

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI
Cr. Misc. Application No.284 of 2018

Date: Order with signature(s) of the Judge(s)

1. For hearing of main case
2. For orders on MA No.10489/2022

17th May 2023

M/s. Nasrullah Korai & Abbadul Hasnain, Advocates / Amicus Curiae
Mr. Ameeruddin advocate for University of Karachi.

Mr. Ali Zardari, AAG.

Mr. Saleem Akhtar Buriro, Additional P.G.

Mr. Rajesh Kumar, Law Officer, STEVTA, Engineer Liaquat Ai Jamro,
Director Academics and Training, STEVTA.

Dr. Qamarul Arifin, Executive Director, Mr. Muhammad Fahim,
Director Planning and Development, Syed Irfan Hassan Zaidi,
Lecturer, Muhammad Talha Farooqi, Digital Forensic Trainer and
Kanwal Zehra; International Institute of Digital Forensic Science and
Technology.

Mr. Abdul Fattah, Law Officer, School Education Department,
Government of Sindh.

Mr. Mushtaq Abbasi, AIG Legal, Mr. Raza Mian, DSP Legal, Focal
Person to IGP Sindh, Mr. Muhammad Shahid, DSP/Legal South Zone,
Mr. Khalid Javed, DSP Investigation-I, South, Mr. Amanullah,
DSP/SDPO City, Mr. Malik Tariq, DSP in Training Development Unit,
Ex-Faculty, NPA, Muhammad Ashraf Rajput, PDSP & Muhammad
Ramzan Jamari, DSP/SDPO, Orangi Town, District West and Inspector
Anwar ul Islam, Focal Person on behalf of SSP District Central,
Karachi.

Salahuddin Panhwar, J:- Pursuant to order dated **17.04.2023** Secretary to
Government of Sindh School **Education** & Literacy Department submitted his
compliance report, which is reproduced herewith for ready reference:

*“In compliance with the aforesaid order, this department has already
constituted the Technical Working Committee vide Notification
No.SELD/CA/533/ 2023 dated: 07.03.2023. Subsequently, the meeting,
was held under the chairperson of the committee Chief Advisor
(Curriculum Wing) School Education & Literacy Department,
Government of Sindh. In this regard, the decisions / actions taken are
as under:*

1. *The subject "Internet of Things" will be introduced in 250
public sector High Schools from Grade-VI and later the
number of schools and the courses offered in each school will
be increased.*
2. *JICA will assist in alignment of topics of IOT according to the
grades from VI - X and will facilitate the integration of topics
in the existing ICT subject in grade VIVIII.*

3. *DCAR and Chief Advisor (Curriculum Wing) will conduct a follow-up meeting with relevant stakeholders, to explore suitable implementation and assessment mechanism.*
4. *JICA representative will share the Scheme of Studies.*
5. *The JOT course will start from coming academic cycle and will be offered simultaneously to students of grade-VI under middle-tech stream and grade-IX students under matriculation.*
6. *SELD will explore technical support of private sector members, in creating pool of trainers and the training process will be cascaded to IT teachers in 250 schools.*
7. *The nomenclature / rules of relevant posts of technical education is under process in department which will be finalized and submitted further compliance report before long with the consultation of department of regulation wing of Govt. of Sindh and Finance Department.*

In view of above compliance report, it is prayed before this Hon'ble Court that the instant Cr. Misc. Application may kindly be disposed of in the interest of justice”.

This is appreciated and the Secretary School Literacy Department is further directed to ensure that earlier **directions**/undertaking are being implemented from education year 2023/2024. Besides, the Secretary Education Department shall seek *expertise* from Dr. **Qamarul Arifin**, Executive Director and **Syed Irfan Hassan Zaidi**, Lecturer; International Institute of Digital Forensic Science and Technology, who are *experts* in **digital forensic education** as well as trainers. Needless to mention that **STEVTA** and Sindh Police are benefited from their expertise.

2. Secondly, in pursuance of **directions** to the District Courts the report has been filed regarding number of **cases** kept as dormant **files** as well as number of **witnesses** against whom proceedings under Section **87 & 88** Cr.P.C have been initiated. The **Chart** as compiled by **MIT-II** reflects as under:

Sr.#	Name of District	Number of dormant cases (w.e.f. 01.01.2016 till date)	Number of cases in respect of heinous crimes in which witnesses failed to appear (w.e.f. 01.01.2016 till date)
1	Karachi-South	6607	4
2	Karachi-West	6137	NIL
3	Karachi-East	7730	2
4	Karachi-Central	4209	NIL
5	Karachi-Malir	4254	NIL
6	Hyderabad	1154	22
7	Thatta	67	NIL

8	Badin	234	NIL
9	Dadu	442	70
10	Jamshoro @ Kotri	427	11
11	Mithi @ Tharparkar	38	1
12	Mirkurkhas	331	NIL
13	Umerkot	76	NIL
14	Sanghar	378	8
15	Naushahro Feroze	318	NIL
16	Shaheed Benazirabad	1142	35
17	Sukkur	1075	84
18	Khairpur	899	229
19	Ghotki	467	78
20	Larkana	1050	156
21	Kamber Shahdadkot	434	68
22	Shikarpur	468	139
23	Jacobabad	428	73
24	Kashmore @ Kandhkot	1355	107
25	Tando Allahyar	55	NIL
26	Tando Muhammad Khan	54	NIL
27	Matari	261	8
28	Sujawal	48	3

3. **Perusal** of details submitted by learned **MIT-II** reflects that in two division i.e. **Larkana** and **Sukkur** around **600** murder cases are on dormant files, meaning thereby, those **cases** have not been **adjudicated**, rather have been left on the mercy of **Sardars** to **decide** the *fate* of those **murders** through *Jarga(s)*. However, those cases are not *reflecting* the details of **deceased persons**, therefore, a report shall also include number of *absconding* accused persons, witnesses and deceased persons.

4. Scrutiny of above details *reflects* that number of witnesses are lacking in the detailed report submitted by District Courts as well as it is not mentioned that whether in compliance of **Nasrullah** case reported in PLD 2016 Sindh 238, **the** courts are *fixing* the cases on *quarterly* basis, calling the *concerned I.Os* and **SSPs** for arrest of *proclaimed* accused persons and ensuring

attendance of witnesses, hence, learned **MIT-II** shall ensure compliance of earlier order in its letter and spirit.

5. Moreover, with regard to **compliance** by the **I.G.P. Sindh**, the report has been submitted which is showing that only in **Sukkar & Larkana** Divisions around **36,000** accused persons are **absconding**, whereas in Karachi Division around **50,000** accused persons are **absconding**. Needless to mention, that in **Nasrullah** case ibid the guideline provided to the **Courts** as well **Police** to ensure arrest of *absconding* accused persons, hence, let compliance of such guidelines shall be made in its letter and spirit. Additionally, **expertise** of digital forensic experts shall be obtained while taking steps regarding arrest of *absconding/proclaimed* accused persons.

6. With regard to "*Jirgas*" **AIGP** report reflects that in last *five years* one [1] **Jirga** was held in Hyderabad Division, **six [6]** in Larkana, whereas, one [1] **Jirga** was held in Sukkur respectively. At this juncture Mr. Nasrullah Korai, learned *amicus curiae* submitted his *interim* report while taking benefits from Social and Print Media. According to his *survey* around **21 Jirgas** were held in **2020 & 2023**. Needless to mention here that in **Para-6** of order dated **27.04.2023**, the directions were issued that **Magistrate** would be competent to issue notices to the **SSP** and **SHO**, if such illegal practice of *Jirga* is continued in any respective area of Sindh. Accordingly, **IGP Sindh** shall constitute a committee with regard to details of such *Jirgas* as submitted by Mr. Nasrullah Korai, advocate as well as **Magistrate** concerned shall conduct *inquires* and proper action shall be taken against the Sardars who are *conducting* the "**Jirga**" while bypassing the Criminal Procedure Code and compelling the parties to obey their orders. It is pertinent to mention here that in area where blood feuds is between two **clans**, **SSP** shall call notable/Sardar(s) of those **clan** and get execute bonds of good behavior and bound them that they will not support any their *Biradari* people to take law in their *own* hands or life of any *innocent person* on the pretext of dispute between two clans.

7. While looking into the *law* and *order* situation of the province of **Sindh** and number of *absconders* and **dormant** cases, judicial proprietary demands that **IGP Sindh** shall ensure, compliance of the previous directions. Besides, **all officers from the rank of DSP to IGP serving in Sindh Police shall submit declaration form with regard to their assets/expenses, whether directly owned by them or `Benami along-with annual income Tax returns filed by**

them and the same shall be displayed on police website as access to information is a fundamental right of every citizen.

8. Furthers, the focal person of IGP Sindh submitted that yet the Sindh Government has not complied with **Section 8** of Police Order 2019, nevertheless, that *aspect* has already been *covered* by this Court in **order** dated **14.09.2020**. Being relevant Para-7, 8, 9, 10 & 11 are reproduced herewith:

7. *Since, crime prevention as well criminal identification have specifically been included as branches therefore, the Criminal Justice Coordination Committee shall also include such aspect(s) during their meetings, as are to be held per the Act itself. The Committee should not only include this in agenda of the meeting(s) but should come forward with suggestions so as to cover these two on priority basis. Such report be called from every District and Sessions Judge/ Chairman Criminal Justice Coordination Committee all over Sindh.*

8. *Mr. Muhammad Asif Riaz, CEO present and submits his written submissions, which is that:*

“1. Police department should be directed to train its officers regularly to investigate cyber crimes using digital forensics and digital evidence. Number of officers to be trained should be dependent on the population of the district and the crime rate.

2. Presiding Officers in all the districts should be trained to dispense justice where cyber crimes and digital evidences are involved;

3. Sindh Judicial Academy may be directed to conduct courses more regularly on the subject matter;

4. University of Karachi may be directed to operationalize and meaningfully activate the Center for Digital Forensics Science and Technology (CDFST) immediately;

a. CDFST should have financial and administrative independence from the routine departmental issues at University of Karachi;

b. CDFST should be governed by a professional advisory board whose members should be practitioners in the industry;

c. CDFST should be institutionalized as a professional body rather than an academic department.

9. Further, he contends that he (CEO of Digital Arrays (Pvt) Limited) has such expertise and is ready to provide complete assistance to this Court with regard to subject matter issues. He would be at liberty to approach learned MIT-II and shall provide assistance.

10. Syed Irfan Hussain Zaidi, Member Advisory Committee submits his written submissions which is reproduced are under:-

"The Centre for Digital Forensic Science Technology was established in pursuance to disseminate the Science of Digital Forensic and to support Criminal Justice System with precise evidences to be presented in the court of law.

A lot of cases have been converted into "A" Class just because of lack of evidence and decisions if opinions are not 100%. In order to do that and to furnish complete and required justice, CDFST-POLICE signed an MOU in January 2020 but so far nothing concrete has happened more is at part of Karachi University where the Department/CDFST was established and the operational grant of 638 millions in lying idle. The selection board has already finalized the most capable resources available Dr. Qamar-ul-Arfin but the syndicate is creating problems for the center to be operative as they think it will play a vital role in curbing the ever increasing Harassment Cases between students and teachers and that is why don't to happen. There are several institutions in the region and many more available internationally.

The Center will provide Human Resources for the corporate sector and law enforcement agencies to produce better, precise and quick results.

In India only there are seven universities including the famous Gujrat Forensic Science University, Dr. MGR Education and Research Institute at Chennai, Hindustan Institute Tech.

The activation of CDFST is a dire need of time and especially when the infrastructure and required funds are also there.

With an experience of more than 25 years and with the right set of expertise it is necessary to make use of the much needed center to solve the thousands of cases and implementation of cases access to Justice and also the capacity building of Lea's and Judiciary."

11. *None can deny the importance of forensic sciences in Criminal Justice System because due to technological advancement, the criminals are also equipped with latest tools as well idea(s) for achieving their ill object i.e 'committing crimes' thereby threatening the Criminal Justice System therefore, need to improve area(s) of forensic sciences have become unavoidable. The Labs and experts are prepared so as to reach the crime and criminals within shortest period. This, however, can't be hoped if the required tools (labs and experts) are not there. The introduction of term 'cyber crimes' is itself is an acknowledgment of use of latest and modern devices for crimes. The definition of Cybercrime, available on 'Wikipedia' is as follows:-*

"Cybercrime or computer-oriented crime, is a crime that involves a computer and a network. The computer may have been used in the commission of a crime, or it may be the target. Cybercrime may threaten a person, company or a nation's security and financial health...

However, the submission of Syed Irfan Hussain Zaidi, prima facie, shows that though there had been efforts on the subject but the same was / is being hanging for no logical reasons. Accordingly, the report be called from CDFST-POLICE regarding development onto the MOU, signed in January 2020. Home department be approached if any schooling / education onto the subject is under process at College / University level which report should reach before date of hearing. At this juncture it would be significant to call report from Secretary Universities and Boards with regard to establishment of digital forensic colleges/Institutions and courses offered by universities in Province of Sindh.

9. **Accordingly**, IGP Sindh and Home Secretary Sindh shall ensure compliance of above directions. The Project Director Information Technology and Deputy Inspector General of I.T with the consultation with Dr. Qamarul Arifin, Executive Director, International Institute of Digital Forensic Science and Technology shall update **data** of **absconding** accused persons, **absconding witnesses**, cases on **dormant files**, cases disposed of under 'A' class and cases of heinous crimes on the digital website *likewise* Sindh Rangers is also maintaining Tier 3 data base.

10. With regard to "**Jirga**" conducted in district **Jacobabad**, SSP Jacobabad has submitted reply of show cause alongwith **FIR** which is taken on record. Accordingly, show cause notice in view of FIR is hereby recalled with warning that he shall be careful in future.

11. Learned **MIT-II** again communicate *guidelines* and **directions** passed in **Nasrullah** case **PLD 2016 Sindh 238** to all criminal court's Judges for its compliance in letter and spirit. Learned criminal Court's Judges shall ensure that cases of "**Jirgas**" and "**Karo Kari**" and number of heinous crimes on dormant cases shall also flashed in Case Flow Management System.

12. Learned counsel for Karachi University files his statement dated **17.05.2023** which is taken on record and this court shall *deliberate* such issue on next date of hearing. Learned counsel further *submits* report wherein committee has been constituted. Accordingly, they shall be in attendance on next date of hearing.

13. At this juncture learned **Amicus** contends that in a high-profile case of child rape(s) accused **Sarang Shar** has been *acquitted* because of different reasons including failure of the *prosecution* and benefits extended by the court as the **video** was not *sent* to the **forensic** expert for report. Learned **APG** also contends that application for forensic *report* was submitted by the prosecutor, but the same was not allowed by the trial Court and the same become the reason of acquittal of accused. Further, Learned "**Amicus Curiae**" also filed judgment passed in **SC No.10/2023** by Additional Sessions Judge-IV/Gender Based Violence Court, Khaipur i.e **Sarang Shar** case along-with statement and contends that he has emphasized over the judgment and seeks indulgence of this Court to call the record and proceedings while exercising the revisional powers under Section **435 Cr.PC**, the same is taken on record.

14. Heard and perused impugned judgment. Perusal of the impugned judgment reveals that, this is fit case to summon record and proceedings to examine its correctness and legality regarding acquittal findings, recorded by the trial Court under Section 435 Cr.C. Accordingly, call R&Ps. Office shall prepare separate file alongwith R&Ps and place before this court with notice to accused **Sarang Shar** through SSP Jacobabad. **Learned MIT-II shall call R&Ps** and shall **list** the case with **separate file** with notice to the **accused Sarang Shar** through SSP Jacobabad.

To come up on 15.08.2023

JUDGE