

IN HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P No. D-687 of 2025

[Shahmeer Ali v. Province of Sindh & Others]

Before:

Mr. Justice Arbab Ali Hakro

Mr. Justice Riazat Ali Sahar

Petitioner : Shahmeer Ali through Mr. Tarique Ali
Narai, Advocate

Respondents : Nil.

Date of Hearing : **06.05.2025**

Date of Decision : **06.05.2025**

JUDGMENT

RIAZAT ALI SAHAR.J.- Through this petition, the petitioner is seeking following reliefs:-

- a) That this Honorable Court may be pleased to quash the FIR bearing Crime No.19/2025 of U/S 302, 34 PPC of PS Tando Jam District Hyderabad lodged by the respondent No.5 being false, fabricated, concocted one.*
- b) To direct the official respondents to provide legal protection to the petitioner and family members of petitioner with the hands of private respondents.*
- c) That this Honorable court may be pleased to grant any other relief which the Honourable Court deems fit and proper in view of the above facts to be granted in favor of the petitioner.*

2. In his petition, the petitioner states that he lawfully married deceased Mst. Azeema d/o Khadim Hussain on 26.04.2022 out of her own freewill, without coercion or inducement and she had sworn an affidavit affirming this. He alleges that after their marriage, respondent No.5 (the deceased's mother) and other family members took Mst. Azeema away on the pretext of returning her, but later refused; consequently, he

filed Criminal Misc. Application No.505/2023 under Section 491 Cr.P.C. for her recovery, which was dismissed on 17.10.2023 due to her non-appearance. The petitioner asserts that Mst. Azeema subsequently rejoined him voluntarily, prompting them to seek protection through Criminal Misc. Application No.111/2024, which was allowed on 10.02.2024. He points out that an earlier Criminal Miscellaneous Application No.5034/2024 by respondent No.5 was withdrawn. Later, respondent No.5 filed another Criminal Miscellaneous Application No.5444/2024 under Sections 22-A & B Cr.P.C., which was allowed on 15.11.2024. The petitioner further avers that Mst. Azeema died of natural causes; specifically, a sudden drop in platelet count leading to subarachnoid hemorrhage while under treatment at Civil Hospital Karachi and that he made every effort to save her. Despite medical evidence showing no external injuries or foul play, respondent No.5, allegedly harboring personal grudge over the marriage, lodged FIR No.19/2025 under Sections 302 and 34 PPC at PS Tando Jam, falsely implicating the petitioner and his family of murder. The petitioner states that he has also been admitted to pre-arrest bail in the said crime and now seeks quashment of the FIR on the grounds of malice, false implication and lack of evidence.

3. We have carefully examined the entire record available on file and have also specifically queried to the learned counsel for the petitioner regarding the maintainability of the instant petition, particularly whether a deeper appreciation of evidence can be undertaken within the scope of writ jurisdiction

and considering that the petitioner is already on pre-arrest bail, whether he has approached the trial Court for premature acquittal by placing on record all material in his defense. In response, the learned counsel conceded that the petitioner has not sought premature acquittal before the trial Court but maintained his plea for quashment of the FIR solely on the ground that the petitioner is not involved in the alleged offence.

4. From the record and arguments advanced, it is evident that the petitioner seeks quashment of FIR No.19/2025 under Sections 302 and 34 PPC solely on the ground that he is innocent and that the allegations are false. However, the petitioner has not availed the statutory remedy of seeking premature acquittal by filing application in terms of section 265-K Cr.P.C. before the trial Court and placing on record the relevant material in his defense, despite being on pre-arrest bail. Furthermore, the scope of writ jurisdiction does not permit this Court to engage in a deeper appreciation of evidence. The medical opinion relied upon by the petitioner, though relevant for defense, is not sufficient at this stage to conclusively displace the allegations made in the FIR, which discloses a cognizable offence. The Honourable Supreme Court has consistently held that quashment of an FIR is an exceptional relief, to be granted only in cases where the FIR is manifestly false, legally barred or an abuse of the process of law, which threshold has not been met in the present case.

5. For what has been discussed above and in view of the availability of alternate remedies, the disputed questions of fact

and the limited scope of this Court's writ jurisdiction under Article 199 of the Constitution, we find no justification to exercise constitutional discretion in the petitioner's favour. The petition is, therefore, **dismissed in limine** as being not maintainable along with pending application(s).

JUDGE

JUDGE

Abdullahchanna/PS