

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS**

Criminal Miscellaneous Application No.S-65 of 2025

Applicant: Shr. Kavita wd/o Ashok Kumar Meghwar  
Through Mr. Muhammad Sultan advocate.

Respondents: 1. S.S.P, Mirpurkhas.  
2. SHO P.S Mirwah.  
3. Learned Additional Sessions Judge-II/  
Ex-Offico Justice of Peace, Mirpurkhas.  
4. Manji Menghwar s/o Vagho  
5. The State  
Official respondents through Mr. Ghulam Abbas Dalwani, D.P.G and respondent No.4 through Mr. Moinuddin Akhter Qureshi advocate.

Date of hearing: 04.06.2025.

Date of Order: 04.06.2025.

**ORDER**

**Jan Ali Junejo, J.**— Through this Criminal Miscellaneous Application under Section 561-A, Cr.P.C., the Applicant seeks setting aside of the Order dated 30-01-2025 (hereinafter referred to as the “*Impugned Order*”) passed by the Learned Additional Sessions Judge-II/GBV/Anti Rape Court, Mirpurkhas, on a report under section 173 Cr.P.C. for disposal of FIR bearing Crime No. 78 of 2024 under sections 452, 376, 506(ii) PPC at PS Mirwah Gorchani, vide which the learned Additional Sessions Judge accepted the said report/summary for disposal under “C” class.

2. The applicant, Shr. Kavita, widow of Ashok Kumar, resident of Village Mirwah Gorchani, Mirwah, Taluka Shujabad, District Mirpurkhas, lodged FIR bearing Crime No. 78 of 2024, on 18-09-2024 at 2000 hours, under Sections 376, 452, 506(ii) PPC at Police Station Mirwah Gorchani<sup>13</sup>. The FIR was registered against her father-in-law, Manji Menghwar (respondent No.4). The complainant alleged that on 28-07-2024 at approximately 1230 hours, Manji Menghwar, who had a pistol in his hand, forcibly entered her father's house and committed Zina/rape with her, also issuing threats. The FIR was lodged pursuant to an order dated 13-09-2024 by the Additional Sessions Judge-1,

Mirpurkhas, in Criminal Miscellaneous Application No. 1331/2024, directing her to record her statement at the Police Station. After the FIR registration, the police initiated investigation, recorded statements, visited the scene, and conducted a medical examination of the applicant. Subsequently, the Investigating Officer submitted a final report under Section 173 Cr.P.C. for disposal of the case under "C" Class. The Learned Additional Sessions Judge-II/Ex-Officio Justice of Peace, Mirpurkhas (Respondent No. 03), accepted the summary of the I.O under "C" Class and disposed of the case vide order dated 30-01-2025.

3. The learned counsel for the applicant, argued that the impugned order of disposal of the FIR under "C" Class is illegal, void, wrong, not sustainable under the law, and liable to be set-aside. He contended that the learned Respondent No. 03, in passing the impugned order, committed illegality and irregularity, and it resulted from a non-application of judicial mind. The counsel emphasized that the contents of the FIR clearly point out a cognizable offense, and therefore, there was no question of disposing of the case under "C" Class. He further argued that the learned Respondent No. 03 failed to consider that the accused was present at the crime scene on the date of the alleged incident. The counsel asserted that the learned Respondent No. 03 wholly relied upon the Police Report, which was submitted on the direction of the proposed accused and was based on mala fide intention. He stressed that the applicant/complainant/victim clearly stated in her statement that the proposed accused committed Zina/raped her, and that the I.O did not investigate the matter properly or honestly. Lastly, the counsel argued that the trial court wrongly relied on the police report suggesting a matrimonial dispute without supporting evidence, failed to apply judicial mind, and that the order was based on presumptions and conjectures, thus unsustainable.

4. The learned DPG for the State, along with Mr. Moinuddin Akhter Qureshi, counsel for respondent No. 4, opposed the application. The learned

DPG for the State contended before the trial court that the investigation conducted by the I.O, followed by an inquiry, revealed no sufficient evidence to connect the accused with the alleged offense. Therefore, the instant case should be disposed of under “C-Class”. The DPG submitted that the DNA samples of the victim/complainant and the accused were taken and sent for testing, and the report (No. LUMHS/FML/856/2024, dated 15-10-2024) indicated that the samples did not match. Furthermore, the Final MLC (ML.No. 437/24 dated 06-11-2024) submitted by the WMO confirmed no evidence on record to suggest that Zina/Rape was committed with the victim/complainant. It was also argued that the accused is the father-in-law of the victim/complainant, and both are involved in a matrimonial dispute, suggesting that only a heated argument took place on the day of the alleged incident, and no such incident as alleged occurred. The I.O. SIP Hawa, on notice, reiterated the contents of the report under Section 173 Cr.P.C. and further submitted that the allegations leveled in the FIR were not proven during the course of investigation.

5. Having heard the learned counsel for both sides and meticulously perused the record, this Court finds no illegality or irregularity in the Impugned Order passed by the Learned Additional Sessions Judge-II. The trial Court’s decision to accept the “C” class report was primarily based on objective evidence. The record reveals that DNA samples of both the victim/complainant and the accused were collected and sent for testing. The subsequent report, LUMHS/FML/856/2024, dated 15-10-2024, definitively indicated that the samples did not match. Moreover, the Final MLC bearing ML.No.437/24 dated 06-11-2024, submitted by the WMO, provided no evidence to suggest that Zina/Rape was committed with the victim/complainant. The trial court also considered the prevailing matrimonial dispute between the accused, who is the father-in-law, and the complainant, noting that only a heated argument seemed to have occurred on the day of the alleged incident, not the alleged offense. The Investigating Officer's final report under "C-Class" was therefore fortified by

these findings. This Court further observes that the alleged incident occurred on 28-07-2024 at 1230 hours, but the applicant lodged the instant FIR on 18-09-2024. The applicant has failed to provide any plausible explanation for such a significant delay in lodging the FIR. This delay, in the absence of any reasonable justification, casts serious doubts on the veracity of the allegations. Furthermore, as highlighted by the trial court, the DNA report is negative, and the Woman Medical Officer (W.M.O) in the medical certificate confirmed that there is no evidence on record to suggest that Zina/Rape was committed with the applicant. Beyond the bare allegations of the applicant, no material evidence has been brought on record to substantiate her version of events. The Investigating Officer, SIP Hawa, upon appearance, reiterated the contents of the report under Section 173 Cr.P.C. and confirmed that the allegations leveled in the FIR were not proven during the course of investigation. The learned counsel for the applicant, despite his detailed submissions, failed to point out any specific illegality or irregularity in the impugned order or the investigation that would warrant its setting aside. The grounds raised by the applicant, such as the I.O's eligibility and the claim of mala fide intention, remain unsubstantiated in light of the objective findings from the DNA and MLC reports. The non-matching DNA and the lack of medical evidence overwhelmingly support the Investigating Officer's conclusion and the trial Court's decision. The evidence collected during the course of investigation was found to be insufficient to justify taking cognizance against the accused persons. Accordingly, the learned Trial Court has rightly disposed of the matter and classified the F.I.R. under "C" class. In these circumstances, the impugned order passed by the learned Trial Court, being legally sound and well-reasoned, warrants no interference.

6. In light of the foregoing, and given the absence of any credible evidence to support the applicant's allegations, coupled with the negative DNA report, the medical certificate, and the unexplained delay in lodging the FIR, this Court

finds no merit in the present Criminal Miscellaneous Application. The learned counsel for the applicant has failed to demonstrate any illegality or irregularity in the Impugned Order. Accordingly, the impugned order dated 30-01-2025 is hereby maintained, and the instant Criminal Miscellaneous Application, being devoid of merit, is hereby dismissed.

**JUDGE**

*\*Saleem \**