

ORDER SHEET  
HIGH COURT OF SINDH AT KARACHI

**Crl. Misc. Application No.643 of 2025**

Date	Order with signature(s) of Judge(s)
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1. For order on office objection
2. For hearing of case
3. For hearing of M.A. No.10219/2025

**29.09.2025**

Mr. Iftikhar Ahmed Shah, Advocate for the Applicant assisted by M/s. Umair Usman, Ibtisam Sadiq, Waseem Khoso, Raja Zeeshan and Shahmir Memon, Advocates

Mr. Sameer Tayebaly, Advocate for Respondent No.2

Mr. Ali Haider Saleem, Addl. P.G.

Mr. Muhammad Jawaid, Assistant Advocate General, Sindh

**ORDER**

**Dr. Syed Fiaz Ul Hassan Shah, J.** – Through the instant Criminal Miscellaneous Application under section 561-A Criminal Procedure Code, 1898 (**Cr.P.C.**) the Applicant seeks to quash Direct Complaint No.1406 of 2024 filed by the Respondent No.2 and further to set aside the Order dated 12.03.2025 (*impugned Order*) passed by learned District & Sessions Judge, Karachi South (*Trial Court*) in a Private Complaint No.1406 of 2024 (**Re: M/s Premier Systems (Pvt) Ltd. vs. Naeem Afzal**) on the basis on inquiry report submitted by the Judicial Magistrate-I, Karachi South recommending to take cognizance under section 500 Pakistan Penal Code, 1860 (**PPC**) and Section 20 of Prevention of Electronics Crimes Act, 2016 (**PECA**).

2. The learned Counsel seeks to quash direct complaint and to set aside impugned Order on the ground that while passing the impugned Order, learned trial Court has committed illegality by violating Section 177 Cr.P.C. which require legal domain over territory of a Magistrate for purpose of inquiry and trial. Learned counsel for the applicant contends that in the present case the inquiry has been conducted by Judicial Magistrate-I, Karachi South whereas this ought to be done by the Judicial Magistrate-XIV, Karachi South having the territorial jurisdiction of PS: Mithadar where the complainant ordinarily carries the business. Learned counsel further contends that under Section 20 PECA Ordinance it has emphatically defined that investigation shall exclusively be carried out by a designated officer under statutes and not any other person as has been done by the trial Court while passing the impugned Order. He further contends that the complaint under Section 200 Cr.P.C. has been filed invoking provision of Section 500 PPC as well as provision of Section 20 of PECA which is a special law and according to learned counsel, the trial Court has committed further illegality while taking cognizance of the offence falls under Special law with the offence fall under PPC and in support of the contention, he has placed reliance in the case reported as 2022 PCRLJ 203 and 2022 PCRLJ 109. Lastly, he contends that Supreme Court of Pakistan has settled down the criteria for taking cognizance with regard to the direct complaint in support of defamation and his case does not attract in any provision.
3. On the other hand, learned counsel for the Respondent No.2 has strongly opposed the instant Misc. Application and states that according

to the principles settled by the Hon'ble Supreme Court of Pakistan in PLD 2016 SC 65, proceedings cannot be quashed as the cognizance has been taken by the learned trial Court. He further contends that the instant Application is not maintainable in view of principles settled by the Supreme Court for invoking inherent jurisdiction in the cases where the cognizance has been taken by the trial Court rather the applicant should surrender before the trial Court and take appropriate defence. He further contends that in terms of PECA Ordinance the learned trial Court is the designated Court as such no violation of law has been committed while passing the impugned Order. Learned Addl. P.G. has supported the contention of learned counsel for Respondent No.2.

4. I have heard the learned counsel for the applicant, learned counsel for Respondent No.2, and the learned Additional Prosecutor General, and have examined the record with their able assistance.
5. I have noted that Section 177 of the Code of Criminal Procedure, 1898, lays down the foundational rule of territorial jurisdiction, mandating that every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed. For ease of reference, the provision is reproduced below:

**“177. Ordinary place of inquiry and trial.**—Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.”

6. This statutory prescription is not merely procedural but jurisdictional in nature, designed to ensure that the inquiry and trial are conducted in proximity to the locus delicti., thereby facilitating access to evidence, witnesses, and investigative material. The term “ordinarily” does not dilute the territorial mandate but allows limited flexibility only in

exceptional circumstances, as governed by Sections 178 to 184 Cr.P.C. In the present case, the alleged offence occurred within the jurisdiction of Police Station Mithadar, Karachi. Therefore, any inquiry or trial must be conducted by a Magistrate or Court having jurisdiction over that territorial area. Any attempt to initiate or transfer proceedings outside the prescribed jurisdiction without lawful justification would be contrary to Section 177 Cr.P.C.

7. Furthermore, the impugned Order is conspicuously silent on the mandatory compliance of Section 198 Cr.P.C., which requires careful scrutiny, particularly in cases where the complainant is a legal entity rather than a natural person. When a complaint is filed on behalf of a legal person, the Court must exercise heightened vigilance and ensure strict adherence to the procedural safeguards enshrined in Section 198 Cr.P.C.
8. I have further noted that the trial Court has not addressed the question of joint trial or the applicability of special laws. Section 44 of PECA unequivocally prohibits any Court other than the designated Court from trying offences under the said special statute. This embargo must be respected to uphold the jurisdictional competence and to ensure the proper administration of justice with regard to proceeding under two different statutes i.e. PECA and the PPC.
9. I have also observed that the learned trial Court, while passing the impugned order, has failed to provide reasoned basis for taking cognizance, as reflected in paragraph (f) on page 45 of the record, which is reproduced here for reference:

“f. Not only Section 500 of the Pakistan Penal Code (PPC) is attracted in this case, but also Section 20 of the Prevention of

Electronic Crimes Act (PECA), 2016 is squarely applicable. For the sake of brevity, it is appropriate to reproduce the said section.”

**10.**I am unable to agree with the contention of learned counsel for Respondent No.2 that the trial Court took cognizance solely on the basis of an inquiry report submitted by the learned Magistrate. It is a settled principle of law that a trial Court is obligated to take cognizance on the basis of incremental and admissible material by recording clear findings and legal reasoning; a judicial order without reasons is legally impermissible.

**11.**In view of the above, the impugned Order dated 12.03.2025 is set aside and the matter is remanded back to the learned trial Court with direction to hear the Applicant (Accused) and Respondent No.2 (Complainant) and pass afresh appropriate order in the light of above legal requirement.

JUDGE

Kamran/PS