

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**Crl. Misc. Application No. S-42 of 2024**  
*(Tufail Ahmed & others Vs. The State)*

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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1. For Orders on MA No. 450/2024. (U/A)
2. For Orders on office objections.
3. For Orders on MA No. 451/2024 (Ex./A)
4. For hearing of main case.

**29-01-2024.**

Mr. Badaruddin Memon advocate for the applicants.

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1. Granted.
  2. Over ruled.
  3. Granted subject to all just legal exceptions.
- 4&5. The applicant by preferring the instant Crl. Misc. Application u/s 561-A Cr.P.C has impugned an order dated 19-01-2024 passed by IInd Judicial Magistrate, Mirpur Mathelo, whereby he has taken the cognizance of offence outcome of FIR Crime No. 159/2023, u/s 457, 324, 148/149, 337A(i), 337H(ii) PPC of PS Mirpur Mathelo.

It is contended by learned counsel for the applicant that they on consecutive investigation were found to innocent and the subject FIR was recommended by the police to be cancelled under false "B" class, yet learned trial Magistrate has taken the cognizance of the offence without lawful justification by way of impugned order; same being illegal is liable to set aside by this Court.

Heard arguments perused the record.

The burden to make out the case for trial is light; same could not be equated with the burden to prove the case at trial beyond shadow of doubt. Whatever is stated by complainant Gul Hassan in his FIR take

support from ancillary evidence, it has been disbelieved by the police while believing the version of the applicants without lawful justification. In such situation, learned trial Magistrate was right to take cognizance of the offence, outcome of subject FIR on the basis of tentative assessment of the material brought before him by way of impugned order, which is not found illegal to be interfered with by this Court by way of instant Cr. Misc. Application u/s 561-A Cr.P.C, it is dismissed in limine along with listed application.

**Judge**

Nasim /P.A