

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI.**

**C. P. No. D – 1157 of 2020**  
**C. P. No. D – 1166 of 2020**  
**C. P. No. D – 1296 of 2020**  
**C. P. No. D – 666 of 2023**

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Dated                      Order with signature of Judge.

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Hearing of case  
For hearing of Main Case

07.02.2023.

Petitioner is present in person (C.P No. D-1166/2020).  
Mr. Zulfiqar Ali Langah, Advocate for Respondent No.1  
Mr. Muhammad Saleem Mangrio, Advocate along with Ms. Naseema Mangrio, Advocate for KPT along with Shuhab din Kalwar, Advocate.  
Mr. Muhammad Nizat Tanoli, Advocate.  
Mr. Hassan Akbar, A.G Sindh along with Mr. Shaharyar Mahar, and Muhammad Rafiq Rajorvi, and Meeral Shah, A.A.Gs.  
Kazi Abdul Hameed Siddiqui, D.A.G. along with Mubashar Mirza, A.A.G.  
Mr. Zulfiqar Ali Shah, Secretary Health, Govt. of Sindh along with Professor Naseem Ahmed.  
Mr. Mukhtiar Ali Abro, Deputy Commissioner, Keamari.  
Mr. Ghulam Nabi Memon, I.G.P Sindh, along with Mr. Qamar Raza Jiskani, AIGP Legal; Mr. Irfan Ali Baloch, DIGP, South Zone, Karachi Range; Syed Saleem Shah, SP Investigation-III, District Keamari; DSP Zubair ul Islam, I/O in C.P No. D-1157/2020; SIP Wazir Ali Bugti, I/O in C.P No. D-666 of 2023 and Raza Mian, DSP Legal.

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A Progress Report has been under the signature of DSP Zubair ul Islam, Investigating Officer, Investigation-III, District Keamari, in C. P. No. D-1157 of 2020 and connected matters relating to the incident that took place in the Keamari area of Karachi in the year 2020, where it has been stated *inter alia* that:

“It is respectfully submitted that on 17th day of February 2020, SHO/ PI Adil Khan of Jackson P.S lodged a case vide FIR No.143/2020 u/s 322/337-J/284 PPC at Jackson P.S, while he was patrolling in the area when received information that in the locality of Jackson, Railway Colony, Bhutta Village Docks Colony, Kachi Para and adjacent areas, peoples were affected due to some unknown poisonous gas and chemical smell in atmosphere and they were being taken and shifted to various hospitals. Reportedly, after inhaling toxic gas, residents had complained of experiencing breathing difficulties, "burning sensation in the nose", watery eyes and itching in the throat. Approximately 537 peoples were affected. Out of them, 09 people died. Hence the said case / FIR was registered against unknown accused persons.”

...

The aforementioned Report goes on to state that in continuation of the investigation of that case, five more FIRs/cases came to be registered at PS Jackson u/s 322/337-J/284 PPC, bearing FIR Nos. FIR Nos.167/2020, 168/2020, 169/2020, 170/2020 and 171/2020, with it being submitted on the subject of the investigation conducted in those cases as follows:

“1. Post Mortem:-

That the 10 requested the Ziauddin, KPT, Civil and Keamari & other Hospitals for Post Mortem of the deceased bodies. However, the legal heirs of the deceased did not allow post mortem to be carried out. Such entries and statements of the heirs of few of the deceased are attached as Annexure--A.

2. Post Mortem was carried out of an unknown dead body, which was found from the affected area. Dead body was shifted to Edhi Cold Storage, and later on, the same was identified as Ali Gul Ujan. According to Post Mortem report, the cause of death reproduced as under;

***"Respiratory depression due to ingestion of drug of dependence (morphine) possibly over dose, leading to Cardio Respiratory failure and subsequent death"***

3. Exhumation:-

Later on, during the course of investigation, I/O obtained permission from the Court for exhumation to ascertain the cause of death of other remaining dead persons. A letter in this regard was sent to Police Surgeon dated 18.04.2020, but Police Surgeon offered his opinion, reproduced as under:-

"Due to poisons gas inhalation, the cause of death is not likely to be ascertained on exhumation after such as long passage of time. Gases are volatile and do not persist in body after death" The copy of such reply is attached as Annexure-----B.”

[underling added for emphasis]

A perusal of the underlined excerpts from the Report reflects a distinct lack of initiative in the collection/securing of evidence. Needless to say, when a suspicious death occurs, acceding to the wishes of family members does not serve the ends of justice and requirements of S.174 Cr. P.C. Indeed, the body of the deceased is often a valuable repository of evidence, that could serve a critical purpose when presented in Court. As such, to treat a post-mortem as a matter of choice rather than a mandatory requirement could undermines the future course and outcome of an investigation and trial. The learned AG and the AIGP Legal are put on notice to assist us in this regard on the next date. Let notice also be issued to the learned Prosecutor General Sindh, alongwith a copy of this order for rendering his assistance on such score.

As to the unfortunate fatalities that have occurred more recently in the Keamari area, as are the subject of C.P No. D-666 of 2023, the AIGP Legal has filed a Report which reflects that one Khadim Hussain had registered a case on 28.01.2023 in respect of the death of 4 family members, who are said to have passed away between 12<sup>th</sup> to 21<sup>st</sup> January, 2023. The case is said to have been assigned for investigation to SIP Wazir Ali Bugti, and of the deceased, the corpse of one Aleem was apparently sent to the hospital for post-mortem, whereas the bodies of the other 3 deceased are said to have already been buried, hence applications for their exhumation have been filed before the concerned Magistrate and once the necessary order(s) is/are passed, further action towards conducting the post mortems would be taken in accordance with law.

On query posed, the IGP Sindh submits that apart from the aforesaid 4 persons, there are media reports that 13 to 14 other persons have also lost their lives under similar circumstances, however no one has come forward as yet for registration of a case in that regard. He submits that the police have made efforts in approaching the relatives of some of those persons for ascertaining the relevant particulars, including the place of their burial. However, when asked as to why cases had not been registered as yet by the State for purpose of due investigation even if the relatives were unwilling to come forward, no proper explanation was forthcoming. Nor was any explanation forthcoming as to why action had not been taken if it was apprehended that the conduct of such persons was impeding the course of justice. On the contrary, Mr. Mukhtiar Ali Abro, Deputy Commissioner, Keamari, who is also present in Court, submitted that no persons other than the 4 relatives of Khadim Hussain had lost their lives, and sought to portray the incident as having been blown out of proportion by the media. Needless to say, such a statement is quite startling and runs contrary to the statement of the IGP, with the repeated lack of initiative shown to date in the matter of this second spate of fatalities posing a significant cause for concern. However, the IGP assures us of greater clarity and progress before the next date and undertakes that, if warranted, further cases would be registered on behalf of the State without undue delay, with consequent action

being taken in accordance with law. The IGP is directed to ensure that all necessary measures are taken for registration and proper investigation of all related incidents in accordance with best practices and that the aforementioned case along with such other cases as may be registered are assigned to a senior officer not below the rank of ASP.

To come up on 20.02.2023, when further progress reports are to be submitted. Office to place copy of this Order in the connected Petitions.

Chief Justice

Judge

TariqAli/PA