

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

C.P No. D-3446 of 2025  
[Abdul Mateen v. Province of Sindh and others]

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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**Before:**  
**Mr. Justice Zulfiqar Ali Sangi;**  
**Mr. Justice Nisar Ahmed Bhanbhro.**

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Petitioner: Abdul Mateen  
Through Mr. Makhdoom Muhammad Talha, Advocate  
Respondent: Nemo for Province of Sindh and others  
Date of Hearing: 21.07.2025  
Date of Order: 21.07.2025

**ORDER**

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**Nisar Ahmed Bhanbhro, J.**- Through instant constitution petition, the petitioner has claimed the following relief:

- (a) *To direct the Respondents to place before this Honorable Court the number and nature of the cases/inquiry(s) FIR(s), complaint(s), against the petitioner, if any material is available to show the unlawful arrest of the petitioner after making through inquiries in regard investigations and FIRs.*
- (b) *Restrain the Respondent from arresting the petitioners without prior permission of this Court on the basis of any unlawful and unjustified reason, and/or hidden FIR/inquiry and/or investigation.*
- (c) *To direct the Respondents to constitute Joint Investigation Team (JIT) and/or a team under supervision of ay officer not below the rank of Deputy Inspector General to investigate the above cited FIRs as well as Hidden FIRs, investigations ad inquiries etc.*

2. It is the case of the petitioner that he was falsely involved in several FIRs on account of dispute in business deals which created civil liabilities but mala fidely converted into criminal case. Besides the Petitioner had had dispute over immoveable properties with one Naveed and his wife Saadia Naveed for which he had preferred a civil suit before the Court of 10<sup>th</sup> Senior Civil Judge, Karachi South and said Naveed by wielding his influence was roping him into false cases. Petitioner was an Electrical Engineer by profession and registration of FIRs against him

violated his fundamental rights. He was denied due process of law and referred for trial to the Courts of Law without proper investigation.

3. At the very outset Learned Counsel for the Petitioner asked to satisfy this Court on the maintainability of Petition, seeking constitution of Joint Investigation Team, when after due process of law, reports under section 173 CrPC were already submitted before concerned Magistrate and Trial was in progress.

4. Mr. Makhdoom Muhammad Talha, Learned Counsel for the Petitioner contended that the petition was maintainable, he contended that Petitioner was booked into false FIRs due to a dispute over the immoveable properties. Investigation in the FIRs was done in a haphazard manner and his fundamental rights as to right of fair trial were involved which per counsel was denied to the Petitioner. He placed reliance upon the case of Muhammad Nadeem Arif Vs. Inspector General of Police Punjab Lahore reported as 2011 SCMR 408 and the case of Muhammad Hussain @ Julfikar Ali Vs. State (Govt. of NCT) reported as 2012 SCMR 1610.

5. Heard Learned Counsel for the Petitioner and perused material available on record.

6. Scanning of the record revealed that the Petitioner was booked in FIR No. 397/2025 of P.S Manghopir recorded on 23.05.2025, on the complaint of Mirza Parvez for an offence punishable under section 302, 395, 435 PPC, 7 ATA, wherein the Petitioner was accused of ransacking the office of complainant, killing a watchman and attacking the police party. FIR No 708 of 2023 recorded by Shavez Zaidi on 27.12.2023 at Police Station Shahrah e Noor Jahan for an offence punishable under section 489 – F PPC, wherein Petitioner was accused of fraud in lease of vehicles, he obtained advance amount from complainant, when such fraud was detected, complainant pressed for return of amount, a cheque was issued to him for refund which on presentation was dishonored. FIR No 80 of 2024 recorded by Complainant Nasir Ali on 20.01.2024 at police station Defense for an offence punishable under section 406, 420 PPC wherein Petitioner was accused of playing fraud receiving 50 % booking amount for lease of vehicle which he did not. FIR No 99 of 2024 recorded by Complainant Rashid on 23.01.2024 at police station Defense for an offence punishable under section 406, 420 PPC wherein Petitioner was accused of playing fraud of receiving 20 % advance amount against the lease of vehicle which he failed. FIR No 224 of 2024 recorded by Complainant Shakeel on 04.03.2024 at police station Defense for an offence punishable under section 406, 420 PPC wherein Petitioner was accused of playing fraud as he failed to sanction loan after getting an amount of RS 250,000. After registration of FIRs, investigation

took its course and report under section 173 CrPC was submitted before the Court of concerned Magistrate. and cognizance of the cases under section 190 CrPC has also been taken. Record further revealed that the investigation officer during investigation found sufficient incriminating material against the Petitioner and his accomplices. Consequently, Petitioner was referred to face trial.

7. Under section 154 and 156 of the Code of Criminal Procedure, 1898 (the Code) read with chapter XXIV and XXV of Police Rules 1934 (the Rules) the police are under a statutory duty to incorporate the complaint of an aggrieved person if disclosed a cognizable offence and investigate the same to sift grain from the chaff. The person facing charges through registration of FIR is not left remediless if the FIR was recorded under extraneous consideration containing trumpeted charges and investigation was not conducted fairly. The person aggrieved of the police excesses may apply to the Head of the District Police under section 18 of the Police Order 2002 (so revived in province of Sindh through Amendment Act No XI of 2019) for change of the investigation. If the aggrieved person fails to seek appropriate relief from the officer of police and felt still aggrieved, he might approach the Court of Ex – Officio Justice of Peace invoking its powers under section 22 – A of the Code, then to this Court under its supervisory jurisdiction provided under the Code.

8. A plain reading of the provisions quoted hereinabove tend to show that widest possible powers have been conferred on police in the matters of investigation and a reasonable check of those powers is available to the Court of Sessions under its jurisdiction as Ex-Officio Justice of Peace when investigation agency is accused of excesses and in appropriate cases the Ex-Officio Justice may order for change of investigation. Apparently, the discretion vested in a Court of Sessions conferred with the powers as Ex – Officio Justice of Peace appears to be unrestricted nevertheless such power being in the nature of public trust can only be exercised when sufficient evidence was brought on record demonstrating gross negligence, inefficiency, carelessness and recklessness and mala fides of the police. For reinvestigation of a criminal case an important and relevant ground for the exercise of discretion may be where some evidence is discovered subsequently which could not be collected earlier despite of diligent efforts or where a party was prevented from bringing on record such evidence at the initial stage of investigation for extraordinary reasons beyond its control and power and the evidence intended to be brought was essential to reach a just and fair conclusion of the case under trial or under investigation. However, the request for further investigation cannot be allowed in each and every case, particularly that aimed at filling up lacunas of either side.

9. Learned Counsel for the Petitioner, when confronted with the above legal position and inquired whether Petitioner approached the police hierarchy for redress of his grievance seeking change of investigation or constitution of joint investigation team, he replied in negative.

10. Petitioner of his own choice remained silent and did not avail the remedy provided under the Police Order 2002 at the very initial stage when FIRs were record. The petitioner was nominated in five FIRs except in FIR No 397 of 2025 wherein he was facing a murder charge, the other FIRs were recorded by different persons accusing him of playing fraud against leasing of vehicles through instalments for this purpose he opened an office in the name of Fine Future International Private Limited in posh area of defense and remained cheating public at large for a considerable period of time. The Petitioner was seeking reinvestigation in the case on a sole ground that he was facing false charges on account of dispute over immoveable properties with Naveed and Saadia Naveed against whom he has lodged civil proceedings before the Court of Xth Senior Civil Judge South Karachi. This claim of the petitioner did not find support from record as in all the FIRs mentioned above said Naveed and Sadia Naveed were neither complainant nor witnesses and contents of the FIRs suggested that the criminal charges faced by the Petitioner had no nexus with the property mentioned in the civil suit. Otherwise, it is an axiomatic principle of law that criminal and civil case even on the same subject matter can proceed simultaneously.

11. Honorable Supreme Court of Pakistan in the case of Seema Fareed and others v. The State and another reported in 2008 SCMR 839 has been pleased to lay down the following principle:

*"It is well-settled that, a criminal case must be allowed to proceed on its own merits and merely because civil proceedings relating to same transaction have been instituted it has never been considered to be a legal bar to the maintainability of criminal proceedings which can proceed concurrently because conviction for a criminal offence is altogether a different matter from the civil liability. While the spirit and purpose of criminal proceedings is to punish the offender for the commission of a crime the purpose behind the civil proceedings is to enforce civil rights arising out of contracts and in law both the proceedings can co-exist and proceed with simultaneously without any legal restriction."*

12. The investigation in a criminal case is a continuing process and reinvestigation in appropriate cases can be ordered at any stage including when the case is pending trial before the Court, as there was no legal impediment under the

law to carry out successive investigations in a criminal case. But such an exercise cannot be done at the request of either party when prima facie such request lacked the basic ingredient that the accused was facing trumpeted charges and investigation agency was bent upon to favor the complainant party under some extraneous consideration through misuse of authority and investigation was a colorful exercise of powers. In the present case no such material was produced on record to elicit the ill will of the complainant and investigation agency. It is usually observed that the recourse to reinvestigation in criminal cases is taken by the criminals facing charge to obtain favourable reports which in no way assist the Courts in arriving at just, fair and correct conclusion. The successive investigations create complications to the Court administering the justice and hamper the due process of law to happen. It results in delay in conclusion of case and cause adverse effects to the trust reposed by the public in the Courts of law. This system is rejected and expressly disapproved which only retards the administration of justice instead of providing any assistance thereto.

13. This view is fortified by the judgment of Honorable Supreme Court of Pakistan in the case of Riaz Hussain and another v. The State 1986 SCMR 1934 wherein it has been held that:

*“15. So far as the innocence of Ghulam Abbas Riaz Hussain and Zahid Hussain appellants during re-investigation is concerned, this was urged before the learned trial Court and repelled by it after due consideration and there exists no reason with us to come to a different conclusion. The occurrence in this case had taken place in September 1974 and the final report of the re-investigation was submitted in April 1977, i.e. after a lapse of about three years. How on earth any significance can be attached to a report compiled and submitted after such a long time, especially when there was every possibility of fabrication of evidence. The system of re-investigation in criminal cases is a recent innovation which is always taken up at the instance of influential people and favourable reports obtained. This in no way assists the Courts in coming to a correct conclusion, it rather creates more complications to the Court administering justice. We, therefore, disapprove this system altogether.”*

14. The State is under obligation to protect the fundamental rights of the citizens and to ensure that they are dealt in accordance with law as enshrined under Article-9 of the Constitution, in case an individual is aggrieved by the action taken by any Authority discharging its function in connection with the affairs of the Federation or Province, he can bring his cause before this Court under its constitutional jurisdiction

conferred under article 199 of the Constitution for judicial review, subject to an exception that the statute did not provide any adequate remedy in the shape of right to appeal, review or revision against the impugned action. The officers of police while recording FIR and conducting investigation discharge their duty in connection with the affairs of province, as such the action taken by the police under section 154 and 156 of the Code are amenable to judicial review of this Court. To invoke the powers of judicial review of this Court for quashing or change of the investigation the party aggrieved has to satisfy that the action on the part of police was beyond the bounds of law, a colorful exercise of powers, and he was not dealt in accordance with law and investigation resulted in the abuse of the process of law and reinvestigation in the case was essential to reach a correct conclusion. To quash the police investigation or order for reinvestigation in the case on the ground that the case is false would be to act on treacherous grounds and would tantamount to an uncalled for interference and encroachment of powers of executive authority by the Court.

15. The right of access to justice is well-founded on the doctrine of “due process of law”, the Petitioner has also failed to demonstrate that he was denied the due process of law. If the contention of the Petitioner that he was involved in the false cases on account of dispute over properties, be taken as a gospel truth for the sake of arguments, the Petitioner shall be given fair chance to substantiate his stance by recording evidence in defense before Trial Court. Moreover, present case involves factual questions that require determination through recording evidence. This Court, in exercise of its constitutional jurisdiction under Article 199, cannot resolve factual controversies as held by Honorable Supreme Court in the cases of Mst. Tayyeba Ambareen and another v. Shafqat Ali Kiyani and another (2023 SCMR 246),

16. with due reverence the case laws relied upon by Learned Counsel for the Petitioner did not deal with the matter pertaining to the investigations, were distinguishable to the facts and circumstance of this case.

17. For what has been discussed herein above, no case for indulgence of this Court under its equitable writ jurisdiction is made out, this petition being devoid of merits hence fails, accordingly dismissed in limine along with listed applications. The petitioner, however, is at liberty to seek remedy as available under the law if so advised.

JUDGE

JUDGE

Ayaz Gul