

Stereo. HCJDA 38
JUDGMENT SHEET
LAHORE HIGH COURT
MULTAN BENCH MULTAN
JUDICIAL DEPARTMENT

Writ Petition No.12935/2024

Sadiq Hussain and another

Vs.

Deputy Director, Federal Investigation Agency, and others

JUDGMENT

Date of hearing:	21.10.2024
For the Petitioners:	Mr. Abid Ali Bodla, Advocate.
For the Respondents:	Mr. Nadeem Ahmad Tarar, Deputy Attorney General, and Mr. Adnan Latif Sheikh, Deputy Prosecutor General, with Captain (R) Muhammad Khurram Agha (Secretary Interior), Zia-ul-Haq (Deputy Secretary Interior), Khalid Anees (Director FIA Multan), Hammad-ur-Rehman (Deputy Director FIA Multan), Adnan Ahmad Khan, Deputy Director (Immigration), and Syed Yasir Imran, Assistant Director (Legal).

Tariq Saleem Sheikh, J. – On 20.7.2024, Sub-Inspector Muhammad Abu Bakar, Shift Incharge at FIA Immigration, Multan International Airport, submitted a report to FIA AHTC Multan regarding eight passengers travelling to Saudi Arabia via Muscat on SalamAir Flight OV-538, who aroused suspicion during immigration screening. Upon further inquiry, it was found that they lacked sufficient financial resources (some carrying only 500 Riyals), had not confirmed return tickets or mandatory hotel bookings, and were unfamiliar with the requirements of performing Umrah. During baggage searches, authorities seized 900 boxes of “Captain” brand cigarettes and 70 boxes of Velo nicotine pouches.

2. The passengers were offloaded, and further interrogation revealed that they were all relatives. Passenger Sadiq Hussain

(Petitioner No.1) had instigated them to travel to Saudi Arabia for begging. Sadiq Hussain and his associates, Ghulam Nazik (Petitioner No.2), Muhammad Ijaz, and Yasin, charged Rs.160,000/- to Rs.170,000/- for each visa without hotel bookings and received Rs.70,000/- to Rs.100,000/- as an advance payment from them. The remaining balance was to be paid after the passengers engaged in begging in Saudi Arabia. Additionally, it was agreed that Sadiq Hussain and his associates would receive a commission from the earnings generated through begging.

3. Based on the above report, FIR No. 215/2024 dated 20.7.2024 was registered under sections 3 and 4 of the Prevention of Trafficking in Persons Act, 2018 (PTPA), section 22 of the Emigration Ordinance, 1979, and section 109 of the Pakistan Penal Code (PPC).

4. The Petitioners have filed this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (the “Constitution”), seeking the quashing of FIR No. 215/2024. They contend that the Respondents’ actions violate fundamental rights guaranteed by the Constitution, specifically Articles 15 and 20, which safeguard the right to travel and the freedom to practice religion, including the right to perform Umrah. The Petitioners further argue that neither sections 3 and 4 of the PTPA nor section 22 of the Emigration Ordinance are applicable in this case. Consequently, FIR No. 215/2024 is patently illegal.

5. This Court issued notice to the Respondents who have filed their para-wise comments.

6. The Deputy Attorney General submitted that Pakistan ratified the United Nations Convention against Transnational Organized Crime (UNTOC) in 2011 and, to fulfill its international obligations, enacted the PTPA and the Prevention of Smuggling of Migrants Act, 2018 (PSMA). Subsequently, the Federal Government, exercising powers under section 15 of the PTPA, framed the Prevention of Trafficking in Persons Rules, 2020, which were notified on 22.10.2020 (PTP Rules). Rule 2(1)(ix) of the PTP Rules defines “debt bondage” in a manner broad enough to encompass activities such as begging and forced begging.

7. The Deputy Attorney General apprised that during recent months, complaints have surged from various countries, particularly Saudi Arabia, Iraq, the UAE, and Malaysia, that Pakistani citizens go there and engage in begging. In September 2023, the Ministry of Overseas Pakistanis and Human Resource Development (MOP & HRD) informed the Senate Standing Committee that nearly 90% of deportations linked to begging charges involved Pakistanis.¹ The Director General of FIA took cognizance of the situation and directed FIA Immigration to act against criminal networks facilitating forced beggary and bonded labour. Reinforcing these efforts, the Ministry of Interior issued a directive [F.No.11/1/2024-Pass (P&C) dated 2.7.2024] titled “*Strict Action Against Begging Syndicates in the Kingdom of Saudi Arabia, Iraq, and Malaysia.*” This directive mandated strict measures against deportees found engaged in begging and against travel agents and syndicates supporting or coordinating such activities.

8. The Deputy Attorney General emphasized that, as a signatory to the UNTOC and to maintain friendly relations with countries that have specifically raised complaints against Pakistani citizens, the Federal Government must take measures to curb the outflow of beggars. To this end, all passengers travelling abroad are interviewed at immigration counters at airports. Particular attention is given to those travelling to Saudi Arabia, who must undergo comprehensive screening and profiling to verify their eligibility and authenticity as Umrah pilgrims or visitors. As part of this process, Umrah pilgrims are required to demonstrate possession of sufficient Saudi Riyals to cover their expenses. Failure to meet this requirement leads to further interrogation to ascertain their intent and prevent abuse of the system.

9. The Deputy Attorney General defended the registration of FIR No.215/2024, arguing that sections 3 & 4 of the PTPA and section 22 of the Emigration Ordinance, read with section 109 PPC, apply to the facts and circumstances of the instant case and have been rightly invoked

¹ According to the latest data submitted to this Court by the FIA, during last one year, a total of 4,663 Pakistanis were deported from various countries for involvement in beggary, with 4,347 of them being deported from Saudi Arabia alone.

against the Petitioners. He further stated that the Petitioners were found guilty during the investigation.

Opinion of the Court

10. Beggary is a complex social issue often rooted in poverty, lack of opportunities, and systemic inequalities. It typically involves individuals soliciting alms in public spaces, either as a means of survival or due to circumstances beyond their control, such as displacement, unemployment, or physical and mental disabilities. Despite being perceived as a societal concern, the approach to addressing beggary varies widely across legal systems and cultural contexts. Many jurisdictions criminalize the act, viewing it as a public nuisance or a reflection of societal decay. Conversely, some countries adopt a rehabilitative approach, focusing on providing education, employment, and social welfare programmes to reintegrate individuals into society.

The Punjab Vagrancy Ordinance 1958, and The Punjab Destitute and Neglected Children Act 2004

11. In Pakistan, the Sind Vagrancy Act of 1947 was the first law that addressed issues related to vagrancy, including beggary. It was repealed by the West Pakistan Vagrancy Ordinance of 1958, which became the governing framework on the subject. While Khyber Pakhtunkhwa replaced the Ordinance with its own legislation, Act No. VIII of 2020,² the other three provinces and the Islamabad Capital Territory continue to follow the 1958 Ordinance, incorporating amendments tailored to their specific needs.

12. Under section 2(g) of the Punjab Vagrancy Ordinance, 1958 (the “Vagrancy Ordinance”), a “vagrant” is defined as any person who solicits or receives alms in a public place, exhibits or exposes wounds, deformities, or diseases to evoke sympathy, allows himself to be used as an exhibit to solicit or receive alms, or enters private premises uninvited for such purposes. However, the definition excludes individuals collecting money, food, or gifts for purposes authorized under prescribed rules and duly certified. This nuanced definition ensures that the law targets exploitative or habitual practices associated with vagrancy while

² The Khyber Pakhtunkhwa Vagrancy Restraint Act, 2020

exempting legitimate charitable activities. The Ordinance adopts a balanced approach, combining punitive measures with welfare-oriented initiatives. It criminalizes vagrancy and provides for apprehending and prosecuting individuals identified as vagrants. Simultaneously, it incorporates mechanisms for their social and economic rehabilitation. Welfare homes established under the Ordinance are central to these efforts, providing housing, vocational training, and medical care to facilitate the reintegration of vagrants into society as productive members.

13. Section 9 of the Vagrancy Ordinance stipulates punishment for vagrancy, and section 10 for employing or causing persons to ask alms. Section 19 states that all offences under this Ordinance are cognizable and bailable.

14. The Punjab Destitute and Neglected Children Act, 2004, complements the Vagrancy Ordinance by focusing specifically on the protection and rehabilitation of destitute and neglected children. It defines such children to include those found begging or without a fixed place of abode.³ The Act establishes mechanisms for their rescue, protective custody, care, and rehabilitation, including the creation of child protection institutions and the appointment of child protection officers. Additionally, it criminalizes the exploitation of children for begging, imposing penalties on those who employ or use children for such purposes.

15. Part VIII of the 2014 Act criminalizes various acts of beggary involving children and prescribes punishments for such offences. Section 42 declares that all offences under the Act are cognizable and bailable.

16. Often, a person or a group of persons acting on behalf of one or more organized criminal groups use force, fraud, or coercion to exploit vulnerable people to solicit alms, turning them into instruments of profit under the guise of beggary. Victims – frequently children, women, the elderly, or those with disabilities – are subjected to appalling conditions. Many are abducted, trafficked, or forced into beggary, often under debt

³ Under section 3(1)(e) of the Punjab Destitute and Neglected Children Act, 2004, “child” means a natural person who has not attained the age of eighteen years.

bondage, where fabricated or inflated debts are used to exert control. Their handlers or creditors seize most, if not all, of their earnings, reducing them to modern slavery and stripping them of freedom, dignity, and autonomy.

The United Nations Convention against Transnational Organized Crime

17. The United Nations Convention against Transnational Organized Crime (UNTOC), also known as the Palermo Convention, adopted by General Assembly resolution 55/25 of 15 November 2000, is the leading international instrument in the fight against transnational organized crime.⁴ It entered into force on 29 September 2003, and nearly all UN member States are parties to it. The Convention aims to promote international cooperation, harmonize laws, and strengthen the capacity of States to combat transnational organized crime. It defines an organized criminal group as a structured group of three or more individuals working together to commit serious crimes⁵ for financial or material gain.

18. The UNTOC is supplemented by three Protocols, which target specific areas and manifestations of organized crime: The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition. Countries must first become parties to the Convention before they can accede to any of the Protocols.⁶

19. States that ratify UNTOC commit themselves to take a series of measures against transnational organized crime, including the creation of domestic criminal offences (participation in an organized criminal group, money laundering, corruption, and obstruction of justice); the adoption of new and sweeping frameworks for extradition, mutual legal

⁴ According to paragraph 2 of Article 3 of UNTOC, an offence is transnational in nature if: (a) It is committed in more than one State; (b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; (c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or (d) It is committed in one State but has substantial effects in another State.

⁵ Article 2(b) of UNTOC defines “serious crime” to mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;

⁶ UN Convention against Transnational Organized Crime and the Protocols thereto.
<https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>

assistance, and law enforcement cooperation; and the promotion of training and technical assistance for building or upgrading the necessary capacity of national authorities.⁷

Prevention of Trafficking in Persons Act, 2018

20. Pakistan ratified UNTOC in 2010. Although it has yet to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (TIP Protocol), it has taken significant legislative steps to combat trafficking in persons. It has enacted the Prevention of Trafficking in Persons Act, 2018 (PTPA) and the Prevention of Smuggling of Migrants Act, 2018 (PSMA).

21. For our present purpose, the PTPA is relevant. This Act comprehensively criminalizes human trafficking, encompassing recruitment, transportation, and exploitation of individuals through coercion, fraud, or abuse of power. Section 3 of the Act states:

3. Trafficking in persons – (1) Any person who recruits, harbours, transports, provides or obtains another person, or attempts to do so, for compelled labour or commercial sex acts through the use of force, fraud or coercion, commits an offence of trafficking in persons and shall be punished with imprisonment which may extend to seven years or with fine which may extend to one million rupees or with both.

(2) If the offence of trafficking in persons under sub-section (1) is committed against a child or a woman, the person who commits the offence shall be punished with imprisonment which may extend to ten years and which shall not be less than two years or with fine which may extend to one million rupees or with both.

(3) In this section:

(a) “coercion” means use or threat of use of force, or other forms of non-violent use of force including –

- (i) threat of harm to or physical restraint of any person;
- (ii) any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint of any person;
- (iii) threat due to the vulnerable position of a person; or
- (iv) psychological pressure; and

(b) “compelled labour” includes involuntary servitude, slavery or practices similar to slavery, or debt bondage and forced labour.

22. Section 4 of the PTPA outlines aggravating circumstances. It stipulates that where an offence under section 3 involves (a) serious injury, life-threatening illness, or death of the victim or another person; (b) activity of an organized criminal group; (c) confiscation or destruction

⁷ *ibid.*

of any travel document of the victim; or (d) repetition of the offence by the same offender; the offender shall be punished with imprisonment which may extend to fourteen years and which shall not be less than three years and fine which may extend to two million rupees. The Explanation to section 4 defines “organized criminal group” as a structured group of two or more persons, existing for a period of time and acting in concert with the aim of committing any offence under this Act, in order to obtain, directly or indirectly, any financial or other material benefit.

23. Section 5 of the PTPA addresses abetment and criminal conspiracy. Sub-section (1) provides that any person who participates as an accomplice, aids, or abets an offence under section 3 or section 4 shall be punished in accordance with Chapter V of the Pakistan Penal Code. Sub-section (2) specifies that any person who is part of a criminal conspiracy to commit an offence under section 3 or section 4 shall be punished in accordance with Chapter V-A of the Code.

24. The PTPA’s interpretation of “coercion” and “compelled labour” under section 3 is pivotal for understanding the scope of the Act. “Coercion”, as defined in section 3(3)(a) of the Act, encompasses a range of actions that control or exploit individuals through direct or indirect pressure. It includes threats of physical force, psychological means such as threats of harm or restraint, and non-violent methods like exploiting vulnerability or applying psychological pressure to create the belief that there is no option but to comply with the trafficker’s demands.

25. According to section 3(3)(b) of the PTPA, “compelled labour” includes involuntary servitude, slavery, or practices similar to slavery, or debt bondage and forced labour. The term “debt bondage” is defined in Rule 2(1)(ix) of the PTP Rules as follows:

(ix) “debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

26. It is significant that the definition of “compelled labour” in section 3(3)(b) of the PTPA is not exhaustive, which is reflected from the use of the word “includes”. It is well established that the words

“includes” or the expression “shall be deemed to include” in the interpretation clause of a statute are used to broaden the scope of a term, encompassing a wider range of situations beyond its conventional meaning.⁸

27. The terms “coercion” and “compelled labour” underscore the PTPA’s recognition of modern trafficking dynamics, where traffickers exploit vulnerabilities and systemic pressures rather than relying solely on physical force or overt abuse. By addressing these subtler forms of exploitation, the Act ensures a comprehensive response to trafficking in all its evolving manifestations. Section 3 of the PTPA, read with Rule 2(1)(ix) of the PTP Rules, aligns with Article 3(a) of the TIP Protocol, the internationally agreed definition of “trafficking in persons.”⁹

28. Under the PTPA, beggary does not inherently constitute trafficking unless it involves elements meeting the legal threshold of trafficking as stipulated in section 3(1), i.e., coercion, fraud, manipulation, or other forms of exploitation by a third party. Even when beggary is limited in duration – such as cases bound by visa restrictions – it can still be classified as trafficking under the PTPA if exploitative elements are present. The Act focuses on the methods and conditions of exploitation rather than the duration.

29. Importantly, even in cases of apparent voluntariness, economic exploitation such as compelled labour or debt bondage – where handlers exert systematic control over earnings or create economic dependency – can transform seemingly voluntary beggary into trafficking.

⁸ *Don Bosco High School v. The Assistant Director, E.O.B.I. and others* (PLD 1989 SC 128), *Mushtaq Ahmad v. The State* (1991 SCMR 543), *UCC Private Limited and others v. Deputy Commissioner, Lahore* (1999 MLD 1186).

⁹ Article 3(a) of the TIP Protocol states:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The intention behind the agreed definition is to facilitate convergence in national approaches regarding the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting trafficking in persons cases. (*Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto*, published by the United Nations Office on Drugs and Crime).

30. The determination of whether trafficking in persons exists within the meaning of the PTPA, particularly whether “coercion” or “compelled labour” is involved, is fundamentally a question of fact. Each case must be evaluated on its specific circumstances, evidence, and the intent of the alleged trafficker to determine whether the statutory definitions are satisfied. In the context of Pakistanis engaged in organized beggary abroad, if it is established that individuals are managed by groups that exercise control over their earnings, impose financial dependency, or restrict their autonomy to generate profit, such cases can meet the trafficking threshold under the PTPA.

31. Section 8 of the PTPA provides that the police shall investigate offences under this Act. However, if the offence involves the transportation of a victim into or out of Pakistan and this transportation constitutes a part of the transaction constituting the offence, the Federal Investigation Agency (FIA) shall investigate the matter.¹⁰ Rule 12 of the PTP Rules requires that all investigative actions under the Act follow a victim-centered and human rights-based approach, ensuring full compliance with the fundamental rights guaranteed by the Constitution.

32. Rule 4 of the PTP Rules outlines the guiding principles for the identification of victims of human trafficking. The language and tenor of Rule 4 suggests that the list is non-exhaustive.¹¹ Form 29.1, appended to the PTP Rules, provides a proforma for *Early Risk Assessment of a Victim or Possible Victim of Trafficking in Persons*.

33. The “prevention” of trafficking offences is a core responsibility of law enforcement. Since the FIA is a police force,¹² it is also vested with the powers outlined in section 54 Cr.P.C., which authorizes law enforcement officers to arrest a person (without a warrant)

¹⁰ The Federal Government established the FIA Immigration Wing in 1975. According to the para-wise comments submitted by the Respondents, it handles more than 22 million passengers in traffic at its 27 notified checkpoints/international borders.

¹¹ The United Nations provide a non-exhaustive list of indicators for identification of potential trafficking cases at <https://sherloc.unodc.org/cld/zh/education/tertiary/tip-and-som/module-6/key-issues/indicators-of-trafficking-in-persons.html>. Not all of the given indicators are present or obvious in every case. Equally, each of these indicators does not lead to a conclusion that a trafficking offence has been committed. It is a combination of indicators that will help to determine whether a person has been trafficked or not.

¹² *Makhdoomzada Syed Mushtaq Hussain Shah v. Additional Sessions Judge, Islamabad and others* (PLD 2013 Islamabad 26); *National Bank of Pakistan and other v. The State and others* (PLD 2021 Lahore 670); and *Munir Ahmad Bhatti v. Director, FIA Cyber Crime Wing, Lahore, and others* (PLD 2022 Lahore 664).

reasonably suspected of committing a cognizable offence or threatening public order or national security. These powers allow the FIA to take immediate action against individuals suspected of violating immigration laws or engaging in unlawful activities, such as human trafficking. However, the exercise of these powers is subject to legal safeguards to prevent misuse and ensure adherence to fundamental rights guaranteed by the Constitution. The FIA must justify arrests under section 54 Cr.P.C. based on reasonable suspicion supported by facts and must comply with procedural requirements, including producing the arrested person before a magistrate within 24 hours.

34. It is important to point out that a trafficking victim is a competent witness against the handlers. Under section 6 of the PTPA, a victim is not criminally liable for an offence under this Act but may become a witness in the case. This provision recognizes that trafficking victims are typically coerced into illegal activities, meaning their actions lack the element of *mens rea* and are a product of compulsion rather than voluntary criminal intent. By granting victims immunity from prosecution, section 6 reinforces the legal principle that individuals forced to commit unlawful acts under duress should not face criminal consequences. This approach is also consistent with international norms, such as the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, which advocates for the non-criminalization of trafficking victims. By ensuring victims are treated as witnesses rather than offenders, this provision strengthens the ability to prosecute traffickers while safeguarding the rights of victims.

35. Article 13(b) of the Constitution protects individuals from self-incrimination, stating that no one can be compelled to provide evidence against themselves. Section 6 of the PTPA aligns with the constitutional principle by ensuring that victims who may have been coerced into unlawful acts under conditions of exploitation are not prosecuted for those acts.

36. The distinction between the Vagrancy Ordinance and the PTPA must be maintained to ensure the proper application of the law, as each statute addresses distinct aspects of criminal conduct. As

adumbrated, section 3 of the PTPA applies when coercion, fraud, or exploitation by a third party is involved, focusing on systematic exploitation and control over victims. In the absence of such elements, the Vagrancy Ordinance may apply to the situation. Conflating these laws risks mischaracterizing activities and undermining their intent and effectiveness.

37. Section 3 PPC provides that any person liable under any Pakistani law for an offence committed beyond Pakistan “shall be dealt with according to the provisions of this Code for any act committed beyond Pakistan in the same manner as if such act had been committed within Pakistan.” This means that the PPC applies to define and punish such offences but also incorporates liability arising under any other Pakistani law. As discussed, under the PTPA, beggary alone does not fall within the scope of the law unless it involves elements meeting the legal threshold of trafficking as stipulated in section 3(1), such as coercion, fraud, or abuse of power. Therefore, even if the PTPA is not applicable, Pakistanis engaged in begging abroad, and their handlers can still be prosecuted under applicable Pakistani laws, such as the Vagrancy Ordinance, the Punjab Destitute and Neglected Children Act 2004, the Emigration Ordinance, 1979, or other relevant laws. Section 3 PPC ensures that such offences, regardless of where they are committed, are tried and punished as if they were committed within Pakistan, thereby maintaining accountability under the domestic legal framework.

The case at hand

38. Let us now examine the case at hand. I have outlined the details of the case earlier in this judgment. When the eight persons in question approached Respondent No.3 at Multan Airport for immigration clearance, their profiles raised suspicion due to irregularities such as insufficient financial resources (some carrying only 500 Riyals), unconfirmed return tickets, and mandatory hotel bookings. These facts, though indicative of potential misuse of visas, do not substantiate claims of compelled labour, debt bondage, or trafficking as required under sections 3 and 4 of the PTPA. They might align closely with offences

under the Vagrancy Ordinance, which addresses organized begging, but not the PTPA.

39. However, during baggage searches, authorities seized 900 boxes of “Captain” brand cigarettes and 70 boxes of Velo nicotine pouches. According to the Investigating Officer, such items are commonly associated with individuals travelling to Saudi Arabia under the guise of pilgrimage and subsequently engaging in organized beggary. The information obtained during the interviews, combined with the search findings, *prima facie*, pointed to offences under sections 3 and 4 of the PTPA. Consequently, the passengers were offloaded, and FIR No. 215/2024 was registered. In these circumstances, the registration of the FIR appears procedurally justified. Nevertheless, whether the case falls within the scope of the PTPA or the Vagrancy Ordinance requires further investigation and must be determined on the basis of evidence. The trial court will attend to this issue at the time of the framing of charge if the accused are challaned.

40. The Investigating Officer has apprised that during the investigation, the FIA collected evidence that the Petitioners were habitually engaged in sending innocent people abroad under the pretense of Umrah visas and exploiting them for begging.

41. The FIA has also booked the Petitioners under clause (b) of section 22 of the Emigration Ordinance, which stipulates that anyone who, for the purpose of providing, securing, or purporting to provide or secure employment for any person in a country outside Pakistan, without being authorized as a promoter, demands, receives, or attempts to receive any valuable consideration for themselves or others, shall be punishable with imprisonment for a term of up to fourteen years, a fine, or both. I have noted that when FIR No. 215/2024 was registered, there was no apparent justification for invoking this section. If, during the investigation, the Investigating Officer finds evidence of such an offence, he has the authority to incorporate it. Since the investigation is ongoing, I refrain from making further observations on this matter. The Investigating Officer is directed to consider this aspect when submitting

the report under section 173 Cr.P.C., and the trial court shall examine it when framing charges if the Petitioners are challaned.

42. The Petitioners argue that the actions of Respondent No. 3 violate their fundamental rights under Articles 15 and 20 of the Constitution, which protect freedom of movement and religion. While these rights are fundamental, they are not absolute and may be lawfully restricted under specific circumstances. International human rights law, particularly through instruments such as the ICCPR, recognizes these rights but also sets out permissible limitations to ensure public order, safety, health, and the protection of the rights of others. For example, the right to travel, whether domestically or internationally, can be restricted for reasons such as national security, public health concerns, or the requirements of criminal justice. Similarly, the right to practice one's religion, while protected, may be limited when it poses risks to public safety, morality, or infringes on the rights of others, such as in situations where religious practices conflict with health regulations or affect the welfare of vulnerable populations. Such restrictions must be necessary, proportionate, and applied without discrimination to ensure they do not unduly infringe upon individual freedoms. In *Pakistan Muslim League (N) and others v. Federation of Pakistan and others* (PLD 2007 SC 642), the Supreme Court of Pakistan emphasized that while fundamental rights are essential for personal autonomy and dignity, they operate within a balanced framework to harmonize individual freedoms with broader societal needs. It stated:

“The collective interests of the society, peace and security of the State and the maintenance of public order are of vital importance in any organized society. Fundamental Rights have no real meaning if the State itself is in danger and disorganized. If the State is in danger, the liberties of the subjects are themselves in danger. It is for these reasons that an equilibrium has to be maintained between the two contending interests at stake: one, the individual liberties and the positive rights of the citizen, which are declared by the Constitution to be fundamental, and the other, the need to impose social control and reasonable limitations on the enjoyment of those rights in the interest of the collective good of the society.”

43. Pakistan has a comprehensive legal framework to regulate the entry and exit of individuals, including both citizens and foreigners, at

its borders.¹³ Standing Order No. 31/2005 was introduced to streamline the duties of immigration officers at the country's international airports and provide clear job descriptions for their roles. This Standing Order empowers the *Special Checking Officer* to scrutinize passengers whose profiles appear inconsistent with their stated purpose of travel. By formalizing procedures, the framework aims to prevent arbitrary actions by immigration staff and protect passengers from unnecessary harassment.

44. In the context of human trafficking, the FIA must adhere to the PTP Rules. Recently, the FIA Risk Analysis Unit developed a standardized set of interview questions to assist immigration staff in identifying individuals suspected of travelling abroad for organized beggary. These questions were officially circulated through Letter No. FIA/IMMGN/RAU/2024/3010 dated 5.8.2024. This initiative serves a dual purpose: it aids in preventing individuals involved in such activities from leaving the country while also ensuring that immigration officers conduct screenings in a fair and non-arbitrary manner. It safeguards the rights of travellers, shields them from undue harassment, and fosters transparency and accountability in immigration processes.

45. In the present case, as discussed, Respondent No.3 was justified in offloading the eight passengers. His action aimed to protect the public interest and ensure compliance with international obligations.

46. The Supreme Court has consistently held that the High Court should not interrupt or divert the ordinary course of criminal procedure as prescribed by the procedural statute by invoking Article 199 of the Constitution or section 561-A Cr.P.C. The grounds ordinarily considered for quashing an FIR are: (a) a jurisdictional defect evident on record, (b) a patent violation of some provision of law, or (c) the allegations contained in the FIR do not constitute an offence. In **Bashir Ahmad v. Zafar-ul-Islam** (PLD 2004 SC 298), the Supreme Court underscored that determining the guilt or innocence of an accused person is a rigorous judicial process. This process begins with a pre-trial evaluation by a

¹³ The Passports Act 1974, The Passports Rules 2021, The Exit From Pakistan (Control) Ordinance 1981, The Exit from Pakistan (Control) Rules 2010, and various Standing Orders.

competent magistrate and proceeds through a detailed inquiry during the trial, where both the prosecution and defence are afforded comprehensive rights to present and challenge evidence. The Court cautioned against invoking section 561-A Cr.P.C. to prematurely decide criminal cases, as such a deviation risks undermining the purpose of a fair trial. It held that extraordinary circumstances must exist to justify departing from the prescribed procedural path.

47. In A. Habib Ahmed v. M. K. G. Scott Christian (PLD 1992 SC 353), the Supreme Court reaffirmed that justice demands a proper inquiry and trial if an offence appears to have been committed. It clarified that the inherent jurisdiction under section 561-A Cr.P.C. is not an alternative remedy but must be exercised sparingly and only when no other legal recourse is available. This principle was emphasized in Col. Shah Sadiq v. Muhammad Ashiq (2006 SCMR 276) and Dr. Ghulam Mustafa v. The State (2008 SCMR 76), where the Supreme Court held that the High Court should not short-circuit the trial process using constitutional or inherent powers except in extraordinary situations. It warned that premature intervention undermines the balance between judicial and investigative functions, potentially disrupting the due process of law.

48. In Ajmeel Khan v. Abdur Rahim (PLD 2009 SC 102), the Supreme Court highlighted that quashing an FIR during the investigation stage disrupts statutory police duties under sections 154 and 156 Cr.P.C. The Court reiterated that while the High Court may quash an FIR in cases of clear abuse of the legal process, it should avoid interfering with ongoing investigations or substituting its judgment for the investigative authorities. Such interference risks derailing the procedural integrity of the criminal justice system and undermining the principle of a fair and impartial trial.

49. In The State v. Chaudhry Muhammad Khan (Civil Petition Nos. 671-L & 672-L of 2017, decided on 27.9.2024), the Supreme Court held that the exercise of extraordinary jurisdiction to quash an FIR under Article 199 is permissible only in cases where the facts on record unequivocally demonstrate that no offence can be

established against the accused, or where the registration of the FIR reflects a misuse of legal authority or lacks sound legal justification. Allowing the prosecution to continue in such circumstances would constitute an abuse of the legal process, warranting the quashing of the FIR. Cases registered without proper authority or in clear violation of established laws must also be quashed to uphold the integrity of the judicial system. However, the Court emphasized that this jurisdiction should not be invoked if the allegations in the FIR establish a *prima facie* case against the accused.

50. Considering the case law discussed and the facts and circumstances of the case, there are no grounds for quashing the FIR. Hence, this petition is **dismissed**.

(Tariq Saleem Sheikh)
Judge

Naeem

Announced in open court on _____

Judge

Approved for reporting

Judge