

# IN THE HIGH COURT OF SINDH AT KARACHI

## **Criminal Misc. Application No.872 of 2023**

The Applicant : Hyder Bukhsh Bozdar,  
Through: Mr. Ali Tahir  
Soomro, Advocate

The Respondent No.7 : Imtiaz Ali Umrani, in person.

The State : The State Through: Mr.  
Muhammad Mohsin. A.P.G.

Date of hearing : 02.02.2026

Date of Order : 02.02.2026

### **ORDER**

**Jan Ali Junejo, J**:- This Criminal Miscellaneous Application has been filed under Section 561-A Cr.P.C. by the applicant, seeking interference of this Court with the order dated 14.10.2023 (hereinafter referred to as the "*Impugned Order*") passed by the learned VIth Judicial Magistrate, Malir, Karachi, whereby the Final Report submitted in FIR No.155 of 2023, registered at Police Station Steel Town under Sections 448, 506 & 34 PPC, was approved as "C-Class" instead of "B-Class". The applicant prays for conversion of the said report into "B-Class" and for consequential action against the complainant.

2. Briefly stated, FIR No.155 of 2023 was lodged by respondent No.7/complainant alleging house trespass, criminal intimidation and common intention against the applicant and others with regard to a disputed plot situated at Saboo Khan Goth, Ghaghar Phatak, Malir, Karachi. During investigation, initially an "A-Class" report was submitted, followed by reinvestigation upon direction of the

learned Magistrate, culminating in submission of a "B-Class" report by a senior police officer. However, after hearing the parties and examining the record, the learned Judicial Magistrate, vide order dated 14.10.2023, disagreed with the police opinion and approved the Final Report as "C-Class", giving rise to the present application.

3. Learned counsel for the applicant argued that the impugned order is illegal, arbitrary and suffers from non-application of judicial mind. It was contended that two independent investigations categorically concluded that the FIR was false and malicious, yet the learned Magistrate unjustifiably converted the report into "C-Class". He further argued that the dispute, if any, was purely civil in nature relating to ownership and possession of property, that the FIR was lodged after an unexplained delay of more than one year and three months, and that documentary evidence conclusively established the absence of the accused at the alleged place and time of occurrence. He prayed that the impugned order be set aside to the extent of "C-Class", the report be converted into "B-Class", and proceedings be initiated against the complainant for lodging a false FIR.

4. Conversely, learned Assistant Prosecutor General as well as Respondent No.7 have supported the impugned order and argued that under Section 173 Cr.P.C., the opinion of the Investigating Officer is not binding upon the Magistrate, who is fully competent to agree or disagree with the police report. It was contended that the learned Magistrate thoroughly examined the police papers, statements recorded under Section 161 Cr.P.C., and surrounding

circumstances, and rightly concluded that the matter involved disputed facts warranting classification as "C-Class". Learned A.P.G. submitted that no illegality, perversity or jurisdictional defect has been pointed out in the impugned order so as to invoke the extraordinary inherent jurisdiction of this Court, and prayed for dismissal of the application.

5. I have heard the learned counsel for the parties at considerable length and have minutely examined the record available before this Court. At the outset, it is well-settled that the inherent jurisdiction under Section 561-A Cr.P.C. is to be exercised sparingly and only to prevent abuse of the process of the Court or to secure the ends of justice. This Court does not sit as a court of appeal over every interlocutory or discretionary order passed by a Magistrate unless the same is shown to be patently illegal, perverse, or without jurisdiction. A perusal of the impugned order reveals that the learned Judicial Magistrate has meticulously considered the allegations levelled in the FIR, the considerable delay in lodging the FIR, the nature of the dispute between the parties, and the documentary material collected during investigation. The learned Magistrate has rightly observed that the controversy revolves around possession and ownership of the disputed plot, which prima facie appears to be a civil dispute, and that the criminal machinery was set into motion after an inordinate and unexplained delay. It is further evident from the record that the learned Magistrate has exercised independent judicial discretion while disagreeing with the police opinion. The law is well settled that a Magistrate is not bound

to mechanically accept a Final Report submitted by the Investigating Officer and is fully empowered under Section 173 Cr.P.C. to accord or decline approval to such report after applying judicial mind to the material placed before him. The impugned order further reflects that the learned Magistrate did not find sufficient material to straightaway declare the case as false in terms of "B-Class", rather found that the allegations required adjudication in appropriate civil proceedings, thereby justifying disposal of the matter as "C-Class". This reasoning neither suffers from misreading of evidence nor from non-application of mind.

6. The applicant has failed to point out any legal infirmity, procedural irregularity or jurisdictional defect in the impugned order. Mere disagreement with the conclusion drawn by the learned Magistrate does not warrant interference by this Court in exercise of inherent jurisdiction.

7. In view of the foregoing discussion, this Court is of the considered view that the impugned order dated 14.10.2023 passed by the learned VIth Judicial Magistrate, Malir, Karachi, is legal, justified and based on sound reasoning. No case for interference under Section 561-A Cr.P.C. is made out. Consequently, the instant Criminal Miscellaneous Application being bereft of merits is dismissed along with all pending applications. These are the detailed reasons of the Short Order dated: 02-02-2026.

**JUDGE**