

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT: Justice Muhammad Hashim Khan Kakar
Justice Shakeel Ahmad
Justice Ishtiaq Ibrahim

Criminal Petition No.39-K/2025

(Against the judgment/order dated 07.02.2025
Passed by the High Court of Sindh, Karachi
In Criminal Bail Application No.2105/2024)

58/25

Syed Basit Hyder Taqvi

Petitioner(s)

Versus

The State

Respondent(s)

For the Petitioner(s):

Mr. Abbad-ul-Hussnain, ASC
(through V/L from Karachi)

For the State:

Mr. Khadim Hussain, A.P.G Sindh

Assisted by:

Mahnoor Omer, Law Clerk

Date of Hearing:

30.06.2025

JUDGMENT

Muhammad Hashim Khan Kakar, J. Through the instant petition for leave to appeal under Article 185 (3) of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner Syed Basit Hyder Taqvi has assailed the impugned order dated 07.02.2025, passed by the High Court of Sind at Karachi whereby his petition for concession of pre-arrest bail was dismissed.

2. Briefly, the case of the prosecution is that the complainant: Mustafa Hussain lodged an FIR stating that he is an advocate by profession and he was owed a professional fee in Special Case No.215/2015 by Syed Basit Hyder and Syed Ameer Hyder. The accused issued him cheque of three million while remaining 45 lacs through three other cheques which were sent to him through WhatsApp. The complainant is aggrieved by the dishonor of cheque No. 22308272 in the

amount of Rs. 30,00,000/- and three other cheques in the amount of Rs. 15,00,000/- that were issued by the accused for the purpose of fulfilling an outstanding financial obligation with respect to the payment of professional fees.

3. The matter before us concerns whether an advocate may initiate criminal proceedings against a client for failure to pay outstanding professional fees, particularly with reference to Section 489-F of the Pakistan Penal Code (P.P.C.). In addressing this question, the Court must consider the sanctity of the counsel-client relationship, the principle of privileged communication, and the legal implications that flow from the non-payment of fees by a client.

4. It would be pertinent to note that the learned counsel for the petitioner submitted a copy of the judgment dated November 7, 2024, in Constitution Petition No. D-2230 of 2024, which was passed by the learned High Court of Sindh. The judgment details the cases lodged by the Advocates against their clients, indicating the aforementioned trend. This is a significant development that necessitates immediate attention. The AIGP Legal report that was submitted to the High Court is reproduced below:

**REPORT OF FIRs LODGED BY THE ADVOCATES/LAWYERS AGAINST
(A) THEIR CLIENTS (B) THIRD PERSONS (C) POLICE OFFICIALS
FROM 01.01.2024 TO 31.10.2024**

S. NO	District	Against Their Clients	Against Third Persons	Against Police Officials	Total
1	CIA	-	-	-	-
2	CTD	-	-	-	-
3	East	3	73	1	77
4	Malir	3	106	2	111
5	Korangi	2	31	1	34
6	West	-	8	1	9
7	Central	1	14	-	15
8	South	-	32	-	32
9	City	5	185	4	194
10	Kemari		-	-	-

11	Hyderabad		26	1	27
12	Dadu		1	2	3
13	Thatta		6	-	6
14	Badin		2	-	2
15	Jamshoro		9	-	9
16	Matiari		-	-	-
17	T.A. Yar		1	-	1
18	T.M. Khan		6	-	6
19	Sujawal		-	-	-
20	Sukkur		6	-	6
21	Ghotki		17	1	18
22	Khairpur		20	-	20
23	Larkana		9	-	9
24	Kamber		9	-	9
25	Shikarpur		-	-	-
26	Jacobabad		2	-	2
27	Kashmore		-	-	-
28	Mirpurkhas		-	1	1
29	Umeerkot		2	-	2
30	Tharparkar		-	-	-
31	SBA		10	-	10
32	Sanghar		6	-	6
33	Naushero Feroz		-	-	-
	Total		581	14	609

5. The aforementioned data is not only alarming but also impedes the efficient administration of justice. The entire judicial system would undoubtedly collapse as a result of such a trend. The effective administration of justice is contingent upon the establishment of a relationship between counsel and client that is based on trust, mutual respect, and confidentiality. Throughout the world, the profession of advocacy is regarded as a noble profession, and it is incumbent upon each member of the bar to uphold the highest standards of professional integrity, confidentiality, and values. The Pakistan Legal Practitioners and Bar Councils Act, 1973 and its implementing rules have been established to safeguard this sacred relationship and maintain the purity

of the legal profession. These regulations also mandate a high level of professional integrity, confidentiality, and values. Rule 155 of The Pakistan Legal Practitioners and Bar Councils Rules, 1976 reads as under:

Rule 155. Controversies with clients concerning compensation are to be avoided by the advocate so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services. Any law suits with clients should be resorted to only to prevent injustice, imposition or fraud.

Similarly, American Bar Association Model Code of Professional Responsibility says as under:

EC 2-23. A lawyer should be zealous in his efforts to avoid controversies over fees with clients and should attempt to resolve amicably any differences on the subject. He should not sue a client for a fee unless necessary to prevent fraud or gross imposition by the client.

Likewise, Article 9 of the Qanoon-e-Shahadat Order, 1984 reads as under:

Art.9. Professional communications: No advocate shall at any time be permitted, unless with his client's express consent to disclose any communication made to him in the course and for the purpose of his employment as such advocate, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment: Provided that nothing in this Article shall protect from disclosure-

- (1) any such communication made in furtherance of any illegal purpose; or
- (2) any fact observed by any advocate, in the course of his employment as such showing that any crime or fraud has been committed since the commencement of his employment, whether the attention of such advocate was or was not directed to such fact by or on behalf of his client.

6. The counsel-client relationship is fiduciary in nature, as indicated by the combined reading of the aforementioned legal provisions. Any attempt to violate this trust by requiring a counsel to disclose privileged information or to initiate criminal proceedings against a client would be inconsistent with the principles of justice and fairness. In general, counsel is prohibited from initiating criminal proceedings against a client for non-payment of legal fees, as these disputes are civil in nature. The professional conduct emphasizes the ethical resolution of fee disputes through civil remedies or dispute resolution processes. In order to

prevent ethical violations, conflicts of interest, or reputational damage, counsel must exercise caution. Abuse of process is defined as the use of criminal proceedings or threats to secure payment. Lawyers are permitted to withdraw from representation for non-payment of fees after providing reasonable notice; however, they are prohibited from employing the prospect of criminal action to exert pressure on the Client.

7. It is important to note that in the present instance, if the client has failed to make the full fee payment, the amount may be recovered through civil remedies. However, the initiation of a criminal case against one's own client should only be considered in exceptional circumstances where no other remedy is available. A failure to pay for a service, such as legal representation in this instance, does not necessarily result in penal consequences. A state of consciousness that is culpable is the essential component of criminal liability. Dishonestly issuing a cheque is punishable with up to three years' imprisonment under section 489-F of the PPC, and the courts have consistently maintained that this offense necessitates rigorous examination. Alternative remedies are available under civil law, such as a claim for compensation for loss or injury resulting from breach of contract under section 73 of the Contract Act, 1872 and a suit for recovery under the Civil Procedure Code, 1908. The 489-F of the PPC provision is intended to function as a safeguard against fraud, rather than as a blade to enforce civil recovery. Mens rea (dishonest intent) must be established in order to incur penal consequences, and criminal proceedings under 489-F PPC must not be used as a substitute for civil remedies. (Reliance on 2023 SCMR 1948 and 2013 SCMR 51).

8. Before parting, it is necessary to acknowledge a worrying pattern that has come up. Increasingly, small groups of lawyers have begun to treat the criminal process as a tool for exerting pressure rather than as a mechanism for justice. Lawyers are not only representatives of their clients but also officers of the court and servants of the public interest. This dual role requires a careful balance between protecting a client's rights and upholding the integrity of the justice system. Unfortunately, recent practices show that this balance is at times being lost, for

instance, when advocates pressurize the police into lodging FIRs and act as pressure groups on matters that are essentially fee disputes or other civil controversies, thereby converting private disagreements into criminal cases. This practice corrodes professional standards, undermines public trust in the black coat, and, when coupled with a lack of careful scrutiny by law enforcement agencies, further erodes respect for the justice system. The credibility of the Bar rests not on the force it can apply, but on its adherence to law, ethics, and the confidence the public continues to place in it.

9. For what has been discussed above, we convert this petition into an appeal, allow it and set aside the impugned order. The petitioner is admitted to bail subject to furnishing bail bonds in the sum of Rs.200,000/- with one surety in the like amount to the satisfaction of the Trial Court.

Sd/- J

Sd/- J

Sd/- J

ISLAMABAD

30.06.2025

(Farrukh/Mahnoor Omer LC)

Approved for Reporting