Judge, Anti-Terrorism Court Clifton and Another 2025 P.Cr.L. J 1211. The finding in the noted judgment in reference to constitution of a JIT contained in paragraph number 12 was not set aside by the Hon'ble Supreme Court in the case of Syed Zakir Hussain versus The State and another reported at 2025 SCMR 1659. The said judgement only allowed the criminal appeals expunging the remarks contained in paragraph number 14 of the impugned order.

Syed Riaz Hussain Shah versus Government of Punjab and 2 others reported at PLJ 2022 Lahore 268. Maqsood Yameen versus R.P.O. Multan and others reported at 2015 PCr.LJ 923.

assertions, which needless to mention, is impermissible in the Writ jurisdiction of this Court.

9. Further, reliance placed by the learned counsel on the judgments rendered in the case of Fake Bank Accounts (supra) does not advance his case as the noted judgements were rendered by the Hon'ble Supreme Court exercising their *suo moto* jurisdiction under Article 184(3) of the Constitution.

10. We now turn to answering the second question noted above. It is now well settled⁶ that this court ought not to interfere with ongoing investigation and/or assume the role of the investigator. Such propensity has been categorically deprecated by the Hon'ble Supreme Court in the case of Sughran Bibi⁷ in the following words: -

"Such an approach sets up the Courts as monitors or supervisors of the investigation, a role which the law forbids and the precedent loathes."

11. The Hon'ble Supreme Court in the above noted case departed from the principle laid down in the case of Ali Muhammad⁸ and held that interpretation of law by superior Courts ought not to be premised on "*damning generalizations*" which are "*subjective*" in nature, deprecating the inclination of the court to make "*sweeping remarks*" in respect of public functionaries. We cannot interfere in the ongoing investigation without departing from the principles laid down in the case of Sughran Bibi (supra). The said exercise would involve this court rendering its opinion on the alleged discrepancies and incompetence of the

⁶ Rana Muhammad Farooque and others versus Aftab Hussain and others reported at **PLD 2003 Karachi 309**.

Muhammad Hanif versus The State reported at **2019 SCMR 2029**.

Shahnaz Begum versus The Hon'ble Judges of the High Court of Sind and Baluchistan and another reported at **PLD 1971 Supreme Court 677**.

Brig. (Retd.) Imtiaz Ahmad versus Government Of Pakistan through Secretary, Interior Division, Islamabad and 2 others reported at **1994 SCMR 2142**.

Imtiaz Ahmed versus Government of Pakistan and others reported at **1994 SCMR 2142**.

Malik Shaukat Ali Dogar and others versus Ghulam Qassim Khan Khakwani and others reported at **PLD 1994 SC 281**.

⁷ Sughran Bibi versus The State reported at **PLD 2018 SC 959**.

⁸ Ali Muhammad and others versus Syed Bibi and others reported at **PLD 2016 SC 484**.

prosecution and deep dive into the factual aspects of the case, an exercise which is impermissible and likely to influence ongoing investigation. For the same reason we have deliberately abstained from recording contested factual assertions presented by the respective counsels.

12. The investigation officer in this case has affected appearance before us and has very categorically stated that he has been making his best possible efforts to investigate the matter and shall use all resources at his disposal, including engaging with other law enforcement/investigative agencies if the law mandates, to conclude the investigation impartially, fairly and expeditiously. The Petitioners are at liberty to avail all remedies available to them under the law to ensure that the investigation is carried out in a manner which is fair, impartial, efficient and transparent. They may further avail their remedy in accordance with law, in case they are dissatisfied with the investigation upon its conclusion.

Question (iii).

13. All the learned counsels have placed on record the gazette notification dated 24.08.2026 pertaining to the formation of a Single-Member Commission of Inquiry under the Sindh Tribunals of Inquiry Ordinance, 1969 (“**Ordinance**”) rendering the third question noted above inconsequential. We have further been informed that the noted Commission has also commenced proceedings. The learned counsel for the Petitioner did not seriously contest the formation of the Commission and expressed confidence in the same as the ancillary relief sought by him in the instant petition is largely covered under the Terms of Reference of the noted Commission. Even otherwise, we are not inclined to hinder or make any observation concerning proceedings pending before the Commission.

14. Before parting with the judgment, we would like to express our deepest condolences with the Petitioners. We are extremely mindful of the agonizing loss experienced by them; however, we cannot allow our empathetic impulses supersede the established mandate of the law. Consequently, this petition is disposed of in terms of the directions contained in paragraph number 12 above.