

**IN THE HIGH COURT OF SINDH CIRCUIT COURT
HYDERABAD**

Criminal Miscellaneous Application No.S-264 of 2023

04.05.2023.

Mr. Abdul Rasool Abbasi, advocate for applicant.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Through this criminal miscellaneous application, learned counsel has impugned the order dated 12.04.2023 passed by learned 1st Civil Judge & Judicial Magistrate, Johi whereby he dismissed the application of the applicant who prayed for taking cognizance against accused Gul Muhammad @ Ghulam Muhammad son of Ganhwar @ Ali Raza Khoso, who was released by the Investigating Officer of the case.

2. Learned counsel for the applicant submits that the applicant/complainant lodged FIR under sections 147, 148, 149, 337-A (i), 337-F (i), 504 PPC vide crime No.21/2022 at PS Drigh Bala. However, after investigation, the Investigating Officer of the case submitted challan and inserted section 337-F (vi) PPC including other sections. He further submits that after thorough investigation, name of accused Gul Muhammad was placed in column No.2 though direct role was assigned against him but such role was not considered by the I.O. and submitted challan, which was accepted by the learned Magistrate. He further submits that thereafter an application under section 190 (c) Cr.P.C. was filed with request to the learned trial Court to join accused/respondent No.4 Gul Muhammad in the case but the same was not considered by the learned trial Court.

3. Learned A.P.G. Sindh present in Court in other matters waives notices of this criminal miscellaneous application and submits that the applicant is at liberty to record his evidence and evidence of his witnesses and if the tangible material comes

against the accused, who is intended to be joined in the trial, is found involved in the commission of offence, applicant may file appropriate application before the learned trial Court for joining him in the trial.

4. Heard and perused.

5. Admittedly, name of the accused Gul Muhammad appeared in FIR with specific role that he has given iron blow to injured Manzoor Ahmed which hit him on right arm. The injured also supported the version of the complainant; however, I.O of the case was not agreed with the contention of complainant and his witness(s) and released him under section 169 Cr.P.C. placing his name in column No.2. Ample opportunity is available with the complainant and his witnesses that after framing the charge adduce their evidence, if they succeed to bring on record such material and convincing evidence against the accused/respondent No.4 Gul Muhammad, then the applicant may file appropriate application before the learned trial Court for joining him in the trial and framing of amended charge against accused.

6. In view of the above, instant criminal miscellaneous application is **disposed of**. However, the applicant is at liberty to file appropriate application before the learned trial Court for joining the accused, who has been released by the police, if after recording the evidence sufficient tangible material comes on record connecting him in the commission of offence. Such application, if filed, the learned trial Court shall decide the same in accordance with law.

JUDGE