

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Mr. Justice Jawad Akbar Sarwana

Cr. Misc. Appln. No.361 of 2025

Date	Order with Signature of Judge
Applicant / accused:	Sheikh Farzan Ahmed Mahmood through Mr. Nasir Rizwan, Advocate
Respondent No.1:	Mohammad Yousuf present in person
Respondent No.2:	Senior Superintendent of Police (Malir)
Respondent No.3:	Station House Officer (P.S. Sohrab Goth)
Respondent No.4:	The State through Mr. Tahir Hussain Mangi, APG Sindh
Date of Hearing:	26.08.2025
Date for Order:	29.08.2025

ORDER

Jawad Akbar Sarwana, J.: The applicant / accused Sheikh Farzan Ahmed Mahmood has filed this criminal miscellaneous application seeking what is described by the applicant/accused's Counsel in the said application as “quashment of proceedings” initiated against the applicant/accused. Counsel contends that although the applicant/accused's name was mentioned in the FIR, the challan submitted by the I.O. did not mention his name. Yet, the Magistrate proceeded to insert the applicant/accused’s name as an absconder accused in the impugned charge-framing order dated 08.10.2024. Applicant/accused Counsel argued that once the I.O. had dropped the applicant/accused's name from the relevant column in the final report/challan, no criminal proceedings could be sustained against the said applicant/accused by the trial Court.

2. Heard the learned Counsel for the applicant and the complainant present in person, as well as the learned APG Sindh.

The applicant/accused's name is clearly mentioned in FIR No.19 of 2024, registered under Sections 489-F and 420 P.P.C., registered at Police Station Sohrab Goth. A perusal of the final report submitted by the I.O. to the trial Court reveals that while the I.O. recorded the applicant's name as one of the co-accused mentioned in the FIR, the report does not disclose any further information concerning the said applicant/accused. The I.O. states nothing about the participation in and the role of the applicant/accused in the I.O.'s investigation. There are no remarks or conclusions drawn regarding the applicant/accused in the charge sheet submitted by the I.O.

As the applicant/accused was nominated by the complainant in the FIR as one of the accused, the I.O., as a part of his investigation, ought to have recorded some findings on the matter. When he failed to do so, the Magistrate could have overcome this lacuna at the time of framing the charge by way of passing a separate order, recording the reasons why the applicant/accused, who was nominated in the FIR was to be included in the charge; however, the Magistrate did not submit any reason, either. Instead, the Magistrate added the name of the applicant/accused as an absconder in the absence of any information from the I.O. and without articulating any reasons for inclusion of the applicant/accused in the charge-framing order, and adding sections 420 and 34 Cr.P.C. to the charge in addition to section 489-F Cr.P.C. mentioned by the I.O. in the final report/challan submitted by him to the trial Court.

By no stretch of imagination did the above actions trigger any cause for "quashment of proceedings" against the applicant/accused. Arguably, there may be an apparent inadvertent oversight by the I.O. and thereafter on the part of the Magistrate. As a potential lacuna, it was/is always curable. Even otherwise, the applicant/accused never challenged the charge framing Order before the trial Court. Instead, he chose to remain silent, took no action, and accepted the predicament of being

framed as one of the absconding accused in the crime. Thus, there is no ground for the applicant/accused to claim now that no proceedings lie against him in this Cr. Misc. Application.

Given the above, the Criminal Misc. Application is dismissed and the matter is remanded to the trial Court to pass a speaking order in terms of the provisions of the General Clauses Act and Section 190 Cr.P.C., as to the materiality of the applicant/accused's name to be added as one of the absconding accused and/or any other matter, which may require articulation of reasoning at the sole discretion of the Magistrate in terms of section 190 Cr.P.C.¹

The instant criminal miscellaneous application is disposed of in the above terms.

J U D G E

Asif²

¹ *Khadim Hussain v. The State and Others*, PLD 2025 Sindh 12