

ORDER SHEET
IN THE HIGH COURT OF SINDH
CIRCUIT COURT MIRPURKHAS

Criminal Misc. Application No.S-94 of 2026

DATE ORDER WITH SIGNATURE OF JUDGE

01.07.2026

Mr. Shanker Lal Meghwar, advocate for the applicants.
Mr. Aziz Ahmed Laghari, advocate for respondent No.1.
Mr. Dhani Bakhsh Mari, A.P.G.

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At the very outset, learned counsel for the applicants submits that he does not call for an elaborate adjudication of the instant Cr. Misc. Application, calling in question the order dated 25.03.2026, passed by the court of learned judicial Magistrate-I Mithi, taking cognizance of case against all the applicants/accused on a report u/s 173 Cr.P.C filed by investigating officer in connection with a case bearing Cr. No. 07/2024 for offences u/s 324, 147, 148, 149,506(2) 504, 114, 337 L(II), 337 A(i), 337 F(i) PPC of PS Jhun on merits, and that the grievance of the applicants would stand sufficiently redressed if the learned trial Court (Additional Sessions Judge-I Tharparkar @ Mithi) is directed to strictly adhere to the mandate of Section 265-D, Code of Criminal Procedure, 1898, while deciding the application already pending before it prior to the framing of formal charge.

For facility of reference, Section 265-D, Cr.P.C. provides:

“265-D. When charge is to be framed.—If after perusing the police report or, as the case may be, the complaint, and all other documents and statements filed by the prosecution, the Court is of opinion that there is ground for proceeding with the trial of the accused it shall frame in writing a charge against the accused.”

A plain and harmonious reading of the above provision makes it abundantly clear that the framing of charge is not a mechanical

or ceremonial exercise, but a judicial act requiring active and meaningful application of mind to the entirety of the material placed on record by the prosecution. The legislative intent is to ensure that an accused is not unnecessarily exposed to the rigours of a full-fledged trial unless there exists a prima facie basis, discernible from the police report under Section 173, Cr.P.C., the statements under Section 161, Cr.P.C., and the documents annexed therewith, to justify the commencement of such trial.

The Supreme Court of Pakistan has underscored that trial courts, when seized of criminal jurisdiction, are squarely obligated to adhere to Sections 265-C and 265-D, Cr.P.C., before initiating trial and framing charge, so as to meet the spirit of the criminal justice system and to guard against misapplication of penal provisions. In authoritative pronouncements discussing “framing of charge – discharge of accused – principles”, it has been emphasized that at the stage of Section 265-D, Cr.P.C., the court is not required to delve into the veracity of the evidence or admissibility of documents, as that would amount to holding a trial within trial; rather, the sole purpose is to ascertain whether the material provides a prima facie basis to proceed. If such basis exists, the court is obliged to frame charge and proceed with the trial, whereas Section 265-K, Cr.P.C., reserves jurisdiction to discharge/acquit an accused where there is no probability of conviction.

Learned A.P.G. as well as learned counsel appearing for respondent No.1 have fairly raised no objection to the submission advanced on behalf of the applicants and have supported adherence to the statutory scheme.

In view of the above legal position and with the consent of the parties, the learned trial Court is directed to decide the pending application strictly in accordance with law, by undertaking a careful, judicious and meaningful appraisal of the police report under Section 173, Cr.P.C., the statements recorded under Section 161, Cr.P.C., and all other documents placed on record. If, upon such examination, the learned trial Court forms the opinion that there exist sufficient grounds, within the contemplation of Section 265-D, Cr.P.C., for proceeding against the accused, it shall frame charge in writing in accordance with law and then proceed with the trial. Conversely, if the material falls short of the threshold required to justify the framing of charge against each of accused, the learned trial Court shall pass an appropriate order, including recourse to the jurisdiction available under Section 265-K, Cr.P.C., wherever warranted, strictly in consonance with the settled principles.

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

JUDGE

Adnan Ashraf Nizamani