

# IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Miscellaneous Application No.01 of 2025

Applicant : Muhammad Tariq,  
Through Mr. Fazal ur Rehman, advocate.

Respondent Nos.1 & 2 : The State  
Through Mr. Muhammad Mohsin Mangi, APG.

Respondent No.3 : Abdul Hameed Memon  
Through Muhammad Ramzan, advocate

Respondent No.4 & 5 : Syed Monis Abdullah & Mir Ghulam Ali  
Laghari through Mr. Peyaro Khan, advocate.

Date of hearing : 22.04.2025

Date of order : 02.05.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J:-** The inherent jurisdiction of the Court has been invoked to challenge order dated 17.12.2024, passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace-VII, Karachi Malir in Cr. Misc. Application No. 3558/2024, whereby on an application under Section 22-A & B Cr.P.C., directions are accorded to the SHO concerned to record statement of the Respondent No.3 and if cognizance offence is made out, lodged FIR and proceed accordingly.

2. It was case of Respondent No.3 that his son, Hafiz Muhammad Ali Memon, had been employed for the past 12 years as a skilled worker in the PDM Department of Pakistan Steel Mills (PSM). On 22.09.2024, at about 8:00 a.m., he was assigned duty at Sub-Station 10 under the supervision of the Incharge Steel Town, in connection with a joint venture between K-Electric and PSM. At around 12:00 p.m., Applicant Muhammad Tariq allegedly directed Hafiz Muhammad Ali to climb an electric tower, despite the absence of essential safety gear such as gloves, helmet, safety belt, and shoes, equipment that had not been provided by PSM for the past decade. While carrying out this task near Madina Bakery, Hafiz Muhammad Ali suffered an electric shock, resulting in a fall from the tower and sustaining serious injuries. Eyewitnesses, Sajjad Mirani and Naeem Arif, reportedly witnessed the incident. The injured was first shifted to Ayesha Medical Hospital and later to Jinnah Hospital, where he was

declared dead at 01:00 p.m. The cause of death was identified as electrocution, which occurred due to alleged negligence and failure to provide proper safety equipment. Respondent No. 3 claimed that the individuals responsible for these omissions are liable to be prosecuted for their unlawful and negligent conduct. It was further submitted by Respondent No. 3 that, despite sending applications dated 23.09.2024 and 17.10.2024 to Respondent Nos. 1 and 2 via TCS, no action was initiated. Consequently, he approached the Ex-Officio Justice of Peace under Section 22-A Cr.P.C. seeking the registration of an FIR against the Applicant, the CEO of Pakistan Steel Mills, five other senior officials, as well as Respondent Nos. 4 and 5.

3. Learned counsel for the applicant contends, the learned Ex-Officio Justice of Peace has passed the impugned order erroneously, relying upon an unverified version advanced by respondent No.3, to the effect that deceased died due to electric shock, but in fact he died due to falling on the ground and sustaining hard and blunt injuries as of his own negligence. He further argued that the learned trial judge has not considered the submission of the applicant. He lastly prayed that the impugned order may be set-aside.

4. Learned APG duly assisted by learned counsel for the respondent No.3, supported the order of the learned Ex-Officio Justice of Peace Malir Karachi and rebutted the contention of the learned advocate for the applicant.

5. Learned advocate for the respondent Nos.4 & 5 submitted that there was a negligent on the part of officials and not on the part of the company. The deceased did not die due to electric shock, but he died due to hitting with some hard and blunt substance. He relied upon the case law cited at 2024 SCMR 1123, 2002 P.Cr.L.J 2007, PLD 2014 (Islamabad) 71, 2007 SCMR 539.

6. A careful examination of the impugned order shows that respondent No.3 alleged that the deceased, an experienced worker of Pakistan Steel Mills, died due to electrocution while executing a task on an

electric tower without mandatory safety equipment, as allegedly directed by the present applicant and other officials. It is claimed that such fatal omission amounts to criminal negligence. However, certificate of cause of death produced showing the deceased died due to head injury, leading to damage of vital organ viz. brain leading to cardiopulmonary arrest resulting from hard and blunt substance. Therefore, in my opinion the disputed factual assertions by both sides were not properly adjudicated at the stage of the impugned proceedings.

7. It is the duty of an official to procure all the SOPs and sustainability booklets as provided by the company, however, the photographs annexed with the memo of application shows that the applicant scaling over the poll without using any safety measure, which prima facie shows sheer negligent on his part and not on the part of company and if the company did not provide the same to an official it is the obligatory right of the worker to deny from such risky process. However, a company is not directly liable for the negligence of its individual officials. While a company can be held liable for the actions of its employees, including officials, under principles of vicarious liability, proving the specific negligence of an official and establishing a direct causal link between that negligence and the harm suffered is usually required. The company's liability is often based on the principle of respondeat superior, where a company is responsible for the actions of its employees within the scope of their employment. I would like to concur with the case law cited at Pakistan Steel Mills Corporation v. Malik Abdul Habib (1993 SCMR 848), it was held that:

*„If defendant in the suit for damages took the plea that accident had occurred on account of negligence of deceased himself it was his duty to produce evidence to show that machine was in perfect order and there was no defect in the same and deceased died on account of his own negligence“*

8. In view of the foregoing discussion and in light of the principles enunciated by the Hon'ble Supreme Court in *Younas Abbas v. Additional Sessions Judge, Chakwal* (PLD 2016 SC 581), as well as in *Munawar Alam Khan v. Qurban Ali Mallano* (2024 SCMR 985) and *Mir Wais v. Naseebullah*

(2024 MLD 462), it is manifest that the learned Ex-Officio Justice of Peace did not exercise his jurisdiction in accordance with the settled parameters. The impugned order appears to have been passed without ensuring the presence of sufficient material on record and without providing an adequate opportunity of hearing to the present applicant. The issuance of directions for registration of an FIR, in such circumstances, amounts to a mechanical exercise rather than a judicial determination based on application of mind and supporting material. Therefore, the impugned order dated 17.12.2024 passed in Cr. Misc. Application No. 3558 of 2024 is hereby set aside. All other listed applications also stands disposed of. However, the applicant is at liberty to seek the proper remedy available under the law in view of the dicta laid down in the case of Younis Abbas (Supra) as well as to seek civil remedies, if he so desires.

Application stands disposed of in the above terms.

**J U D G E**