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**IN THE HONOURABLE HIGH COURT OF SINDH AT KARACHI**  
(CONSTITUTIONAL JURISDICTION)

Constitution Petition No. 5920 of 2015

1. Kainat Soomro,  
D/o Ghulam Nabi Soomro,  
Muslim, Adult,  
R/o Apartment No. 223, Makki Apartment,  
Garden Road, Saddar,  
Karachi
2. Naseema Lubano,  
D/o Humzu Lubano,  
Muslim, Adult,  
Resident of Flat No. 598,  
Lubar Square, Landhi,  
Karachi
3. Benazir Jhatyal,  
D/o Muhammad Ali,  
Muslim, Adult,  
Currently residing in  
Panah Shelter Home,  
Darul Aman Premises,  
Plot No. ST-6, Block 10, Federal B Area,  
Karachi .....Petitioners

Versus

1. Province of Sindh  
Through the Chief Secretary,  
Government of Sindh,  
Sindh Secretariat,  
Karachi
2. Province of Sindh  
Through the Secretary,  
Ministry of Law,  
Government of Sindh,  
Sindh Secretariat,  
Karachi
3. Province of Sindh,  
Through the Home Secretary,  
Sindh Secretariat,  
Karachi.
4. Province of Sindh,  
Through the Secretary,  
Ministry of Health,  
Government of Sindh,  
Sindh Secretariat,  
Karachi

5. I.G. Sindh  
Sindh Police  
Police Head Office,  
I.I. Chundrigar Road,  
Karachi.....Respondents

**CONSTITUTIONAL PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973**

It is most respectfully and most humbly submitted on behalf of the abovenamed  
Petitioners as under:

1. That the present Petition raises substantial questions in relation to the role of the Provinces in the implementation of the guidelines provided by the Honourable Supreme Court of Pakistan in its landmark Judgment reported as PLJ 2013 SC 107 and for the implementation of other necessary steps for the effective investigation, prosecution and trial for offences of rape and sexual assault.
2. That the Petitioners are rape victims who are currently engaged in various legal proceedings in order to obtain justice against the perpetrators of the offence of rape. This Petition has been filed by the Petitioners not only in their individual capacity, but also in the public interest and on behalf of all victims of sexual assault and rape. The Petitioner No.1 was gang raped at the age of 13 [thirteen] in District Dadu in the year 2007. FIR No. 22 of 2007 was registered by the Petitioner No.1 at P.S. Mehar, District Dadu and Session Case No. 471 of 2007 [previously numbered as S.C. No.112 of 2007] proceeded before the Learned Additional Sessions Judge, Karachi (South). However, through Judgment dated: 06-05-2010, the accused persons in F.I.R No. 22 of 2007 and Session Case No. 471 of 2007 have been acquitted of all charges. The Petitioner No.1 has filed Criminal Acquittal Appeal No. 313 of 2010 which is pending adjudication before this Honourable Court.

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425,  
Annex F

A copy of the aforementioned FIR No. 22 of 2007 and Memo of Appeal No. 313 of 2010 is attached and marked as Annex 'A' to 'A-1'.

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3. That the ordeal of the Petitioner No.1 was not limited to her struggle in obtaining justice through Session Case No. 471 of 2007 but was extended to seeking protection from threats to her life and liberty. The local jirga at District Dadu declared her to be Kari, a "black female", having lost her virginity outside of marriage and was potentially subjected to 'Karo Kari' synonymous to honor killing. A harassment campaign has been initiated against the Petitioner No.1 and her family by the supporters of the accused and they were forced to flee from Dadu to seek protection for their life and liberty in Karachi and have the aforementioned Session Case No. 471 of 2007 [previously numbered as S.C. No.112 of 2007] transferred to the Learned Court Sessions Judge, Karachi (South) from Dadu by filing Criminal Transfer Application No. 55 of 2007.

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*A copy of the abovementioned Order dated: 13-08-2008 in Criminal Transfer Application No. 55 of 2007 is attached and marked as Annex 'B'.*

4. That the Petitioner No.2 is also a victim of gang rape which took place in Ubaro, District Gothki, Sindh involving more than Ten (10) accused persons. Whilst three (03) of the aforementioned accused absconded, the trial against the remaining accused proceeded, based on F.I.R. No. 07 of 2007, dated: 27-01-2007, in Session Case No. 472 of 2007 before the Learned Court of District & Sessions Judge, Karachi (South). Through Judgment dated: January 23<sup>rd</sup>, 2010, one of the main accused was convicted whereas the remaining other accused persons were acquitted. The Petitioner No.2 has filed Criminal Acquittal Appeal No. 80 of 2010 and the convicted accused has filed Criminal Acquittal Appeal No. 72 of 2010, against the Judgment dated: January 23<sup>rd</sup>, 2010, which is also pending before this Honourable Court. It is submitted that upon surrender of the absconders, a second trial proceeded on the aforementioned FIR, who were also acquitted through Judgment dated: May 05<sup>th</sup>, 2014. The Petitioner No.2 has filed Criminal Acquittal Appeal No. 161 of 2014 which is pending adjudication before this Honourable Court. It is pertinent to observe that during the course of her

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struggle to obtain justice, the Petitioner No.2 also faced serious threats to her life and liberty, forcing her to shift to Karachi and file a Criminal Transfer Application No. 56 of 2007 before this Honourable High Court for transfer of the case arising out of F.I.R. No. 07 of 2007 from the Court in Dadu to Karachi.

*A copy of the Judgment dated: January 23<sup>rd</sup>, 2010, Memo of Criminal Acquittal Appeal No. 80 of 2010, Memo of Criminal Acquittal Appeal No. 72 of 2010, Memo of Criminal Acquittal Appeal No. 161 of 2014 and Order in Criminal Transfer No. 56 of 2007 are attached and marked as Annex 'C' to 'C-4'.*

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5. That the Petitioner No.3 is also a victim of rape from District Dadu. It is submitted that FIR No. 323 of 2014 has been lodged by the Petitioner No.3 against the accused persons and Session Case No. 984 of 2014 arising out of the aforementioned FIR No. 323 of 2014 was pending before Learned Court of Sessions Judge, Dadu. It is pertinent to note that the accused persons in the aforementioned case are powerful and influential persons in District Dadu who have constantly been pressurizing and threatening Petitioner No.3 to withdraw the aforementioned case. Consequently, the Petitioner No.3 was compelled to leave her place of residence in Dadu and move to Karachi where she is currently seeking shelter in the 'Panah Shelter Home.' The Petitioner No.3 had filed Criminal Transfer Application No.1 of 2015 before this Honourable Court to have the aforementioned Session Case No. 984 of 2014 transferred from District Dadu to Karachi, which has been allowed.

*A copy of the abovementioned FIR No. 323 of 2014, Memo of Criminal Transfer Application No. 1 of 2015 and Order of the Criminal Transfer Application is—Annex 'D' to 'D-2'.*

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6. That the present Petition has been filed by the Petitioners in the public interest and as a class action with the aim of focussing attention towards illegal practices and the vacuum in the legal framework followed by the State, Police Officials, Prosecution and Medico-legal officers/medical practitioners in tackling with the trial and cases of rape and sexual offences, which eventually lead to a large number of acquittals. The Petitioners are also mindful of the necessity of the

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implementation of Judgement dated: 02-10-2012 of the Honourable Supreme Court in Constitution Petition No. 38 of 2012 reported as PLJ 2013 SC 107 and the redressal of procedural issues and legal complexities which include but are not limited to:

- (a) Social Stigma for the rape victim and the absence of environment at the Police Station for the lodging of FIR, resulting in a large number of victims not wanting to initiate legal proceedings;
- (b) Lack of medical facilities and absence of mandatory guidelines for Police Officials and Medical examiners/practitioners in ensuring that evidence of rape/sexual assault is preserved;
- (c) Lack of thorough and fair investigation resulting in absence or less evidence to incriminate the rapists;
- (d) Intimidating and lengthy procedure at Courts resulting in rape victim losing the strength to pursue the legal case and/or depose correctly in the Court;
- (e) Security threats to the rape victims by the rapists and their supporters to compel the rape victims to withdraw their cases;
- (f) Absence of sufficient bodies for ensuring counselling of the rape victims and for providing guidance and legal aid to assist the rape victims to initiate legal proceedings against rapists.

7. That according to the annual statistics released by Aurat Foundation for the Year-2014, six (06) women were kidnapped, four (04) were raped, three (03) committed suicide and six (06) were murdered in Pakistan everyday in the year 2014. The number of women raped or gang raped was alarmingly high in Punjab with 1408 reported cases. 85 women were raped or gang raped in Sindh, five (05) cases were reported in Khyber Pakhtunkhwa, four (04) in Balochistan and Thirteen (13) in Islamabad Capital Territory. The annual statistics of the previous years gathered by various organizations such as Human Rights Commission of Pakistan (HRCP) reveal more or around the same as the aforementioned figures. Reportedly, there is a rising number of cases of sexual assault and rape reported in hospitals but the percentage of cases in which FIR is lodged is minimal. The reason provided by various organisations is the attitude of the police personnel.

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faulty investigations and the difficulty in accessing and obtaining justice from the court. As a result, majority of the victims for rape and sexual assault opt for out of Courts settlements. In a discussion of the Senate Standing Committee on Law and Justice, held in June 2014, it was revealed that the conviction rate for rape cases filed over the past five years was zero in Islamabad. It is therefore, obvious that the rising rate of offences of rape and sexual assault with low to zero conviction rate is attributable to the failure in the implementation of necessary guidelines stated above and in Para 8 and 9 below.

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*A copy of the newsclippings and various reports revealing statistics for offences of rape and sexual assault are attached and marked as Annex 'E' to 'E-12'.*

- 8. That as evident by the Judgment reported as PLJ 2013 SC 107, the Honourable Supreme Court of Pakistan has, inter-alia, disposed off the Constitution Petition No.38 of 2012 in the following terms, but apparently, the guidelines provided in the aforementioned Judgment have not been followed by the State bodies resulting in a large number of acquittal of rapists:

"16. In view of the above proposals, the petitioner has prayed that following points may be approved and the concerned public authorities be directed to enforce them through the course of investigation and prosecution of all rape matters in Pakistan:--

- (a) Every Police Station that receives rape complaints should involve reputable civil society organizations for the purpose of legal aid and counselling. A list of such organizations may be provided by bodies such as the National Commission on the Status of Women. Each Police Station to maintain a register of such organization. On receipt of information regarding the commission of rape, the Investigating Officer (IO)/ Station House Officer (SHO) should inform such organizations at the earliest.
- (a) Administration of DNA tests and preservation of DNA evidence should be made mandatory in rape cases.
- (b) As soon as the victim is composed, her statement should be recorded under Section 164, Code of Criminal Procedure, 1898, preferably by a female magistrate.
- (c) Trials for rape should be conducted in camera and after regular Court hours.
- (d) During a rape trial, screens or other arrangements should be made so that the victims and vulnerable witnesses do not have to face the accused persons.

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(e) Evidence of rape victims should be recorded, in appropriate cases, through video conferencing so that the victims, particularly juvenile victims, do not need to be present in Court."

When we inquired from the learned Advocate General and Prosecutor General, Punjab etc. that as to whether they had any objection, if the petition is disposed of in the light of the above said recommendations/prayers.....Thus, the petition is disposed of in the above terms."

A copy of the Judgment reported as PLJ 2013 SC 107 is annexed and marked as Annex 'F'. → page 425

9. That, inter-alia, due to the brutal gang rape of a young woman in a public transport vehicle in the late evening of December 16, 2012, in India, and in response to a country-wide peaceful public outcry of civil society, led by the youth, against the failure of governance to provide a safe and dignified environment for the women of India, who are constantly exposed to sexual violence, a Committee was formed headed by Justice (Retired) J. S. Verma to recommend amendments to criminal law. Through their Report [herein after referred to as the "Verma Report"], a number of legislative, procedural and other changes have been recommended. It is most respectfully and most humbly submitted that the problems faced in India are similar to the problems faced by victims of sexual assault and rape in Pakistan and the proposed suggestions by the abovementioned Report, are also applicable to Pakistan. It is obvious and apparent from the procedures and practices followed upon institution of FIR and during the trial of rapists and perpetrators of sexual assault, which are eventually leading to acquittals necessitate thorough changes as those suggested in the aforementioned Report.

Handwritten notes on the right margin of paragraph 9, including "page 90", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55", "56", "57", "58", "59", "60", "61", "62", "63", "64", "65", "66", "67", "68", "69", "70", "71", "72", "73", "74", "75", "76", "77", "78", "79", "80", "81", "82", "83", "84", "85", "86", "87", "88", "89", "90", "91", "92", "93", "94", "95", "96", "97", "98", "99", "100".

A copy of the Verma Report of the Committee on Amendments To Criminal Law is annexed and marked as Annex 'G'. → page 455

10. That the general common experiences faced during the trial of Petitioner No.1 and No.2 and other victims of rape and sexual assault and studies and case research of various organizations including WAR, Aurat Foundation and Human Rights Commission of Pakistan (HRCP), suggest that if the following strict guidelines

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Police ...

and reforms are brought about by the Provinces in, inter alia, areas of Investigation and preservation of Medico-legal evidence and/or directions are provided to Police Officials, the positive increase in conviction rate of offenders of rape and fair and just trial of rape victims would become possible:

**Directions for and in respect of Police Officials:**

- i. Direct that every Police Station have a female police officer who must provide immediate assistance to the rape victim, which shall include, but not be limited to prompt and accurate registration of complaint and/or lodging of FIR, recording the reasons for the delay if any explaining delay in the lodging of FIR, preliminary inquiry/investigation, reference of the victim for medical examination at the earliest and preferably within 24 hours, preservation of any available evidence i.e. clothing and other articles, recording of verbatim statements of the rape victim and/or witnesses in private and preservation of semen sample(s) or any other material for DNA profiling;
- ii. Direct that legal assistance must be provided to the victim at the Police Station, where the victim must be provided with guidance and support by a female legal professional, who can guide the victim in getting her statement recorded;
- iii. Direct the Police Officials that the accused should not be brought in the presence of rape victim except for identification and if and where possible preference should be given to the use of cameras for the identification of the accused;
- iv. Direct the Police Officials that no victim of sexual offence shall be called or made to stay in the Police Station during night hours for any purposes, including but not limited to interrogation, identification of the accused etc and that the victim at no time shall be left in the company of male police officers alone without the company of at least one female police officer;
- v. Direct the Police to ensure that where it is difficult for the rape victims to return to the families or where the return to the family shall threaten the life of the victim or where the victim for any reason whatsoever refuses to return to her family, guardian or any person in power over her, the rape victim be referred to the "Rape Centres" or any other shelter for women, with proper protection for her life;
- vi. Direct that the Police should ensure that if and when the victim are referred to any shelter for women or any specific centre for protection etc they shall be provided with protection so that they could not be intimidated, pressurized, scared through threats or any mental or physical harm or coercion;
- vii. Direct that material including DNA and other samples be sent to the concerned Forensic Science Labs or DNA Profiling Centre within two days of the incident who would then perform the tests required within a reasonable period of time, without delay;
- viii. Direct that safety and protection of the rape victims and the material prosecution witnesses in rape and sexual offences be ensured by the SHO concerned, who shall personally attend to their complaints, if any;
- ix. Direct that Police Officials be given the periodical training to deal with rape cases which should include gender sensitisation programmes so that the Police Officer may have the required considerate approach for dealing with the rape victim;

**Directions for and in respect of Investigation of offences of rape:**

- x. Direct that the Investigation Officer should carry out investigation of the cases on a priority basis and complete the investigation preferably within ninety



days of the registration of the case. The investigation should be periodically supervised by senior officers before whom the victim can present any of their concerns regarding any of the aspects of investigation, which should be compulsorily and properly disposed of by the concerned senior officers;

- xi. Direct that the Investigation Officer should ensure that in no case the accused should get undue advantage of bail by default;
- xii. Direct the Investigation Officer to protect from publicity the identity of the rape victim, her family and of the witnesses in the case; Direct that no official of the Court, police or any prosecution or investigating authority shall release or talk about or comment about any aspect of the trial, in order to prevent the embarrassment caused to the victim through publicity either during or after the trial;
- xiii. Direct that the investigations for rape and sexual offences be supervised by the Additional Superintendent of Police of the district or any other officer of equivalent or higher rank;

**Directions for and in respect of preservation of medico-legal evidence:**

- xiv. Direct the setting up of special rooms in all Private and Government Hospitals for rape victims to be examined and questioned in privacy with facilities required to preserve the life of the victim and for her recovery at all times;
- xv. Directing that the sexual assault evidence collection kit or sexual assault forensic evidence (SAFE) kit consisting of items used by medical personnel for gathering and preserving physical evidence following a sexual assault be available with all the Hospitals;
- xvi. Direct that family member or any person identified by the victim be present during the medical examination so that the victim is reassured during the examination;
- xvii. Direct that doctor and medical professional with the help of the family members of the victim accompanying her, explain to the victim each step of the examination and why each step is important to the examination and that victim's choice in controlling the pace, timing and components of the examination be respected;
- xviii. Direct that the detailed description of "Assault/Abuse History" be mentioned by the attending doctor on the rape victim;
- xix. Directing that all hospitals should co-operate with the Police and preserve the samples likely to putrefy in their pathological facility till such time the police are able to complete their paper work for despatch of material to forensic lab test including DNA;
- xx. Direct that the Medical Examination Report should not be cursory but should contain particulars such as age of rape victim, question as to whether the rape victim was previously subjected to sexual intercourse, injuries to the body, general mental condition of the victim and other material particulars in reasonable detail. Further that Examination Report mentioning the time of examination should be sent to Investigation Officer without delay;
- xxi. Direct that the doctors should not, on the basis of the medical examination conclude whether rape had occurred or not and only medical findings should be recorded in the medical report as sexual assault is a legal issue and not a medical diagnosis;
- xxii. Direct that medical examination of a rape/sexual assault victim must necessarily take place under the supervision of a senior female obstetrician/gynecologist. In the event an obstetrician/gynecologist is not available, it shall be a senior female doctor who shall examine a rape victim. In order to ensure that there is consensus of opinion on the medical examination, a board of three doctors must examine a rape/sexual assault victim. The deliberations of the said board of doctors be recorded as an audio recording, which must be later made available to a court to satisfy itself that there has been a fair consensus in relation to the opinion formation as far as the victim is concerned.
- xxiii. Direct that specialized training programs be initiated for the Doctors who prepare Medical Examination Reports of the rape victims and/or conduct post

mortems to ensure that the Medical Examination Reports as well as post mortem reports are up to the mark and stand judicial scrutiny in Courts.

- xxiv. Direct that in case a person is arrested on a charge of committing an offence of rape and there are reasonable ground for believing that an examination of the said person will yield evidence as to the commission of the offence, a registered medical practitioner in a government hospital, shall undertake medical examination of the said person, upon a request filed by a police officer not below the rank of (SHO). The said examination shall be detailed and would include a description of the material taken from the person of the accused for DNA profiling. The same report with all details should also be forwarded to the Investigating Officer without delay.

**Directions for and in respect of Trial Courts:**

- xxv. Direct the Judicial Magistrates and Trial Judges to assume an inquisitorial role while proceeding with the trials, which includes but is not limited to placing due weight on the available evidence corroborating rape and to detach irrelevant facts from the relevant one suggesting occurrence of rape;
- xxvi. Direct that the Judicial Magistrates to send cases of offence of rape and sexual assault to the Court of Sessions expeditiously, preferably within 15 days of the filing of the Challan/Charge Sheet;
- xxvii. Direct that the rape victim be provided with a counsel of choice under all circumstances;
- xxviii. Direct that as far as possible chief examination and cross examination of the rape victim be conducted on the same day and preferably in camera as provided in the guidelines laid down by the Honourable Supreme Court in the case mentioned above and/or in Judge's chamber for the ease of the rape victim;
- xxix. Direct that the questions in cross examination involving sexual intercourse and the incident of rape are put to the rape victim in a simple language and in manner which would cause least embarrassment to the rape victim and to ensure that the victim is not concealing portions of the evidence for the reason that she is made to feel embarrassed of what had happened to her;
- xxx. Direct that the questions to be put in cross examination on behalf of the accused, in so far as they relate directly to the offence, be given in writing to the Trial Judge beforehand who may put them to the victim or witnesses in a language which is clear and is not embarrassing;
- xxxi. Direct that a panel of psychiatrists, psychologists and experts in sign language be maintained by all Judges who would assist in recording the statement of witnesses as and when requested by the Session Courts;
- xxxii. Direct that Court must effectively control the trial and the recording of evidence due to gravity of the situation and include only the most relevant questions and cross-questioning in the record and that too in a language, which is clear and suggests no innuendo or any language which might be variable construed;
- xxxiii. Direct that if brought to the notice of the Court that threats have been received by the rape victim or her family members to compromise the matter, the Judge shall immediately direct the concerned Police Station to look into the matter and submit report before the court within Two (02) days. The court must ensure that protection is provided to the victim and her family.
- xxxiv. Direct that an environment not intimidating for the rape victim is created by ensuring that the staff in the Court rooms does not misbehave or intimidate the rape victim;
- xxxv. Direct that as far as possible, the disclosure of the name of the rape victim be avoided and the anonymity of the rape victim be maintained.;
- xxxvi. Direct that persons not necessary for proceedings including extra court staff be excluded from the courtroom during the hearing;
- xxxvii. Direct the courts must take a participatory role in the trial and monitor the proceedings in aid of justice in a manner that something irrelevant to the case, is not brought to the record;

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- xxxviii. Direct that the trial not be prolonged and that barring exceptional circumstances, a maximum time period of two years be fixed within which the trial be concluded.

**Directions for Provincial Authorities:**

- xxxix. Direct that 'Rape Crisis Centres' as rehabilitation institutions and protected spaces for temporary stay and boarding of the victims be created which shall include trained women as doctors, nurses, counselling experts and psychologists to help provide support and the required care to the victim to effect her recovery;
- xl. Direct that costs of any medical bills for the psychological and gynaecological care of the victim be borne by the state or charged to the convicted after the conclusion of trial as arrears of land revenue;
- xli. Direct that media through self-regulation and state media regulatory authority ensure that untoward attention to the crime or the trial;
- xlii. Direct the provision of all necessary resources and finances to the Police Stations, hospitals and Trial Courts which are required for the implementation of the aforementioned directions.

It is most respectfully and most humbly submitted that other measures, or modifications to the above measures will also be made during the hearing of this petition.

11. That being aggrieved by the inactions of the Respondents in failing to ensure implementation of the aforementioned guidelines provided by the Honourable Supreme Court and/or take necessary actions in ensuring that Police Officials, Medico Legal Officers and Trial Courts effectively investigate, assist and adjudicate upon cases of rape and sexual assault, as being unconstitutional, without jurisdiction and illegal, the Petitioners have no alternative or efficacious remedy except to invoke the Constitutional jurisdiction of this Court on the, inter alia, facts and grounds stated herein.

**GROUND**

- A. That as evident from the abovementioned facts, a number of problems are faced by victims of sexual abuse in Pakistan which deprive such victims of a fair trial and just adjudication and which result in the perpetrators of heinous crimes getting away with their illegal acts. It is most respectfully and most humbly

submitted that there is an urgent need to address these issues so that the Petitioners and other victims of sexual abuse and violence are not deprived of their right to a fair and just trial, which is their constitutional right under Articles 4 and 10A of the Constitution.

- B. That the struggles of the Petitioners No.1 to No.3 in obtaining justice and the number of legal proceedings filed by them to, inter alia, ensure transfer of their cases from their hometowns to Karachi due to security threats to their life and liberty support the need of special measures for providing for the security of the rape victims. It is submitted that unless such measures are promulgated, the rape victims would continue to find it impossible to obtain justice and/or would be compelled to withdraw their cases, which will be in complete violation of the fundamental rights guaranteed under Article 4, 9, 10-A and 14, Constitution, 1973.
- C. That although the Honourable Supreme Court of Pakistan in its landmark Judgment dated: 02-10-2012 in Constitution Petition No. 38 of 2012 [reported as PLJ 2013 SC 107], has issued guidelines in relation to cases involving sexual assault and rape. However, these guidelines have not been implemented by the Respondents. Therefore, the enforcement/implementation of the Honourable Supreme Court's decision in the case reported as PLJ 2013 SC 107 by this Honourable Court is a mandatory requirement under Article 187(2), Constitution.
- D. That the fundamental right of equality of citizens includes gender equality which is only possible when there is protection for women from rape and sexual assault. The absence of sufficient measures to ensure protection from rape and sexual assault is clearly violative of the fundamental rights guaranteed under Article 25(3), Constitution, 1973.
- E. That the findings of the Trial Court in the Judgment dated: 23-01-2010 and Judgment dated: 05-05-2014 in Session Case No. 472 of 2007 in respect of the gang rape of Petitioner No.2 raises substantial questions on the findings of the

Trial Court, necessitating the implementation of guidelines of the Honourable Supreme as well as promulgation of special measures. The reliance on the evidence for the conviction of the main accused by the Trial Court but the failure to rely on the same evidence for the conviction of the co-accused clearly requires mandatory guidance for the Trial Courts. The reliance on the alleged fact that no weapons were recovered or footprints of the rapists at the residence of Petitioner No.2 were noticed despite the presence of the medical evidence and eye witnesses and the reliance on the fact that no marks of violence or any sort of high handedness were seen on the body of rape victim to implicate the accused persons in the sexual offences as opposed to settled law that the absence of marks of violence does not prove that rape had not occurred clearly suggest the need for mandatory directions to the Trial Court to examine and filter irrelevant facts from the relevant and the placing greater weight on the evidence suggesting the occurrence of rape. It is further submitted that the Trial Court had further given its own view detached from the reality that the Petitioner No.2 had failed to establish the motive behind the abovementioned offences committed and that it is impossible to believe that the accused persons would commit the abovementioned offences on the basis of minor disputes involving their children. Such findings clearly require the need to guide the Trial Judges to remain balanced and humane in their views towards rape cases and focus on the available evidence for rape. It is submitted that unless special reforms to address the foregoing are introduced, the rape victims would continue to find it impossible to obtain justice, which will be in complete violation of the fundamental rights guaranteed under Article 4, 9, 10-A and 14, Constitution, 1973.

- F. That the grant of the bail to the co-accused involved in the gang rape of Petitioner No.3, albeit the offence being non-bailable, prompts the need for Trial Court and Police Officials to ensure that in no case the accused gets the undue advantage of bail by default, hence, necessitating the need of mandatory guidelines in this respect.

- G. That it is settled principle that the sole evidence of the rape survivor/victim is enough for the conviction of the rapists and their abettors if it inspires confidence. The superior Courts have held that the evidence of the rape survivor could only inspire confidence if the statements made by her are consistent throughout the legal proceedings, which include statements made before the Police Officials, statements before the Magistrate and the statements made during the trial. It is submitted that in order for the evidence of the rape survivor to stand the aforementioned test, it is imperative that an empathetic environment is provided to the rape victim at the Police Station and Courts so that rape victims can testify against rapists and their abettors without missing out on any important fact out of fear and humiliation. In the absence of a conducive environment, which ranges from the presence of female Police Officers for inquiring from rape victims and the recording of statements of the rape victims on camera with the Trial Judge ensuring that questions are put to the rape victim in a simple language and in a manner which is of least embarrassment to the rape victim, the rape survivors are on most occasions unable to clear the aforementioned test. Hence, necessitating the need for reforms at Police Stations and Trial Courts to address the foregoing.
- H. That, inter-alia, due to the brutal gang rape of a young woman in a public transport vehicle in the late evening of December 16, 2012, in India, and in response to a country-wide peaceful public outcry of civil society, led by the youth, against the failure of governance to provide a safe and dignified environment for the women of India, who are constantly exposed to sexual violence, a Committee was formed headed by Justice (Retired) J. S. Verma to recommend amendments to criminal law. Through their Report, a number of legislative, procedural and other changes have been recommended. It is most respectfully and most humbly submitted that the problems faced in India are similar to the problems faced by victims of rape and sexual assault in Pakistan and the proposed amendments, as suggested by the abovementioned Report, are also applicable to Pakistan.

I. That it is most respectfully and humbly submitted that the Petitioners seek the indulgence of this honourable Court to raise further grounds at the time of the hearing of this Petition.

**PRAYER**

It is, therefore, most respectfully and most humbly prayed that this Honourable Court may graciously pass judgment and orders in the following terms:

- a. Direct the Respondents to implement the guidelines of the Honourable Supreme Court of Pakistan laid down in its Judgment reported as PLJ 2013 SC 107;
- b. Direct the Respondents to implement the steps as listed in Para 10 of this petition, with the modifications as directed by this Honourable Court;
- c. Direct the Respondents to establish a "Rape Crisis Cell" in all districts of the Sindh province for immediate medical relief, financial support, guidance and legal aid for rape victims and victims of sexual assault;
- d. Grant such further, additional or alternative relief, as this Honourable Court may deem fit and proper.

PETITIONER NO.1

PETITIONER NO.2

PETITIONER NO.3

## ADVOCATE FOR THE PETITIONERS

Karachi;

Dated: \_\_\_\_\_ 2015

DOCUMENTS FILED: As shown in the Petition

DOCUMENTS RELIED UPON: The abovementioned documents e.t.c.

ADDRESS OF PETITIONER: As per in title of the petition

ADDRESS OF PETITIONER COUNSEL: Mohamed Vawda  
Advocate  
HC- 14001  
F-66/3, Park Lane,  
Block-5, Clifton,  
Karachi.

DRAWN BY ME

ADVOCATE