

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Cr. Misc. Application No.1054 of 2024

| Date | Order With Signature Of Judge |
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For hg of main case  
22.01.2025.

M/s. Raja Zeeshan and Iftikhar Ahmed Shah,  
advocates for applicant.  
Mr. Saleem Akhtat Buriro, Addl. Prosecutor General.

FIR bearing No.55/2024 under section 324, 109 34 PPC at Police Station Ibrahim Hyderi was registered by respondent No. 5 against un-named accused. In the investigation, co-accused Tariq Jamil was arrested, who disclosed that applicant had provided him pistol and from it he had made firing. On the basis of such evidence, applicant was arrayed accused in the case, however, when further investigation was conducted, no evidence was found against him except the statement of co-accused. Hence, I.O. in report u/s 173 Cr. P.C. letting him off submitted the Challan but the learned Magistrate disagreeing with the report of Investigating Officer has taken cognizance of the offence against the applicant.

During the arguments, learned Additional Prosecutor General has conceded that except statement of co-accused no convincing evidence was found against the applicant to establish his involvement in the case, and the learned Judicial Magistrate has taken cognizance of the offence against the applicant only on the presumptions and assumptions.

I have gone through the impugned order and agree with the contentions raised before me that prima facie there is no sufficient evidence, for the time being, against the applicant. And in this case, unless some evidence is recorded and adverse material comes on record against the applicant, taking cognizance of the offence against him by the Magistrate is not justified. In view of above, this application is

allowed and the impugned order is set aside, however, if during the trial any concrete evidence comes against the applicant, the complainant would be at liberty to file an application for joining the applicant, which application, however, shall be decided on its merits independent of this order.

The Cr. Misc. Application is accordingly disposed of in the above terms.

JUDGE

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