

FCC Explains When Criminal Proceedings Must Wait for Civil Litigation

Pakistan's Federal Constitutional Court has held that parallel criminal and civil proceedings remain the general rule, but criminal and departmental action must wait where liability depends on a civil court first deciding the genuineness of disputed documents.

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THE HOLDING

Criminal and civil proceedings can ordinarily run at the same time, but a criminal court should wait where alleged criminal liability is dependent upon, or inseparably connected with, an issue already awaiting determination by the civil court.

Case reference

Case	Bakhtullah Shah and others v. Government of Khyber Pakhtunkhwa through Chief Secretary and others; connected petition by Mrs. Syeda Anjum
Proceedings	C.P.L.A. Nos. 1560 and 1971 of 2025
Court	Federal Constitutional Court of Pakistan
Bench	Justice Ali Baqar Najafi and Justice Syed Arshad Hussain Shah
Author judge	Justice Ali Baqar Najafi
Decision	24 March 2026
Status	Approved for reporting; reported citation not stated in the supplied copy
Result	Petitions converted into an appeal and disposed of with directions; criminal and administrative proceedings deferred until the Civil Court decides the disputed documents' veracity

Background: disputed teacher appointments in Bannu

The dispute arose from recruitment of female Theology Teachers and Arabic Teachers in Bannu. An advertisement was issued on 24 March 2010 and appointments followed in November 2011. The selection process generated repeated litigation over alleged fake certificates, appointments beyond the advertised vacancies, failed candidates, and the conduct of education officials involved in the process.

In an earlier round, the Peshawar High Court directed an inquiry into whether the appointments complied with law, the provincial merit policy, and the documentary record. The High Court later declared the impugned appointments illegal and directed a fresh selection process as well as action against responsible officials.

On 7 March 2018, the Supreme Court ordered the recruitment exercise to be undertaken afresh. Candidates who had qualified and held genuine certificates were to be appointed, their previous service was to be counted, and necessary age relaxation was to be granted to those who had become overage.

Further appointments and disputes followed. In proceedings decided on 16 December 2019, the Peshawar High Court left the validity of the certificates to the Civil Court and treated adverse consequences tied to alleged bogus documents as dependent upon that determination.

The challenged permission for criminal action

Departmental and anti-corruption proceedings were initiated against officers connected with the recruitment. On 17 January 2024, the Government of Khyber Pakhtunkhwa conveyed approval to the Anti-Corruption Establishment for registration of an FIR and arrest under rules 4(2)(b), 4(4)(b) and 9 of the Khyber Pakhtunkhwa Anti-Corruption Establishment Rules, 1999.

The officers challenged that letter in W.P. Nos. 152-B and 162-B of 2024. They argued that the proposed prosecution was premature because the Civil Court had yet to decide whether the certificates at the centre of the allegations were genuine.

The Peshawar High Court dismissed the writ petitions on 13 February 2025. Its judgment nevertheless recorded that an FIR, administrative action or anti-corruption proceedings could follow after the Civil Court decided whether the appointments rested on bogus degrees or otherwise violated law and merit.

The Federal Constitutional Court found that tension important. If the proceedings depended on the Civil Court's decision, the writ petitions should have been disposed of consistently with that condition instead of being dismissed in a manner capable of suggesting that immediate criminal action remained open.

The general rule: a civil case does not automatically stop a criminal case

The Court did not create a broad immunity from investigation or prosecution whenever a civil suit exists. It began from the opposite position: criminal proceedings should normally not be postponed merely because connected civil litigation is pending.

Civil proceedings enforce private rights and obligations; criminal proceedings determine penal liability and punish offences. A party cannot stop a genuine criminal case merely by filing a civil

suit concerning the same transaction. Without that qualification, every allegation involving a contract, property, document, employment record, or financial transaction could be reframed as a civil dispute.

The exception: when the civil decision controls criminal liability

- 1** criminal liability depends upon the result of the civil case;
- 2** the civil and criminal issues are so closely connected that separate findings may conflict;
- 3** proceeding first with the criminal matter creates a real danger of grave injustice or material prejudice;
- 4** the disputed issue, such as title or authenticity of documents, properly falls for determination by the civil court; and
- 5** the available record shows that continuation would amount to abuse of process or defeat the ends of justice.

The principle is fact-specific, not universal. A remote factual overlap is not enough. The court must examine the identity of the issues, the nature of the evidence, the stage and bona fides of the civil proceedings, and the actual risk of prejudice.

Section 561-A Cr.P.C. and the High Court's inherent power

The judgment recognizes that a High Court may use its inherent jurisdiction under section 561-A of the Code of Criminal Procedure, 1898 to stay criminal proceedings in an appropriate case. The power is discretionary and must be exercised to prevent abuse of process or secure the ends of justice.

The decisive question is not simply whether a civil suit was filed first. It is whether the criminal court would be forced to decide an issue central to, and properly awaiting authoritative determination in, the civil proceedings. A court considering a stay must also assess whether refusal would materially prejudice the accused and whether the civil litigation itself is genuine rather than a device for delay.

Why the disputed certificates were decisive

Here, the veracity of the educational certificates was not a secondary fact. It was the foundation for deciding whether appointments had been made on bogus documents and whether officials connected with those appointments could face criminal or departmental consequences on that basis.

The Civil Court was already seized of that precise issue under earlier High Court directions. Immediate criminal or administrative action could therefore have required another forum to determine genuineness first, creating the possibility of inconsistent findings and serious prejudice.

The Federal Constitutional Court consequently held that proceedings against the petitioners, whether criminal or administrative, could be initiated only after the Civil Court decided the veracity of the disputed documents and then only in accordance with law.

Authorities relied upon by the Court

- Muhammad Akbar v. The State and Maulvi Muhammad Yasin Khan, PLD 1968 SC 281
- Muhammad Moosa and another v. The State and another, 1987 SCMR 601
- Abdul Haleem v. The State and others, 1982 SCMR 988
- Akhlaq Hussain Kayani v. Zafar Iqbal Kiyani and others, 2010 SCMR 1835
- Ayaz Ahmad Khan v. The State, PLD 2011 SC 171
- Salman Ashraf v. Additional District Judge, Lahore, 2023 SCMR 1292
- Muhammad Aslam v. The State, 2017 SCMR 390
- Sajjad Hussain Mukhi v. The State, 2014 SCMR 1741
- Mirza Naseem Baig v. Muhammad Iqbal and another, 1981 SCMR 315

Read together, these authorities support a controlled exception. Simultaneous proceedings remain permissible, but a criminal court should stay its hand when an issue such as title, authenticity, or the legal basis of liability squarely belongs to pending civil adjudication and continuing would risk injustice.

What the judgment does not hold

- Filing a civil suit automatically stays an FIR, investigation, prosecution, or departmental inquiry.
- Every documentary dispute must first be decided by a civil court.
- Civil findings always bind criminal courts on every question.
- Allegations of mala fide alone are enough to invoke section 561-A Cr.P.C.
- The petitioners were finally exonerated on the merits of any future criminal or disciplinary case.

The direction was about sequence. Once the Civil Court determines the veracity of the disputed certificates, the competent authorities may act in accordance with that decision and the governing law.

Practical significance for lawyers and public authorities

For defence counsel, the judgment provides a structured basis for seeking deferment where the prosecution cannot establish its foundational fact without first resolving a pending civil issue. An application should identify the exact common issue, explain why it belongs to the civil court, show the concrete risk of conflicting findings, and establish prejudice or abuse of process. A generic assertion that the dispute is civil in nature will not satisfy the test.

For prosecution agencies and departments, the judgment does not prohibit parallel action as a matter of routine. It requires closer scrutiny where proposed action assumes the answer to a question already placed before a competent civil court. Authorities should separate independently provable misconduct from liability that rises or falls with the disputed civil determination.

For courts, the decision reinforces the need for precise operative orders. If proceedings are legally conditional upon a civil finding, dismissal of a petition without a clear protective direction can create uncertainty. The remedy should reflect the court's own reasoning.

Final outcome

The Federal Constitutional Court converted C.P.L.A. Nos. 1560 and 1971 of 2025 into an appeal and disposed of it. It directed that criminal or administrative proceedings against the petitioners could be initiated only after the Civil Court decided the veracity of the disputed documents and then in accordance with law.

The narrow but important rule is this: pending civil litigation is ordinarily no bar to criminal proceedings, yet the criminal process should wait where the civil court's determination supplies the indispensable foundation for criminal liability and proceeding earlier would risk conflicting judgments or grave injustice.

Source and verification note

This analysis is based on the official 11-page judgment in C.P.L.A. Nos. 1560 and 1971 of 2025, decided on 24 March 2026 and uploaded by the Federal Constitutional Court of Pakistan on 2 September 2026. The judgment is approved for reporting, but the supplied copy does not state a reported citation.

This article is independent legal analysis for general information and research. The official judgment, current statutory text, complete civil record, and subsequent proceedings should be verified before reliance in litigation.

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