

## ORDER SHEET

### IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

*Criminal Misc.Application No.S-411 of 2025  
(Imdad Chandio Vs. The State & others)*

DATE	ORDER WITH SIGNATURE OF JUDGE
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*01. For orders on office objection "A"  
02. For hearing of main case.*

**15.06.2026.**

Mr. Farhat Ali Bugti, Advocate for the Applicant.  
Mr. Nazir Ahmed Bangwar, Deputy Prosecutor General.  
Khadim Hussain, Niaz Ali and Abdul Kareem, private  
respondents are present in person.

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**Ali Haider 'Ada' J:-** Through the instant criminal Miscellaneous application, the applicant/complainant has assailed the order dated 17.10.2025 passed by the learned Civil Judge & Judicial Magistrate-I, Warrah, whereby the report submitted by the Investigating Officer under "C" Class in Crime No.45 of 2024, registered at Police Station Gaji Khuhawar, for offences punishable under Sections 447, 506-II and 34, P.P.C., was accepted.

2. Briefly stated, the prosecution case is that the complainant claims ownership and possession of a plot bearing Survey No.75, situated in Deh Chak, Abad Tapa Jogi, Taluka Warrah, on the strength of title documents. It was alleged that the private respondents/accused persons unlawfully entered upon the said property, thereby committing criminal trespass, and also extended threats of dire consequences. Consequently, the complainant lodged the subject FIR. After conducting an investigation, the Investigating Officer submitted a report recommending disposal of the case under "C" Class, which the learned Judicial Magistrate subsequently accepted through the impugned order.

3. Learned counsel for the applicant contends that the learned Magistrate failed to appreciate the material collected during investigation in its true perspective. He submits that merely because no civil litigation was pending between the parties could not be a

valid ground for accepting the “C” Class report. In support of his contention, learned counsel has produced copies of the registered sale deed pertaining to the disputed property as well as a report issued by the Mukhtiarkar, which are taken on record.

4. The private respondents, appearing in person, opposed the application and submitted that they have been residing in the area for several decades and have never criminally trespassed upon the property in question.

5. On the other hand, learned Deputy Prosecutor General supported the impugned order and argued that the dispute essentially pertains to title and possession of immovable property, which matters are falling within the exclusive domain of the Civil Court.

6. Heard and perused the available record with their assistance.

7. A bare perusal of the impugned order reveals that the learned Judicial Magistrate primarily proceeded on the premise that questions relating to title and possession of immovable property are to be determined by the Civil Court. The learned Magistrate further observed that since no civil litigation was pending between the parties, the complainant had failed to establish his claim. Such reasoning, in the circumstances of the case, does not appear to be legally sustainable.

8. It is by now a settled principle of law that civil and criminal proceedings, where arising out of the same transaction, may proceed simultaneously. The mere absence of civil litigation does not ipso facto negate the commission of a criminal offence, nor does it deprive an aggrieved person of his right to invoke criminal jurisdiction. Criminal trespass is an offence recognized under the law, and its determination depends upon the facts and evidence available on record. Therefore, the absence of a civil suit could not, by itself, constitute sufficient ground for acceptance of the cancellation report.

9. Moreover, the complainant has produced prima facie documentary evidence in support of his claim, including a registered sale deed and official revenue record. Such material required proper consideration by the learned Magistrate before arriving at any conclusion regarding the acceptance of the “C” Class report.

10. The law further requires that while considering a cancellation report, the Magistrate must independently apply his judicial mind to the material collected during investigation. He is required to examine, inter alia, (a) the nature of allegations levelled against the accused persons, (b) the evidence collected by the Investigating Officer, and (c) the defence set up by the accused and the material produced in support thereof. The Magistrate is also under an obligation to thoroughly examine the police papers and record cogent reasons for accepting or rejecting the report. Reliance in this regard is placed upon the cases of **Bahadur and another v the state and another PLD 1985 SC 62** and **Madiha Ammad v. The State (2023 PCr.LJ 372)**.

11. In the present case, the impugned order does not reflect adequate consideration of the relevant material and appears to have been passed without examining the matter from the proper legal perspective. Consequently, the same warrants interference by this Court.

12. For the foregoing reasons, the impugned order dated 17.10.2025 passed by the learned Civil Judge & Judicial Magistrate-I, Warrah, is set aside. The matter is remanded to the learned Magistrate with a direction to reconsider the cancellation report afresh, after hearing all concerned parties and taking into account all relevant material available on record, and thereafter pass a reasoned order strictly in accordance with law. The instant criminal miscellaneous application stands disposed of in the above terms.

**JUDGE**