

IN THE HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Present:

Mr. Justice Shamsuddin Abbasi,
Mr. Justice Muhammad Hasan (Akber).

Crl. Misc. Application No.D-02 of 2025

Applicant Sultan Ali son of Salamat Ali Lakho.

Respondents The State & 7 others.
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Mr. Muhammad Hashim Laghari, Advocate for the Applicant.
Mr. Afzal Karim Virk, Advocate for the respondent No.5.
Mr. Shahzado Saleem, Additional Prosecutor General Sindh a/w
Sumair Channa, SSP Mirpurkhas and I.O. Inspector Ghazi Khan Rajar.

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Date of hearing **08.12.2025**

Date of order **15.12.2025**
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Shamsuddin Abbasi, J.:- Through this Criminal Miscellaneous Application, the applicant Sultan Ali son of Salamat Ali Lakho has called into question the validity of the order dated 29.06.2024, penned down by the learned Anti-Terrorism Court, Mirpurkhas Division @ Mirpurkhas, whereby the learned trial Court while dismissing the applicant's application under Section 190(2), Cr.P.C. seeking directions to the Investigating Officer to record statements of witnesses and to collect medical certificates and other relevant record approved the police report submitted in 'C' Class. The applicant, being the complainant of the FIR, is aggrieved by the said findings and, therefore, seeks interference of this Court.

2. Short but relevant facts of the case are that on 11.02.2024 complainant Sultan Ali lodged FIR No.28 of 2024 at Police Station Satellite Town, District Mirpurkhas, stating therein that on 09.02.2024 he along with Mumtaz Ali, Abdul Razzaque, and Ehsan, after leaving his father Salamat Ali Lakho, Rafique Panhwar and Nadir Lakho in Court in connection with their bail matters, was returning to his house, situated in Satellite Town, Mirpurkhas. It was at about 1220 hours when they reached near Chandni Sweets, situated at Chandni Chowk, Mirpurkhas, they were intercepted by Khan Muhammad Marri, Ali Hassan Marri, Ghulam Nabi Marri and Irfan Panhwar, who were armed with repeaters, forcibly stopped their vehicle. Accused Darya Khan Marri asked

complainant that despite their warning, his father had contested election, therefore, he would not spare them. Meanwhile, complainant's servant Mumtaz Ali intervened whereupon Khan Muhammad Marri made a straight fire from his repeater, which hit Mumtaz Ali on his face, who fell to the ground. Thereafter, Ghulam Nabi Marri made a straight fire from his repeater, which hit the left side of Ehsan, who also fell to the ground while Ali Hassan Marri fired from his repeater at Abdul Razzaque hitting him on the face, who too fell to the ground. Thereafter, all accused resorted to indiscriminate firing in the air to create a sense of fear, terror and insecurity among the general public, however, upon cries being raised by women and children, they made their escape good. The injured persons were shifted to Civil Hospital, Hyderabad and after being provided first aid they were referred to JPMC, Karachi for further treatment. The complainant accompanied the injured persons and after getting them admitted at JPMC, Karachi, proceeded to Police Station Satellite Town, Mirpurkhas where he lodged the present FIR.

3. Pursuant to the registration of the FIR, the investigation was followed and in due course the Investigating Officer submitted a report recommending disposal of the case under 'C' Class. Upon receipt of the said report, the learned trial Court concurring with the findings of the Investigating Officer, approved the same and dismissed the applicant's application under Section 190(2), Cr.P.C. through the impugned order.

4. It is contended on behalf of the applicant that the Investigating Officer has conducted investigation in a highly casual, mechanical and dishonest manner; that the Investigating Officer has failed to record statements of material witnesses and did not collect or place on record the medical certificates of the injured witnesses, thereby rendering the investigation defective and incomplete; that respondents/accused are nominated in the FIR with specific roles of causing fire-arm injuries to the complainant party and that the ocular account corroborates the medical evidence; that the complainant party has been made victim of high-handedness on the part of high ups of police and that the Investigating Officer deliberately failed to place on record the CCTV footages that has been produced by the applicant to the Investigating Officer during the course of investigation and such omission on the part of I.O. has resulted in a one-sided and tainted investigation, undertaken with mala fide intention and with the object of extending undue favour to the respondents/accused owing to their political influence. He further submits that at the instance of the respondents /accused, the applicant side

has been implicated in about 85 false FIRs; that the applicant filed CP No.236 of 2021 and per directions of this Court a detailed inquiry was conducted wherein the high handedness of high ups of police stands proved; It is further submitted that in order to assist the investigating officer, the complainant himself collected CCTV footage and supplied the same to the I.O. in terms of Article 164 of the Qanun-e-Shahadat Order, 1984, however, the Investigating Officer deliberately failed to bring such crucial material on record, thereby seriously impairing the credibility of the investigation. He submits that the learned trial Court has also failed to examine the relevant aspects of the matter and passed the impugned order without appreciating the material available on record and exonerated the respondents/accused under 'C' class despite of the fact that allegations relate to causing fire-arm injuries to three persons from the applicant side, out of them two lost their eye-sight, and they took shelter at 15 Madadgar Centre Mirpurkhas and were subsequently shifted to the hospital at Hyderabad under police protection and keeping in view the gravity of injuries they were referred to JPMC, Karachi. The learned counsel while emphasizing his submissions contends that the learned trial Court has passed the impugned order in a cursory manner, without application of a conscious judicial mind and wrongly agreed with the report of the Investigating Officer for disposal of the case in "C" Class thereby extending undue benefit to the respondents/ accused.

5. On the other hand, Mr. Afzal Karim Virk, Advocate for the Respondent No.5 has filed written synopsis and submitted that the impugned order is based on fair evaluation of record, hence calls for no interference.

6. The learned Additional Prosecutor General supports the arguments advanced by learned counsel for the applicant and submits that the investigation appears to be unfair and tainted with malice whereby certain evidence material to the case were ignored. He, therefore, prays that the matter be referred to the Inspector General of Police, Sindh for reinvestigation /further investigation through an honest and impartial police officer.

7. We have given our anxious consideration to the submissions of respective sides and perused the entire material available before us with their able assistance.

8. Before touching the merits of the case, we deem it appropriate to note the statutory framework governing the concept of investigation under the

Criminal Procedure Code. Section 4(1)(l) Cr.P.C. defines “investigation” and an elucidation of the scope and import of this definition is essential as it defines the outlines of the investigating agency’s mandate and the procedural obligations cast upon the Investigating Officer during the investigation into a cognizable offence. For ready reference, the said provision is reproduced herein.

“Section 4(1) (l) "Investigation": -includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf.

9. It is equally pertinent to assertion to the legal provisions that govern the powers, scope and domain of authority vested in an Investigating Officer. The Criminal Procedure Code through its relevant sections delineates the extent to which an officer may investigate into a cognizable offence while the Police Rules, 1934 further elaborate the procedural framework and duties associated with such investigation. For a proper appreciation of the statutory scheme, we deem it appropriate to reproduce the material provisions that regulate the commencement and conduct of investigation. In this context, Section 156 Cr.P.C. read together with Rules 25.1 and 25.2 of the Police Rules, 1934 (Volume III) defines the operative field within which the Investigating Officer is required to function. For ready reference, the said provisions are reproduced as under:-

“Section 156. Investigation into cognizable cases: (1) Any officer incharge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would, have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

(2) No proceeding of a police-office in any such case shall at any stage be called in question on the ground that the case was one, which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under Section 190 may order such an investigation as above mentioned.

(4) Notwithstanding anything contained in sub-sections (2) or (3) no police-officer shall investigate an offence under Section 497 or Section 498 of the Pakistan Penal Code, except upon a complaint made by the husband of the woman, or, in his absence by some person who had the care of such woman on his behalf at the time when such offence was committed.]

25.1-Power to investigate.-(1) An officer in charge of a police station is empowered by section j156, Criminal Procedure Code, to investigate any cognizable offence which occurs within the

limits of his jurisdiction.

(2) He is also empowered under section 157(1), Criminal Procedure Code, to depute a subordinate to proceed to the spot to investigate the facts and circumstances of the case and, if necessary, to take measures for the discovery and arrest of the offenders. Any police officer may be so deputed under this section, but where a police officer under the rank of assistant sub-inspector is deputed the investigation shall invariably be taken up and completed by the officer in charge of the police station or an assistance sub-inspector at the first opportunity.

3) An officer in charge of a station shall also render assistance whenever required to all officers of the Criminal Investigation Department working within his jurisdiction.

25.2 Power of investigating officers.-- *(1) The powers and privileges of a police officer making an investigation are details in sections 160 to 175, Criminal Procedure Code. An officer so making an investigation shall invariably issue an order in writing in Form 25.2(1) to any person summoned to attend such investigation and shall endorse on the copy of the order retained by the person so summoned the date and time of his arrival at, and the date and time of his departure from the place to which he is summoned. The duplicate of the order shall be attached to the case diary.*

(2) No avoidable trouble shall be given to any person from whom enquiries are made and no person shall be unnecessarily detained.

(3) It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be to discover the actual facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person”.

10. Turning to the obligations resting upon the Investigating Officer, it must be underscored that the Investigating Officer has pivotal position within the criminal justice system. The integrity, quality and completeness of the investigation bear directly upon the fairness of the trial and the ultimate dispensation of justice. An investigation report, therefore, is not a mere procedural formality but a substantive document that carries considerable evidentiary and legal weight often determining the course of the criminal proceedings. Any infirmity, bias or deviation from the mandated procedure can end the very foundation of a prosecution case and may, in certain circumstances, frustrate the administration of justice altogether.

11. The law further envisages that the Investigating Officer’s mandate is kept to the collection of evidence and its proper placement before the competent Court. His role is investigative, not adjudicatory. The Investigating

Officer is not permitted to draw legal conclusions, pre-judge the matter, or assume any authority beyond that which the statute confers. Any expertise attributed to an Investigating Officer is limited strictly to his operational domain namely, the systematic gathering, preservation, and presentation of material evidence relevant to the alleged commission of an offence. Thus, the Investigating Officer must remain within the lines of statutory authority, ensuring that the evidence is collected lawfully, honestly and impartially leaving all judicial determinations to the competent forum under law. However, the findings recorded by the Investigating Officer, being essentially *ipsi dixit* in nature, do not bind the Court in any manner. The law is well settled that a Court of competent jurisdiction is required to form its own independent opinion on the basis of the material available on record, and not to blindly rely upon the conclusions drawn by the police authorities. The investigation, no matter how detailed, cannot curtail the judicial prerogative of the Court to determine whether an offence is made out and whether the accused is to be charged for a particular crime.

12. Now reverting to the merits of the case, suffice to observe that three persons from applicant's side have sustained fire-arm injuries at the hands of nominated accused, out of them two have lost their eye-sight as appearing in the FIR. The record further reflects that due to the assault and indiscriminate firing by the nominated accused, the complainant and injured persons took shelter at 15 Madadgar Centre, Mirpurkhas, from where they were shifted to Civil Hospital, Hyderabad under police protection and owing to their critical condition were subsequently referred to Jinnah Postgraduate Medical Centre (JPMC), Karachi, for further treatment. We are also cognizant of the fact that the Investigating Officer neither recorded the statements of the injured witnesses nor collected any medical evidence in support of the allegations. He has also failed to collect or place on record the CCTV footage relevant to the occurrence, therefore, the applicant approached the learned trial Court seeking directions to the Investigating Officer to record statements of witnesses, collect medical evidence and also obtain the CCTV footage, however, such a request was declined. The record further suggests that approximately 85 FIRs have been registered against the applicant side allegedly owing to the political influence of the accused party and their close nexus with senior police officials and aggrieved thereof the applicant approached this Court by filing C.P. No.236 of 2021 pursuant to which a Joint Investigation Team was constituted, headed by Ali Sher Jakhrani, PSP, Police Training College, Shahdadpur, who conducted a discreet inquiry and

submitted a detailed report, available at page 99 of the file, wherein three SSPs and 17 police officers/officials found responsible for facilitating the respondents/accused and for the registration of multiple FIRs against the applicant side with malafide intention. At this juncture, I am in agreement with the learned counsel that the applicant side has been made victim of high handedness on the part of police high-ups coupled with unfair investigation on the part of investigating officer, who has failed to discharge his duties in accordance with law.

13. The cumulative effect of the above circumstances *prima facie* demonstrates that the applicant side has been subjected to police high-handedness. Therefore, without entering into the merits of the case in depth, which may prejudice either party at trial, we would direct the learned ATC judge to supervise investigation process in accordance with law and decide application under section 23 ATA, if filed by any party, after submission of final report under section 173. With these directions, the impugned order dated 29.06.2024, passed by the Anti-Terrorism Court, Mirpurkhas, is set aside.

14. The Criminal Misc. Application No.D-02 of 2025 stands disposed of in the foregoing terms.

JUDGE

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