IN THE HIGH COURT OF SINDH, KARACHI

Cr. Revision Application No.236 of 2025

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Syed Fiaz ul Hassan Shah

Applicant:-	Naimatullah Khan through Mr. Shaukat Hayat, Advocate.
Respondent:-	The State through M/s. Habib Ahmed and Musharraf Azhar, Special Prosecutor ANF.
Date of hearing:-	10.12.2025

O R D E R

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MUHAMMAD IQBAL KALHORO J: This revision impugns an order dated 03.07.2025 dismissing two applications viz. application under section 510 Cr. P.C. and application under section 94 read with Section 540 Cr. P.C., filed by applicant, who is standing a trial in Special Case No.67/2022, arising out of FIR No.20/2022, under section 6/9(c), 14, 15 CNS Act, 1997 of P.S. ANF Clifton, Karachi.

2. The first application under section 510 Cr. P.C. was filed for summoning the chemical examiner for evidence on the ground that certain protocols by him have not been mentioned in the lab report and further the test performed by him has not been Gazette notified under section 35 of CNS Act, 1997. The second application is for summoning certain reporters of different TV Channels, who had allegedly covered the incident.

3. As to the second application, it is stated that after prosecution witnesses, the statement of accused was recorded under section 342 Cr. P.C. in which he put up reporters' names as defence witnesses, who have been examined. Therefore, as far as the second application is concerned, it has become infructuous on account of above fact. The first application for summoning the chemical examiner has been dismissed by the trial Court on the ground that the points raised by the accused therein can only be considered at final stage and there was no need to summon the chemical examiner for such purpose.

4. Learned counsel in his arguments has relied upon PLD 2020 SC 57, PLD 2019 SC 669, 2019 SCMR 930, 2018 SCMR 2039, 2015 SCMR 1002, PLD 2013 SC 160 and 2017 P. Cr. L.J.1319, and has stated that in terms of section 35 of CNS Act the report has to be notified in the official Gazette and to further explain the point referred to Rule 3 of Control of Narcotic substances (Government Analysts) Rules, 2001.

5. Learned Special Prosecutor ANG has opposed this application.

6. A perusal of section 510 Cr. P.C. shows that power to summon the chemical examiner is subject to satisfaction of the trial Court that there is some ambiguity in the chemical report which needs to be clarified. This power, the trial Court has to use only in the interest of justice, when such situation as above arises. Mere an assertion of the accused that there are certain ambiguities in the chemical report will not entail summoning the expert unless he succeeds in demonstrating the same to be the case to the satisfaction of the Court. Since, apparently the applicant failed to do so, the trial Court dismissed the application stating that the points raised can only be considered at the final stage. Besides, we are of a view that if there is any ambiguity and if certain protocol was not followed by the chemical examiner, it shall go in favour of the accused and there is no need to summon the chemical examiner for confronting the said facts to him. Such exercise, on the contrary, could help the prosecution to overcome the so-called lacunas. In any case, it would be for the prosecution to explain an ambiguity, if any, in the report and satisfy the Court regarding its admissibility as a valid evidence, which is even otherwise not dependent on examination of the chemical examiner in person.

7. Section 35 of CNS Act, 1997 spells out that notification of appointment of Government Analyst is to be notified in the official Gazette, whereas Rule 3 of Control of Narcotic substances (Government Analysts) Rules, 2001 specifies qualification of Government Analyst. Both the provisions of Law, as far as the chemical report is concerned are irrelevant having no concern with the admissibility thereof. Section 510 Cr. P.C. is discretionary and not mandatory. The trial Court has already formed a view that the so-called lacunas or lack of protocols raised by accused are of such nature that they would be considered at final stage.

8. We, therefore, find no merits in this application as the case has already reached final stage and defence witnesses have been examined. We, therefore, dismiss the application. However, the accused would be

at liberty to pinpoint the so-called lacunas and lack of protocols which in his view are in his favour to the trial Court to consider them in accordance with law.

The Revision Application is accordingly disposed of in above terms.

JUDGE

JUDGE

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