

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

Present:

Mr. Justice Jawwad S. Khawaja  
Mr. Justice Khilji Arif Hussain  
Mr. Justice Sarmad Jalal Osmani  
Mr. Justice Amir Hani Muslim

**Criminal Original Petition No. 96 of 2012**  
**in SMC 16 of 2011.**

(Senator Haji Adeel v. Raja M. Abbas etc)

In Attendance: Mr. Waseem Ahmed, Home Secretary  
Mr. Fayyaz Ahmed, IGP Sindh  
Mr. Ali Sher, AIG (Legal)

For Federation: Syed Ashiq Raza, DAG  
Mr. Munir-ur-Rehman, DAG

For Home Secretary: Mr. Abid S. Zuberi, ASC

For Election Commission: Mr. M. Munir Parach, ASC

For the respondent (s): Mr. Abdul Fatah Malik, AG Sindh

Date of Hearing: 06.02.2013

**ORDER**

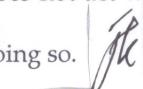
**Jawwad S. Khawaja, J.** This petition has been filed by one Senator Haji Adeel. According to the petitioner, the order which was passed in S.M.C. No. 16 of 2011 has not been complied with. We have heard this case at some length and wish to note some aspects of the matter for the record.

2. It has been stated before us by the senior functionaries of the police department of Sindh that rather than a reduction in lawlessness/killings in Karachi since the passing of our order dated 06.10.2011, there has actually been a marked increase in such lawlessness/killings. Just one indicator of this fact is that while there were 1800 killings in the year 2011, this figure spiked to more than 2300 for the year 2012. The aforesaid violence is continuous and results from reasons noted in our judgment dated 6.10.2011. This obviously presents a deteriorating law and order situation and constitutes a serious violation of fundamental rights of citizens, in particular Article 9 which imposes an obligation on the State and stipulates that "*no person shall be deprived of life or liberty save in accordance with law*". During the hearing of the case today it has become evident that there is insufficient will and allocation of resources to tackle the alarming situation prevailing in the city. *JK*

3. Another important and serious aspect of the case has been brought to our attention by the learned Advocate General. It has been pointed out that even though there appears to be a consensus among the officers of the police that with appropriate legislation including changes in the Arms Ordinance 1965, a number of ills prevailing in the City can be curbed. Mr. Niaz Khoso SSP specifically submitted that if appropriate legislation is made there will be a sharp decline in lawlessness because the police will then be adequately empowered to deal with situations which presently are beyond the pale of the law. The learned Advocate General stated that draft legislation has been prepared and has placed before us the proposed Sindh Arms Act. This draft legislation was proposed last year but has not as yet been enacted.

4. The subject of arms and their proscription/licensing falls within the provincial domain. This was also the case when the Arms Ordinance 1965 was promulgated under the 1962 Constitution. We were, therefore, quite surprised when the Home Secretary stated that he had written to the Federal Law Secretary on the subject. We fail to understand why this was done because there is no apparent constitutional basis for this strange step. The learned Advocate General also stated in clear terms that the subject falls within the remit and legislative domain of the province and according to his opinion, (already conveyed to the relevant quarters in government), the province is constitutionally empowered to legislate on the subject of arms. There, however, appear to be some reservations which we were not made aware of, which are a stumbling block in passing the appropriate legislation. It is for the government and the provincial legislature to proceed with the matter on urgent basis because Karachi city is in the grip of violence and lawlessness.

5. The Interior Secretary indicated that he had approached the Federal Law Secretary because uniform legislation, in his opinion, was required for the entire country. We are unable to understand the logic or the constitutional basis for this submission. As noted above and also confirmed by the learned Law Officer, the legislation has to be enacted by the provincial legislature and government regardless of laws prevailing in the other provinces. In fact the very basis of the federal structure of our Constitution will be negated if a province does not act within its own legislative domain simply because other provinces are not doing so.



6. Another alarming statistic which was brought to our notice during the hearing was that there are at present 22000 proclaimed offenders in the city of Karachi. The I.G. stated that there were in fact 40000 absconders while 9631 had been declared proclaimed offenders after proceedings under sections 87/88 Cr.P.C. With such a large number of absconders/proclaimed offenders it is but expected that the law and order situation in the city can only deteriorate further. When we asked the senior police functionaries to explain what action they have taken since our judgment in 2011 towards improvement of the law and order situation in Karachi, it became evident from their answer that nothing significant appears to have been done. We were told that there are only 250 investigating officers for the 5 districts of Karachi. It was acknowledged by the police functionaries that this figure was grossly inadequate because such a number could not even tackle the cases of absconders/proclaimed offenders mentioned above. It is obvious that there are many other criminal cases where challans have been submitted and where the accused are being prosecuted and for such prosecution also I.Os are responsible. It can, therefore, be inferred that with the existing level of human and other resources available for law and order since 2011, there is very little likelihood that the increasingly dismal situation in Karachi can improve.

7. Mr. Shah Khawar learned counsel on behalf of the IG states that the report which has been submitted in Court is not in a form which gives a separate analysis of actions/results in respect of each of the sub paras and directives given in para 131 of our judgment dated 6.10.2011. One of the senior police functionaries stated that resources for additional manpower for police had been sought. However, despite our repeated questions, the IG was unable to state when this requisition was made. He merely submitted that a budgetary allocation had been made for this purpose but conceded that nothing had been done in this behalf until November, 2012. We may note that this lack of action and initiative on the part of the police appears to be one of the major causes for the spike in lawlessness and the rise in killings from 1800 in 2011 to more than 2300 in 2012. Some mention was made of orders passed by the Election Commission of Pakistan in respect of fresh recruitments. This order, however, was



only made a couple of weeks ago and does not explain as to why no action was taken since 2011 when the Suo Moto notice was taken by this Court in SMC 16 of 2011.

8. We adjourn this case for hearing tomorrow i.e. 7.2.2013 when we will take up the parawise responses submitted on behalf of the respondents to the directives contained in para 131 of our judgment dated 6.10.2011.

*V. R. Khawaja*  
Judge

*Lashari*  
Judge  
*M. R. Bhatty*  
Judge  
*A. Rehman*  
Judge

**KARACHI, THE**  
6<sup>th</sup> February, 2013  
A. Rehman/\*

*A. Rehman*