

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
C.P No.S-950 of 2022  
( **Javed Iqbal v Inspector General of Sindh & others**)

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Date	Order With Signature Of Judge
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**Date of hearing and order:- 07.04.2025**

Mr. Raj Ali Wahid Kunwar advocate along with Kashif Khan Tanoli advocate for the Petitioners.

Mr. Ali Safdar Depar, AAG.

Mr. Muntazir Mehdi, Acting PG along with Asad Raza DIGP South Karachi, Zulfiqar Mehar, DIG (Investigation) Karachi, Fateh Muhammad Shaikh, SP (Investigation) City South

Mr. Ali Hassan, SP (Investigation) South-I, Mr. Arif Aziz, SSP City (Operation), Asif Ali Kakhrani, ADIG (Legal) Karachi and Raza Mian DSP (Legal-II) CPO

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**ORDER**

**Adnan-ul-Karim Memon J:** The Petitioner is a builder and property developer in Karachi under M/s Ghani Builders, Developers (Pvt) Ltd, and faces opposition from a land grabber mafia due to business rivalry. He claims to have a strong professional reputation (Annex A, B, B-1), no prior convictions, and is a member of CCI and ABAD. Despite his unblemished record, rival groups, in connivance with the police, have repeatedly harassed him and filed baseless complaints/cases/FIRs. This continuous harassment by agencies like FIA and Police led the Petitioner to file Constitution Petition No. D-2553/2020 in this Court, seeking protection from arrest and disclosure of any undisclosed cases/FIRs (Annex-C). This Court, on November 12, 2021, disposed of the petition, noting two FIRs, one dismissed ("C" Class) and one challaned (Annex D, D-1). Rival parties also filed complaints with NAB, leading to further harassment. Fearing arrest, the Petitioner approached this Court through CP No. D-2286/2020 (Annex E), seeking information and protection from coercive measures. This Court, on April 24, 2021, directed NAB not to arrest the Petitioner (Annex F). The rivals persisted, lodging two more false FIRs (820/2022 and 888/2022), both later classified as "C" Class due to lack of evidence or complainant non-cooperation (Annex G, H). Respondent officials have also harassed the Petitioner by making inappropriate calls to his office and home, causing distress. The Petitioner fears undisclosed inquiries and unlawful arrest without due process of law. The Petitioner submits that the Respondents' actions, at the behest of rivals, constitute an abuse of his dignity and will cause irreparable harm. He asserts that the courts must protect his fundamental rights against malicious actions of police and private parties. The Petitioner submits that

the Respondents have violated his fundamental rights as enshrined under Articles 4, 9, 10, and 14 of the Constitution. His dignity, privacy, and property rights are at stake at their hands. The Petitioner requests that this Court direct the Respondents to disclose all cases/inquiries/investigations/FIRs/Complaints against the Petitioner, and any material indicating his probable arrest in the subject cases.

2. Learned counsel for the petitioner argues that his client fears imminent arrest and humiliation by the Respondents without proper notice, citing past unlawful actions. He contends that any undisclosed inquiries, investigations, or FIRs are illegal, unconstitutional, malicious, and infringe upon the Petitioner's fundamental rights under Articles 4, 9, 10, 10-A, 14, 15, 19-A & 25 of the Constitution. Counsel emphasizes that any deprivation of liberty must be proportionate, reasonable, and necessary, suggesting less restrictive alternatives like placing the Petitioner on the Exit Control List or setting an appearance schedule. Unjustified detention, he asserts, amounts to false imprisonment, and arrest for white-collar offenses should be an exception. The arrest on frivolous allegations, according to the counsel, causes significant harm, and Constitutional Courts must safeguard against abuse of executive power and unwarranted deprivation of liberty, as guaranteed by Article 4, ensuring treatment according to the law. The learned counsel further submits that the Respondents' failure to disclose information regarding cases against the Petitioner causes humiliation and the apprehension of unlawful arrest. He maintains that the Petitioner has a fundamental right to be informed of any pending cases, as enshrined in the Constitution. Counsel argues that his client's rights to due process and liberty are being violated, placing him at risk of unlawful arrest and harassment based on unknown inquiries. He highlights that Articles 4, 9, 14, and 15 protect citizens' liberty, which should not be curtailed without sufficient cause, and that hidden cases violate the principles of natural justice under Article 10-A. While stating the Petitioner's willingness to cooperate with lawful investigations, the learned counsel expresses concern over the discriminatory agenda of the Respondents. He argues that the Petitioner's constitutional rights to life, liberty, property, and honor are at stake, rendering any arrest illegal and mala fide. Referring to Articles 2-A and 4, counsel asserts the Petitioner's right to be treated according to the law and deems the Respondents' actions unethical and void. He cites the precedent of *Mazharuddin v. The State*, establishing that arrest requires reasonable suspicion and evidence of involvement in a cognizable offense, and that reckless arrest is illegal and can lead to prosecution. Finally, the learned counsel submits that the Respondents' conduct with ulterior motives

violates the Petitioner's fundamental rights. He states that the Petitioner apprehends arrest, humiliation, and harassment due to the Respondents' malafide actions, and that day-to-day threats and mental torture violate his fundamental rights and Police Rules. He concludes by asserting that the Petitioner's fundamental rights are protected under Articles 3, 4, 9, 14, 18, and 25 of the Constitution, which the Respondents cannot transgress, and that executive action must comply with fundamental rights, as per Article 4, ensuring equal treatment under the law and safeguarding the Petitioner's good reputation. He prayed for allowing the petition.

3. Learned AAG and APG in unequivocal terms submit that in compliance with the orders passed by this court, an Enquiry Committee, headed by the DIGP Investigation Karachi and comprising senior officers, was formed on March 12, 2025, to investigate the allegations presented in CMA No. 2299 of 2025 filed by the petitioner in the subject petition. They submitted that the Enquiry Committee's findings are currently under process and pending finalization. However, upon completion, the report will be submitted to this Court without delay. Furthermore, in compliance with the orders of this Court, necessary directives have been circulated to all Zonal and field units in Karachi to ensure strict adherence to the court's orders. Non-compliance will result in appropriate departmental action against the responsible police officers. They next argued that an enquiry is already underway by the aforementioned committee, per the orders of this Court in C.P. S-950/2022. In this connection, responses were received from DIGP South and SSP Investigation South on April 5, 2025. Following a telephonic conversation with the complainant, his official reply, or that of his counsel, is still pending. Therefore, they prayed that sufficient additional time may be granted to complete the ongoing enquiry and submit the findings before this Court.

4. I have heard the learned counsel for the parties and perused the record with their assistance.

5. The main grievance of the petitioner is that the police officials violated the Court's orders dated 03.11.2022, 10.03.2025 and 24.03.2025 and lodged three more FIRs in spite of non-availability of the petitioner in Pakistan and without authorization from this Court, warranting drastic action against the delinquent police officials.

6. While acknowledging the general principle that superior courts typically refrain from intervening during investigations. It is crucial to emphasize the distinct yet complementary roles of the judiciary and the police. Maintaining individual liberty alongside law and order necessitates that each branch operates within its defined sphere. If the facts and

circumstances of a case disclose criminal liability, the accused should face trial on criminal charges. The police are under a statutory obligation, as outlined in Section 154 of the Code of Criminal Procedure, and possess a statutory right, under Section 156 of the same Code, to investigate any cognizable offense upon receiving a report disclosing its commission. However, the High Court, in the exercise of its constitutional jurisdiction under Article 199 of the Constitution, cannot resolve factual controversies as held by the Supreme court in the cases of Mst. Tayyeba Ambareen and another v. Shafqat Ali Kiyani and another (2023 SCMR 246), Amir Jamal and others v. Malik Zahoor-ul-Haq and others (2011 SCMR 1023), and Fida Hussain v. Mst Saiqa and others (2011 SCMR 1990).

7. As far as the ground of a restraining order against the registration of an FIR is concerned. It is pertinent to recognize that the registration of an FIR is a fundamental step in the criminal justice process. The duty to register an FIR arises under Section 154 of the Code of Criminal Procedure, 1898 (Cr.P.C), which mandates law enforcement agencies to record any information that discloses a cognizable offense. This statutory obligation is not discretionary; therefore, courts should not intervene prematurely to stay the registration of an FIR. An FIR serves as the starting point for any investigation, enabling the police to ascertain the veracity of the allegations and collect necessary evidence. The act of staying the registration of an FIR effectively halts this significant process, thereby preventing law enforcement from fulfilling its mandated duty under the law to investigate.

8. Criminal cases are decided based on material so collected by the prosecution during investigation, and the evidence recorded in the trial Court, and that too, after appraisal of evidence by it under the law applicable thereto. High Court cannot assume the role of an investigation agency or of a trial Court without recording evidence to deliberate upon the factual controversies involved in the cases in the exercise of its constitutional jurisdiction.

9. It is an established legal principle that when a prima facie offense has been committed, the usual course of trial proceedings under the law in a competent court of law should not be bypassed by invoking the constitutional jurisdiction of the High Court.

10. Keeping in view the statement made in the proceedings, I cannot determine in the constitutional jurisdiction whether the petitioner is innocent or he has been falsely implicated in the cases or not, However,

the IGP Sindh shall ensure adherence of the orders dated 03.11.2022, 10.03.2025 and 24.03.2025, before taking further action.

11. I am also of the view that the statement of Learned AAG and APG is tenable to the effect that an Enquiry Committee, headed by DIGP Investigation Karachi, was formed on March 12, 2025, to investigate the claim of the petitioner through CMA No. 2299 of 2025. The findings are pending finalization and will be submitted without delay. They also stated that directives for strict compliance have been issued to all Karachi units, with non-compliance facing departmental action. Furthermore, they submitted that an existing enquiry is underway. Therefore, they are directed to complete the proceedings and submit the enquiry report to this court through MIT-II of this Court.

12. This petition stands disposed of in the above terms.

JUDGE

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