

*Order Sheet*  
IN THE HIGH COURT OF SINDH, KARACHI

**Cr. Misc. Application No. 180 of 2024**

Date	Order with signature of Judge
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1. For hearing of main case.
  2. For hearing of MA No. 2238/2024.
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**06-03-2024.**

Mr. Aamir Mansoob Qureshi, advocate for the Applicant.  
Respondent No.5 present in person.  
Mr. Fayyaz Hussain, Assistant Prosecutor General Sindh a/w DSP Syed  
Balaghat Hussain PS Ferozabad.

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**ARSHAD HUSSAIN KHAN, J.** Through this criminal miscellaneous application under section 561-A Cr.P.C., the applicant has called in question the order dated 13.02.2024, passed by XXI-Judicial Magistrate Karachi [West ] on the report submitted under Section 173 Cr.P.C. in respect of FIR No.762/2023, under Section 395/452/342 and 365 PPC, registered at Police Station Peerabad, Karachi.

2. Learned counsel for the Applicant referring to the impugned order submits that the learned judicial magistrate while disagreeing with the recommendation of the I.O. to dispose of the matter under “C” class took cognizance of the case, inter alia, against the present Applicant. He submits that the learned judicial magistrate while passing the impugned order has failed to consider the fact that the subsequent investigation was transferred and carried out by the orders of this Court, and the learned trial court ought to peruse both the charge sheets submitted by the Investigation Officers and then to pass the appropriate orders. He further submits that the order impugned before this Court may be set-aside and the case may be transferred to some other judicial magistrate.

Upon notice, respondent No.5 Shakir Khan is in attendance and submits that without prejudice to his case on merits, he has “No Objection” in the event if the case is transferred to some other judicial magistrate. Learned Assistant Prosecutor General Sindh also extends his “No Objection” to such a request.

Accordingly, without touching the merits of the case and by consent of learned counsel for the parties, as well as respondent No.5, the impugned order dated 13.02.2024 is set-aside and the instant criminal miscellaneous

application is disposed of with directions to the Sessions Judge, Karachi [West] to transfer the case in respect of FIR No.762/2023 from XXI-Judicial Magistrate, Karachi [West] to some other judicial magistrate for deciding the matter in accordance with law. Since considerable time has elapsed, as such, the summary proceedings may be completed preferably within a period of thirty (30) days.

Cr. Misc. Application stands disposed of along with pending application(s).

JUDGE

*Jamil\*\**