

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT: Justice Muhammad Hashim Khan Kakar
Justice Ishtiaq Ibrahim

Criminal Petition No. 106/2023
(Against the order/judgment dated 06.12.2022
passed by the Lahore High Court, Lahore
in Crl. Revision No. 77288/2022)

Petitioner(s) Khalid Hameed	Versus Special Judge Anti Corruption Pakpattan Sharif, etc. Respondent(s)
For the Petitioner(s):	Malik Ghulam Mustafa Kandwal, ASC
For the Respondent(s):	Mr. Kamran Javed Malik, ASC <i>through V/L from Lahore</i>
For the State:	Mirza Abid Majeed, DPG, Punjab
Assisted by:	Aqib Aman, Civil Judge / Research Officer, SCRC
Date of Hearing:	17.11.2025

JUDGMENT

Muhammad Hashim Khan Kakar, J. Through this petition, the petitioner, Khalid Hameed, has impugned the order dated 06.12.2022 passed by Lahore High Court, Lahore whereby his revision petition against the order dated 03.11.2022 passed by Special Judge Anti-Corruption Court Sahiwal, Camp at Pakpattan was dismissed.

2. The matter originates from a private complaint filed by the petitioner, the son of Muhammad Sharif, before the Special Judge, Anti-Corruption Court, Pakpattan. The complaint invoked Sections 420, 467, 468, and 471 of the Pakistan Penal Code (PPC), read with Section 161 and Sections 5/2/47 of the ACE. The crux of the complaint is that the respondents No. 2 to 9 allegedly committed forgery and corruption qua material alteration of the parentage of the petitioner in his educational

documents, with the intent to deprive him of his rightful inheritance. Upon receipt of the complaint, the Special Judge observed that the real dispute centered on the paternity of the petitioner. Consequently, *vide* order dated November 3, 2022, the Special Judge directed the Circle Officer, Pakpattan, to arrange a Deoxyribonucleic Acid (DNA) test involving the petitioner and one Muhammad Haneef. The specific directive issued by the Special Judge was subsequently assailed by the petitioner through Revision Petition No. 77288 of 2022 before the High Court. The High Court, *vide* order dated 06.12.2022, dismissed the said revision petition, which order now stands impugned before this Court.

3. Having heard the learned counsel for the respective parties and having meticulously perused the entire record with their able assistance, we have incorporated and addressed the submissions and contentions raised during the course of arguments throughout the ensuing discussion and analysis within this judgment, thereby avoiding unnecessary repetition.

4. We have observed that the main allegation in the complaint of the petitioner was that the respondents No. 2 to 9 conspired and committed forgery and corruption concerning his educational documents regarding alteration of his parentage with intention to impede his right to inherit from legacy of his deceased father, Muhammad Sharif, despite earlier judicial admissions by some respondents acknowledging his paternity in collateral civil suits. The primary allegation is that respondent No. 2 illegally stopped fifth-class admission of petitioner at the behest of respondent No. 9, who disputed his parentage after having previously admitted it. The Courts below observed that the central issue is the disputed paternity of the petitioner. Record shows that the Special Judge Anti-Corruption Court noticed that while prior judicial admissions (duly referred and reproduced by Special Judge Anti-Corruption Court in his order dated 03.11.2022) exist, they are not conclusive proof of fact as those suits were dismissed as withdrawn without final adjudication on the issue. Identifying this fundamental dispute over parentage and the need for conclusive evidence, the Special Judge Anti-Corruption Court deemed it necessary to postpone the issue of process under Section 202

Cr.P.C. and directed the Circle Officer, Pakpattan, to facilitate a DNA test of the petitioner/complainant Khalid Mahmood, and one Muhammad Haneef to conclusively determine whether Muhammad Haneef is the biological father of the petitioner.

5. Having perused the entire record, this Court has reached the conclusive determination that the courts below have erred while observing that the real controversy revolved around the paternity of the petitioner. The contents of the private complaint explicitly allege specific statutory offenses, namely, forgery and corruption, against respondents No. 2 to 9, which constitute a separate and independent matter unrelated to the parentage of the petitioner. The allegations made do not rely on the resolution of the paternity issue of the petitioner. The alleged acts of forgery and corruption committed by the respondents are independent offenses under the statute book, and the commission of these offenses would stand independently regardless of the outcome of any determination of the parentage of the petitioner. Should the respondents wish to dispute the paternity of the petitioner, which may ultimately affect their rights, they must pursue appropriate legal remedies available to them under the law. Consequently, the DNA test ordered by the courts below is deemed irrelevant to the adjudication of the criminal complaint, as its result would have no bearing on the liability of respondents for the alleged acts of forgery and corruption.

6. This Court notes with serious concern that the High Court, in the impugned order, maintained the directive for a DNA test without citing any specific legal provision authorizing the compulsory execution of a DNA test upon an individual/the petitioner, without his express consent, in the context of a private complaint proceeding. The learned counsel for respondents also failed to cite any such legal provision. We are mindful of certain provisions contained in sections 53A, 164A and 164B of the Code of Criminal Procedure, 1898 requiring conduct of such DNA test and other connected tests, however, they are conducted only in cases of charges of committing an offence of rape, unnatural offence or sexual abuse or an attempt to commit rape, unnatural offence or sexual abuse under sections 376, 377 and 377B of the Pakistan Penal Code, 1860 and

the facts and circumstances in the instant case are entirely different. Reference in this regard is made to the judgment of this Court in the case of *Salman Akram Raja v. Government of Punjab* (2013 SCMR 203). The other relevant provision in this regard is Article 128 of the Qanun-e-Shahadat, 1984, however, the said provision is related to the law of evidence regarding conclusiveness of proof and not the procedure. In the instant case, the parentage of the petitioner has been *presumed to be disputed* by Special Judge Anti-Corruption Court without issuing process under section 202 of Cr.P.C. We find that the order directing a compulsory DNA test without consent in such circumstances constitutes a clear infringement upon the fundamental rights of the petitioner to liberty and privacy, as explicitly guaranteed by Articles 9 and 14 of the Constitution of the Islamic Republic of Pakistan.

7. The entitlement to personal sanctuary, recognized as the right to privacy, necessitates shielding individuals from undue encroachment into their private domains. This protection extends to personal data, communications, family life, and all facets of the personal sphere against unwarranted interference by the State or private entities. While intrinsically linked to the rights of existence and autonomy, the right to privacy has attained the status of a distinct and autonomous fundamental guarantee under Article 14 of our Constitution. Privacy signifies the ultimate honor of the human person, representing the essence of individuality. It secures a zone of choice and self-determination, allowing individuals to make intimate decisions without apprehension of surveillance or unauthorized disclosure. Reference in this regard is made to the judgment of this Court in case of *Muhammad Nawaz v Additional District and Sessions Judge and others* (PLD 2023 SC 461). In the case of *Benazir Bhutto v President of Pakistan* (PLD 1998 SC 388), this Court while citing the definition of the term "home" according to Ballentine's Law Dictionary, i.e. "*in ancient law French, the word (home) also signified a man*", also interpreted the right of privacy as follows:

"30. The inviolability of privacy is directly linked with the dignity of man. If a man is to preserve his dignity, if he is to live with honour and reputation, his privacy whether in home or outside the home has to be saved from invasion and protected from illegal

intrusion. The right conferred under Article 14 is not to any premises, home or office, but to the person, the man/woman wherever he/she may be.” [Underlined for emphasis]

8. The collection of DNA of an individual without due process of law fundamentally violates rights to privacy, autonomy, and personal liberty, as it entails the extraction of extremely sensitive personal information. This encroachment creates the significant hazard of misapplication or unauthorized dissemination of the individual's genetic blueprint, potentially yielding substantial negative ramifications for their personal and professional standing. The right to liberty, anchored in Article 9 of the Constitution, surpasses mere immunity from corporeal detention; it guarantees freedom from all arbitrary or purposeless restraints on individual autonomy which are inconsistent with public interest and legislative enactments. The demand of DNA testing by anyone at any stage, particularly to ascertain parentage, encroaches upon these rights, as genetic information contains comprehensive data concerning lineage and physical characteristics. Furthermore, both fundamental rights safeguard bodily integrity, securing an individual's power to manage their physical self and reject unsolicited medical procedures. Reference in this regard is made to the judgments of this Court in the cases of *Laila Qayyum v Fawad Qayum* (PLD 2019 SC 449), *Justice Qazi Faez Isa v President of Pakistan* (PLD 2021 SC 1), and *Muhammad Nawaz v Additional District and Sessions Judge and others* (PLD 2023 SC 461).

9. The imposition of a judicial order for a DNA test, without legal backing and consent, constitutes an act that extends beyond a mere procedural irregularity, inflicting far-reaching detrimental impacts on the life and dignity of the individual. The unnecessary public challenge to the paternity of a person inherently results in societal embarrassment, humiliation, and severe psychological stigma. The matter of challenge to paternity can never be taken lightly as the needless compulsion to submit an individual to a DNA test inherently raises serious allegations concerning the character and moral integrity of the mother, which this Court holds to be impermissible. Such a judicial act, lacking the requisite legal foundation, constitutes an unwarranted intrusion into the sanctity of family life and the reputation of a woman, which shall never

be tolerated under the guise of legal process. Such an invasive procedure, particularly when lacking legal foundation, directly contravenes the fundamental guarantee of the inviolability of the dignity of a person enshrined in Article 14 of the Constitution. By subjecting an individual to public scrutiny over the intimate aspect of his parentage without due process, the Courts effectively sanction an arbitrary restraint on his personal sphere, thereby violating his right to liberty under Article 9 of the Constitution and causing irreparable harm to his reputation and standing within the community.

10. In light of the above considerations we hold that the courts below have erred while directing DNA test of the petitioner and, therefore, the instant petition is converted into appeal and allowed by setting aside the impugned orders. The Special Judge Anti-Corruption Court seized with the matter is directed to proceed further with the matter strictly in accordance with the law without requiring such DNA test.

ISLAMABAD
17.11.2025
(Aqib Aman, RO)



Approved for Reporting