

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Misc. Application No. 434 of 2020**

<i>Date</i>	<i>Order with Signature of Judge</i>
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1. For hearing of Main Case.
2. For hearing of M.A No.10620/2020.

**11.03.2025**

Mr. Mudasir Iqbal, Advocate for the Applicant.  
Mr. Neel Parkash, Assistant Prosecutor General, Sindh.

-x-x-x-x-x-

Applicant Mehdi Ishaque is the complainant in FIR No.532 of 2020 registered with P.S Awami Colony, Karachi for offence punishable under Section 397, 100 & 34 PPC.

The brief facts as depicted in the impugned order, reads as under;\_

“Brief facts of the case are that the FIR has been registered against the accused namely Arshad @ Arshi S/O in connection to FIR No 532/2020 U/S 397 PPC in which complainant namely Mhendi Ishaq s/o M.Ishaq r/o H.NO N-465 Korangi No. 3 1/2 Karachi. Reported and stated he is working as a school administration at dated 21-10-2020 at 1020 hrs complainant reached at place of offence N-Area, Korangi No 3 ½ Karachi near Madni Masjid. Suddenly 2 unknown accused were coming on M/C duly with arms and snatched cash Cash:4000/- & Mobile Phone Cash:4000/- & Mobile Phone from complainant & his friends namely Yasir after snatching accused fired upon the complainant and his friend and then were escaping from the scene meanwhile the complainant fired upon accused in self-defense from his 9MM license pistol No:T-1102-13E-12499 which resulted, the back side accused got hit with bullet and fall down from Motorcycle, and co-accused also got hit with bullet and fall down from Motorcycle, and co-accused also got injuries and then escaped from scene by throwing his pistol on his motorcycle thereafter complainant inform the Police who after few minutes arrived on the spot meanwhile injured accused dead at the spot. D/O ASI Mumtaz Gondal search to dead accused and recovered one pistol 30 bor with 2 round alive and one pistol Co-accused snatching amount 2500/- one wallet contain Cash:1300/- & 2 CNIC Copy, one super market card 3 cordage 9MM one cordage 30 bor after legal proceedings dead body accused shifted to JPMC after postmortem MLO Dr Imran verify the dead of accused and shifted to dead body of accused by Ambulance No:240 driver Shokat in Cheapa Charnal House. Hence the FIR.”

Learned counsel for the applicant submits that the impugned order is illegal and unjustified for the reason that applicant/complainant has acted in his defense plea and accused sustained injuries. After usual investigation, the concerned police submitted challan against the accused and the I.O furnished his report that the applicant has acted in his defense, therefore, section 100 PPC was applied but the learned Magistrate has not considered all these facts and directed the I.O to register the FIR against the applicant/complainant for committing murder of deceased/accused Arshad @ Arshi as well as for causing injuries to the co-accused Khizaryuddin; that the learned trial Court has proceeded in the case and convicted the co-accused / respondent No.5 Khizaruddin and found him guilty and sentenced for seven years.

Learned counsel for the respondent is called absence without intimation. Same was the position of last three dates of hearing viz. 16.12.2024, 17.12.2024 and 16.01.2025.

Learned Assistant P.G, Sindh submits that since after full-fledged trial, respondent No.5 was convicted and sentenced for seven years, which shows that the FIR was lodged against respondent No.5/co-accused was justified, therefore, he does not support the impugned order dated 12.11.2020.

Heard learned counsel for the applicant, learned Assistant P.G, Sindh and perused the material available on record.

Per FIR, co-accused Khizaruddin along with co-accused deceased Arshad @ Arshi came at the scene and committed the robbery from the complainant. The complainant also possess a licensed weapon of 9 mm pistol and firing took place between the applicant and accused party where two persons from accused side had sustained fire arm injuries at the hands of complainant, in his self-defense. The plea of self-defense has been considered by the I.O and he furnished required report before the learned Magistrate against the accused in terms of section 173 Cr.P.C. I.O found incident as genuine and he considered the plea of self defense of applicant/complainant. From perusal of impugned order, it reveals that on one hand learned Magistrate has taken the cognizance against accused

for offence under Section 397 PPC and sent up case for disposal in accordance with law as the offence under Section 397 PPC is exclusively triable by learned Sessions Court. The case sent up for trial was proceeded against the accused and after a full-fledged trial, learned trial Court convicted respondent No.5/accused and sentenced him R.I for seven years. On the other hand, learned Magistrate directed the I.O to registered the FIR against applicant / complainant for committing murder of co-accused Arshad @ Arshi.

I am surprised with the order of learned Magistrate who denied the plea of self-defense and directed the SHO to register the FIR, without any substance and has not considered the fact that applicant had fired on the accused after the accused fired on him while fleeing after robbing the applicant, even otherwise two FIRs of the same incident cannot be registered in view of Sughra Bibi case registered in PLD 2018 SC 595. It appears that the order passed by learned Magistrate is unjustified and unwarranted, therefore, instant Criminal Revision Application is hereby allowed and the impugned order passed by learned Magistrate to the extent for registration of the FIR against the applicant / complainant, is hereby set-aside.

**JUDGE**