

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Miscellaneous Application No.43 of 2025

Applicant : Adeel Rehman Memon  
Through Mr. Mukesh Kumar, advocate.

Respondent No.1 : The State  
Through Mr. Sharafuddin Jamali, DAG

Respondent No.2 : Mst. Ghanwa Hussaini  
Through M/s. Daniyal Muhammad Hussain  
& Rana Daniyal Akram, Advocates.

Date of hearing : 06.05.2025

Date of order : 09.05.2025

ORDER

**KHALID HUSSAIN SHAHANI, J:-** The Applicant invokes the inherent jurisdiction of this Court under Section 561-A Cr.P.C., for setting aside the orders dated 21.10.2024 and 12.12.2024, respectively passed by the learned Judicial Magistrate-I, Malir, Karachi, and the learned Sessions Judge, Malir, Karachi, on the pretext that the impugned orders are perverse, legally unsustainable, and rendered in derogation of the settled principles of criminal law, procedural fairness, and the fundamental right to a fair trial guaranteed under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973.

2. The present application arises from facts wherein Enquiry No. 506/2020 was initiated by the FIA Cyber Crime Circle on the complaint of Mst. Ghanwa Hussaini without issuance of any prior notice to the Applicant, who later discovered that his bank account had been blocked on FIA's directions. Upon approaching the competent court, the account was restored vide FIA's letter dated 16.07.2021. Thereafter, FIR No. 54/2022 was registered under Sections 20, 21, and 24 of the Prevention of Electronic Crimes Act, 2016 read with Sections 34 and 109 PPC, pursuant to which the Applicant was arrested on 05.07.2022 and granted post-arrest bail on 07.07.2022, subsequently confirmed by the learned Additional Sessions Judge, Malir. An interim challan (Charge Sheet No. 47/2022) was submitted on 27.07.2022 and treated as final subject to submission of a forensic report of the seized devices. The trial commenced, and over a period exceeding two years, twelve prosecution witnesses were examined and cross-examined, with

delays primarily caused by the complainant and prosecution. Upon conclusion of prosecution evidence and recording of the Applicant's statement under Section 342 Cr.P.C., the matter was fixed for judgment on 07.10.2024; however, on the same day, the complainant, without endorsement from the FIA or prosecution, filed an application for forensic analysis of a USB audio recording. The trial court, instead of pronouncing judgment, entertained the application and adjourned the matter to 21.10.2024 for orders. On the said date, the trial court allowed the application, directing the Nazir to obtain audio samples of the Applicant and co-accused for forensic comparison, a step taken post-trial that undermined the finality of proceedings and judicial propriety. It has also come to light that the court diary for 07.10.2024 was allegedly altered to retrospectively include hearing of the application, further casting doubt on the fairness of the process. The Applicant's Criminal Revision No. 68/2024 filed against the order dated 21.10.2024 was dismissed by the learned Sessions Judge, Malir on 12.12.2024 through a non-speaking order that failed to address the Applicant's specific legal objections, thereby necessitating invocation of this Court's inherent jurisdiction under Section 561-A Cr.P.C. to prevent abuse of process and to secure the ends of justice.

3. The learned counsel for the Applicant vehemently contended that the impugned orders dated 21.10.2024, passed by the learned Judicial Magistrate-I, Malir, and 12.12.2024, rendered by the learned Sessions Judge, Malir, are *ex facie* illegal, arbitrary, and unsustainable in law. It was submitted that both orders permit forensic analysis of a USB device at a grossly belated stage, after conclusion of prosecution evidence and final arguments, thereby amounting to prosecutorial overreach and an impermissible exercise of judicial discretion aimed at filling lacunae in the prosecution's case, which is impermissible under the settled principles of criminal jurisprudence. The learned courts below, it was argued, failed to protect the Applicant's fundamental right to a fair trial guaranteed under Article 10-A of the Constitution, thereby occasioning serious prejudice to the defence. The learned counsel further submitted that reliance placed by the courts below on the order passed in Criminal Suo Motu Revision No. 155/2023 was manifestly misconceived and inapplicable, as the factual matrix in that case was materially distinguishable. Therein, the forensic request had emanated from the designated law officer and was made at the

pre-trial stage; in stark contrast, the present application was filed by the complainant, without prosecution endorsement, after closure of evidence. Moreover, that case concerned a video capturing the offence in progress, whereas the instant matter involves a USB allegedly containing an audio clip, the authorship of which stands categorically denied by the purported recorder (PW-3), thereby further vitiating its probative value. The learned counsel argued that the trial court egregiously failed to conduct the requisite preliminary admissibility assessment in respect of the electronic evidence, in clear derogation of the settled principle that each criminal case must be adjudicated strictly on its own merits. No finding was recorded on the authenticity, integrity, chain of custody, or lawful acquisition of the USB, all of which are mandatory preconditions for admissibility as per binding precedent. In this regard, reliance was placed on PLD 2019 SC 675 (Ishtiaq Ahmed Mirza v. Federation of Pakistan) and 2024 YLR 1636 (Muhammad Rahim Swati v. The State), wherein the Hon'ble Supreme Court laid down stringent requirements for admitting audio/video recordings, including conclusive proof of origin, tamper-proof custody, and production by the person who made the recording, all of which are conspicuously absent in the present matter. It was further submitted that the mobile device (iPhone 11 Pro Max), from which the alleged audio clip was extracted, had been seized from PW-3 on 29.01.2021 and subsequently passed through multiple unauthorized custodians, including PW-9, who prepared an "initial technical report" of dubious legal standing. This chain of events gravely undermines the evidentiary sanctity of the device and violates the principle of continuous, secure custody. The phone was forwarded for forensic examination without proper sealing, authorization, or lawful entrustment to a designated officer, in contravention of the PECA Rules, which also prescribe a 15-day limit for issuance of forensic reports, a timeline that was indisputably breached without formal extension. During cross-examination, both the investigating officer (PW-11) and the forensic expert (PW-12) conceded critical procedural lapses, including unsealed transfers, lack of requisite authorization, and the absence of scientific voice comparison, with the forensic report itself failing to confirm the presence of case-relevant content. In addition, it was urged that the USB device in question surfaced belatedly, with no documented record of seizure, transfer, or origin, and was produced alongside the interim challan without disclosure to the accused, in violation of Sections 241-A and 265-C Cr.P.C, thereby rendering the entire process procedurally defective

and legally suspect. The learned counsel emphasized that PW-3, who was alleged to have recorded the audio, categorically disowned authorship during his testimony, stating on oath that his phone was forcibly taken by FIA personnel and that he had lodged a complaint through the Citizens Portal in that regard. He further alleged that his signatures were obtained on blank papers by FIA officials, conduct that raises serious concerns of prosecutorial misconduct and evidentiary fabrication. In support of these contentions, reliance was also placed on 2018 P.Cr.L.J 1676, 2024 P.Cr.L.J 1 (Lahore), and 2020 P.Cr.L.J 1486, which collectively affirm the principles of due process, evidentiary sanctity, and prohibition against prosecutorial abuse through post-trial supplementation.

4. Conversely, the learned counsel for Respondent No.2 opposed the application and submitted that the contentions advanced by the Applicant are factually misconceived and legally unsustainable. It was argued that the impugned orders, permitting forensic analysis of the USB device allegedly containing an audio recording, were passed in the lawful exercise of the trial court's discretionary powers with a view to securing complete and reliable adjudication of the matter. The allegation that such forensic examination was permitted to cure lacunae in the prosecution's case after closure of evidence was denied as incorrect and misleading. It was submitted that the audio clip in question had already been brought on the record and marked as Exhibit 14/A, and that the purpose of the forensic request was not to introduce fresh evidence but merely to corroborate and authenticate the veracity and authorship of an existing exhibit. Therefore, the characterization of the forensic examination as belated or impermissibly supplemental is without merit. The learned counsel further contended that any delay in procuring the forensic report is inconsequential in law, particularly as the report was received during the pendency of the trial and no deliberate or mala fide intent has been attributed to the prosecution. More importantly, no demonstrable prejudice has been caused to the accused, who retains the full opportunity to challenge the report through cross-examination, summoning of the expert witness, or by adducing rebuttal evidence, in accordance with the principles of fair trial. The allegation that the USB was manipulated or obtained through coercive means is speculative and unsupported by any cogent material. The device was submitted by the complainant and was duly incorporated within the interim challan. Any challenge to its authenticity, chain of custody, or

manner of acquisition is a matter of evidentiary weight and not a bar to admissibility. It was argued that such objections ought to be raised and tested during trial through proper adversarial procedure, not used as a pretext to exclude potentially relevant evidence at a preliminary stage. It was emphasized that the issue of chain of custody impacts the probative value of evidence, not its admissibility, and that forensic analysis is in fact the appropriate and objective means to test the integrity and reliability of the USB contents. The Applicant's resistance to such analysis, it was submitted, appears to be an attempt to forestall technical scrutiny of material already part of the evidentiary record. The contention that the accused stands prejudiced on account of the prosecution evidence having closed was also rebutted, with reference to the principle that courts are vested with inherent powers to summon or permit additional evidence at any stage of proceedings if such exercise is necessary to secure the ends of justice. In the present case, the trial court, as well as the Revisional Court, exercised this discretion judiciously and in furtherance of the truth-seeking function of the criminal justice process. No final verdict has yet been delivered, and the accused's rights remain fully intact. It was thus submitted that the impugned orders do not violate any legal or constitutional right of the Applicant, and the objections raised pertain more to evidentiary appreciation than legal admissibility, which must be left to the trial court to adjudicate upon in due course. The learned counsel accordingly prayed for dismissal of the application, relying upon the reasoning adopted in Criminal Suo Motu Revision No. 155 of 2023 (unreported), passed by this Court, wherein the court permitted forensic verification in analogous circumstances in aid of justice.

5. The learned Deputy Attorney General, representing the State, made a brief and largely formal submission to the effect that the instant application seeking forensic examination had not been initiated through the office of the Public Prosecutor, but was instead filed directly by learned counsel appearing on behalf of the complainant. Notwithstanding this procedural irregularity, the learned law officer nonetheless endorsed and supported the legality and propriety of the impugned orders passed by the courts below.

6. Before advertng to the merits of the instant application, it is considered expedient to first reproduce the order passed by the learned Judicial Magistrate for the sake of clarity and contextual appreciation;

*“6) Record reflects that accused persons were neither named in complaint nor their whatsapp numbers were mentioned therein; whereas, they were indicted in this case on the basis of audio recording evidence, which admittedly containing the incriminating material but investigating officer did not get it forensically analyzed although such USB is crucial evidence and essential to just decision of the case, so, it would be most appropriate to get expert opinion with regard the audio recording of evidence; hence, in view of unreported case of state Vs Sarang Shar (Criminal Suo- Moto Revision 155/2023) instant application is hereby allowed accordingly. Meanwhile, Deputy Director FIA CCRC Karachi shall ensure that USB shall be sent to forensic examiner and he shall also ensure that forensic examination shall be carried within the period of one month. Nazir shall seal the USB and collect voice recording of accused persons and hand over the same to FIA officer other than investigating officer assigned by Deputy Director CCRC Karachi. Pertinent to mention here that Nazir shall conduct all proceeding in presence of learned AD Legal FIA CCRC, learned Advocate for complainant and learned Defense counsels within the period of 15 days. Meanwhile, Nazir shall provide copy of USB to Learned Advocate for complainant and accused persons free of cost.”*

7. Upon careful examination of the factual matrix, the rival submissions of the parties, and the impugned order of the learned Judicial Magistrate, it becomes evident that in paragraph 6 of the said order, the learned trial court directed the forensic examination of the USB device on the premise that the audio recording contained therein purportedly constituted crucial evidence. The learned Magistrate further observed that the names of the accused persons did not appear in the original complaint, nor were their WhatsApp numbers disclosed, and that the prosecution’s case predominantly hinged upon the contents of an unverified audio recording that had not yet undergone forensic scrutiny. However, it is a matter of considerable concern that the learned trial court appears to have overlooked the existence of a Digital Forensic Analysis Report which, by the prosecution’s own admission, forms part of the record and is annexed with the instant application at Pages 155 to 177. The said report furnishes a detailed forensic analysis of the digital evidence recovered from the accused during the course of investigation, including a documented trail of data transmission by the FIA to the designated forensic examiner. Furthermore, a transcript of the impugned audio recording, already available on record at Pages 79 to 81, reinforces the contention that the relevant material had been subjected to prior evidentiary treatment. These documents, being central to the prosecution’s narrative, ought to have been duly considered by the learned trial court prior to rendering its decision. The omission to do so reflects a lack of due judicial deliberation and materially affects the integrity of the impugned order.

8. It is further of critical significance to note that at the time the prosecution closed its evidence, the Investigating Officer had already been examined before the learned trial court. Despite having ample opportunity during the course of investigation and trial proceedings, the prosecution failed to initiate any request for forensic examination of the subject audio recording at the appropriate stage. The subsequent application seeking such examination, filed only after the closure of prosecution evidence, raises serious procedural and legal concerns, particularly given that the said application was not routed through the office of the Special Prosecutor of the FIA, as required under the governing legal framework. The failure to adhere to this mandatory procedural protocol renders the application procedurally defective and legally untenable. The timing and manner of the said request introduce grave constitutional ramifications. A belated move to subject the audio recording to forensic scrutiny, bypassing the prescribed prosecutorial channels, not only compromises the procedural sanctity of the criminal process but also infringes the fundamental rights of the accused, including the right to a fair trial, due process, and protection against arbitrary prosecutorial conduct, as enshrined in the Constitution of the Islamic Republic of Pakistan, 1973.

9. At this stage, it is imperative to underscore that compelling the accused persons to provide voice samples for the purpose of comparison with an audio recording, particularly when no such request was made or acted upon during the investigative phase, amounts, in substance and effect, to requiring the accused to furnish evidence against them. This is in direct contravention of the constitutional safeguard enshrined in Article 13(b) of the Constitution of the Islamic Republic of Pakistan, 1973, which explicitly prohibits compelling any person to be a witness against himself. Such a course of action also infringes the accused persons' inviolable right to a fair trial under Article 10-A of the Constitution, which guarantees every individual the right to due process and a fair and public hearing before an impartial tribunal. In the instant matter, the prosecution had every opportunity during the investigation to seek forensic verification of the impugned audio recording, including lawful acquisition of voice samples, yet failed to do so. The omission to pursue this evidentiary step at the appropriate stage of the proceedings seriously undermines the legitimacy of the prosecution's belated request for forensic comparison. Allowing such

evidence to be introduced at this advanced stage, post-closure of prosecution evidence, would not only prejudice the defense but also vitiate the fairness of the trial itself. The proposed procedure lacks both legal and constitutional validity and cannot be countenanced without violating the fundamental rights of the accused.

10. The learned Magistrate, in directing the forensic examination of the USB device, placed reliance upon the unreported decision in *State v. Sarang Shar* (Criminal Suo Moto Revision No. 155/2023). However, such reliance appears to be misplaced and inapposite, as the factual matrix and procedural posture of *Sarang Shar* are materially distinguishable from the circumstances of the present case. In *Sarang Shar* (*supra*), the Hon'ble Court was confronted with a situation wherein the nature of the evidence was inherently unclear, and forensic examination was deemed indispensable to clarify factual ambiguities prior to the conclusion of the trial. The request for forensic analysis in that case was raised at a pre-evidentiary stage and was initiated through the appropriate prosecutorial channel, thereby maintaining procedural propriety. In contrast, the instant matter presents a scenario where the prosecution has already concluded its evidence, including the examination of the Investigating Officer, without having made any effort during the investigative or trial phases to pursue forensic authentication or voice comparison of the audio recording. The prosecution had ample opportunity to take such steps during the investigation or while presenting its evidence but chose not to do so. This calculated omission undermines the bona fides of the belated request for forensic analysis. Furthermore, a comprehensive Digital Forensic Report, already forming part of the record and appended to the present proceedings (at Pages 155 to 177), details the forensic assessment conducted by the FIA, including data transmission logs and analysis of recovered digital evidence. This existing report casts serious doubt on the necessity and admissibility of any further forensic scrutiny at this belated stage. Additionally, a transcript of the audio recording is also available on record (Pages 79–81), and was neither challenged nor authenticated through a proper forensic procedure during the evidentiary stage. The learned Magistrate appears to have disregarded these material facts and omitted to consider that the USB-based recording, already marked as Exhibit 14/A, was admitted without fulfilling the legal prerequisites of admissibility, such as establishing the chain of custody, proving authorship,

and verifying integrity and originality in accordance with the standards articulated in PLD 2019 SC 675 and 2024 YLR 1636. The accused's right to a fair trial, as guaranteed under Article 10-A of the Constitution, is further jeopardized by compelling them to now provide voice samples for comparison, an act that amounts to self-incrimination in violation of Article 13(b). Moreover, the procedural impropriety is exacerbated by the fact that the impugned application was filed directly by the complainant's private counsel and not routed through the Special Prosecutor of the FIA, as mandated under the governing criminal and procedural law. This deviation from established prosecutorial process offends the doctrine of due process and raises a legitimate apprehension of prosecutorial overreach. The request for forensic examination, made at a post-evidentiary stage and in contravention of procedural safeguards, effectively operates as an attempt to cure evidentiary defects in the prosecution's case, an exercise that the courts are constitutionally and legally barred from entertaining. The principle of finality of trial and the judicial mandate to ensure timely and efficient adjudication, which are intrinsic to the administration of criminal justice, are both subverted when forensic or supplemental evidentiary measures are entertained after closure of prosecution evidence. Such practices not only erode public confidence in the fairness of proceedings but also prejudice the defense by altering the evidentiary landscape post facto. Accordingly, the reliance placed on *Sarang Shar* (supra) by the learned Magistrate is misconceived and unsustainable, as it fails to account for the clear procedural divergence, the availability of prior forensic material, and the constitutional infringements that distinguish the present case.

11. It is now a well-settled proposition of constitutional jurisprudence that an accused person cannot be compelled to furnish evidence against him, a protection enshrined not only as a foundational principle of criminal law but expressly guaranteed under Article 13(b) of the Constitution of the Islamic Republic of Pakistan, 1973. This constitutional safeguard operates as an absolute bar against any coercive measure that seeks to extract self-incriminatory evidence from an accused, whether directly or indirectly, during the course of investigation, inquiry, or trial. While it is correct that Section 94 of the Code of Criminal Procedure, 1898 empowers a criminal court to compel the production of any document or other material object in the possession of any person, and Section 96 Cr.P.C. authorizes issuance of a

warrant to enforce such production, these statutory provisions must be interpreted harmoniously with the superior constitutional mandate. The authority conferred under Sections 94 and 96 Cr.P.C. is general in nature and cannot override the fundamental rights guaranteed under the Constitution. Hence, such powers cannot be exercised in a manner that would compel the accused to produce material or submit to any process, such as voice sampling, fingerprinting, or DNA testing, that has the effect of making him a witness against himself. This view finds consistent support in domestic and comparative constitutional jurisprudence, where courts have held that the privilege against self-incrimination encompasses not only testimonial compulsion but also any investigatory act that coerces an accused into providing material which may be used to establish guilt. In the context of forensic evidence, such as compelled voice samples, the act of obtaining such evidence post-indictment, especially when not sought during investigation, raises grave constitutional concerns. It transforms the court's neutral role into an instrument of evidence collection, thereby violating the adversarial nature of criminal proceedings. Moreover, the principle of presumption of innocence, which is a corollary of the right to a fair trial under Article 10-A of the Constitution, prohibits shifting the burden of proof onto the accused in any form. To direct the accused to provide voice samples or other personal data for the purpose of evidentiary corroboration, especially after the closure of prosecution evidence, would amount to judicially sanctioned compulsion and result in irremediable prejudice to the defense. Therefore, any such directive issued under the guise of Section 94 or 96 Cr.P.C., without a clear statutory override and in disregard of constitutional protections, would not only be ultra vires but also liable to be struck down as violative of Articles 4, 10-A, and 13(b) of the Constitution. The sanctity of the right against self-incrimination must be upheld in both letter and spirit, ensuring that investigative shortcuts do not dilute the procedural and substantive guarantees afforded to every person under the law.

12. As previously discussed, the principle of protection against self-incrimination, having its origins in English common law, has since been adopted and incorporated into numerous legal systems worldwide. While this principle has garnered universal recognition as a fundamental right of the accused, it has also sparked debate concerning its practical implications. Critics have occasionally voiced concern that such a safeguard may

inadvertently hinder the pursuit of justice by allowing individuals to withhold potentially incriminating information. Nevertheless, the broader consensus in constitutional and criminal jurisprudence affirms that the privilege against self-incrimination serves a higher purpose. It compels prosecuting agencies to develop and rely upon objective, lawfully obtained, and independently verifiable evidence, rather than resorting to coercion, duress, or compelled confessions. This principle, far from obstructing justice, enhances the quality of criminal investigations by requiring investigators to engage in rigorous, methodical, and fact-based inquiry, drawing upon external sources, scientific tools, and forensic analysis, to establish guilt beyond reasonable doubt. Undoubtedly, the protection against self-incrimination is essential to safeguard innocent individuals from wrongful prosecution and conviction. At the same time, it imposes a reciprocal duty on the prosecution to ensure that investigations are thorough, impartial, and legally compliant. In this context, if a prosecution fails and a potentially culpable individual is acquitted, the failure lies not in the assertion of constitutional protections, but in the inadequacy and inefficacy of the investigative and prosecutorial process. Thus, the principle not only preserves individual liberties but also acts as a driving force for the improvement of investigative standards, ensuring that convictions are based on credible, admissible, and constitutionally sound evidence.

13. Moreover, the submission advanced by the learned counsel for the Applicant appears to be legally tenable, particularly in asserting that the forensic report already available on the record casts serious doubt on the existence of any substantial incriminating material against the accused. This material piece of evidence, indicative of the absence of direct inculpatory content, has regrettably not been accorded due consideration by the learned trial court. The failure to address or engage with this critical forensic finding undermines the factual and legal foundation for permitting any further forensic examination at this advanced stage of the proceedings. This omission is not merely procedural or technical in nature; rather, it strikes at the heart of the accused's constitutional guarantees. Ordering additional forensic analysis in the face of an existing report suggesting a lack of incriminating evidence raises legitimate concerns of prosecutorial overreach and judicial overextension. Such an approach threatens to compromise the fairness of the trial and infringes upon the fundamental protections afforded

to the accused under Articles 10-A and 13(b) of the Constitution of the Islamic Republic of Pakistan, 1973, namely, the right to a fair trial and the right not to be compelled to give evidence against oneself. Accordingly, any such direction, rendered without proper judicial scrutiny of the existing evidentiary record, cannot be sustained in law.

14. This issue raises grave constitutional concerns with respect to the compelled extraction of biometric data, specifically the voice sample of the accused, without his free and informed consent. Any such act, undertaken in the absence of consent, constitutes a clear violation of the fundamental right to privacy as guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973. The right to privacy, as an essential facet of human dignity and personal autonomy, prohibits unwarranted intrusion into an individual's bodily or personal data integrity, particularly in the context of criminal proceedings. While it may be contended that the FIA undertook certain investigative actions during the course of its inquiry, any subsequent effort to procure the voice sample of the accused, especially at the post-evidentiary stage and without his consent, would amount to compelled self-incrimination. This is explicitly proscribed under Article 13(b) of the Constitution, which bars compelling any person to be a witness against himself. In such circumstances, if the accused withholds consent, any attempt to override that refusal would not only render the process constitutionally infirm but may also vitiate the proceedings themselves for want of adherence to due process and fundamental rights. Accordingly, any direction seeking to extract voice data without lawful authority and express consent must be viewed as constitutionally impermissible and legally untenable.

15. Furthermore, the extraction of voice data from an accused person, without their consent, is constitutionally impermissible and finds express prohibition under both domestic and comparative constitutional frameworks. The Fourth and Fifth Amendments to the Constitution of the United States explicitly safeguard individuals against unlawful searches, seizures, and compelled self-incrimination, principles which have attained universal recognition in democratic legal systems. These safeguards are mirrored in the constitutional framework of Pakistan, particularly within Articles 9, 12, 13, 14, and 24 of the Constitution of the Islamic Republic of Pakistan, 1973. Article 13 of the Constitution specifically prohibits self-incrimination and is reproduced hereunder for reference:

### **Protection against double punishment and self-incrimination**

13. No person—

(a) shall be prosecuted or punished for the same offence more than once;  
or

(b) shall, when accused of an offence, be compelled to be a witness against himself.

The use of the term “shall” in clause (b) imposes a mandatory and unequivocal constitutional prohibition against compelling an accused person to furnish evidence against themselves. Compelling an accused to offer a voice sample for forensic scrutiny, especially when such sample may be used to establish or corroborate guilt, falls squarely within the ambit of self-incrimination and is therefore violative of Article 13(b). Such compelled evidence also undermines the dignity and autonomy of the individual, in contravention of Article 14, which guarantees the inviolability of the dignity of man and the privacy of the home. Moreover, Article 8(1) of the Constitution provides that any law, custom, or usage that is inconsistent with the rights conferred by the Constitution shall be void to the extent of such inconsistency. Article 8(5) further reinforces that these rights shall not be suspended except as expressly provided by the Constitution. Therefore, any attempt to extract a voice sample, without the express and informed consent of the accused, and in the absence of clear statutory authorization, is rendered void and unconstitutional. Taken collectively, Articles 13 and 14 ensure robust protection against coercive investigatory practices that infringe upon an individual’s bodily integrity, privacy, and right against self-incrimination. These constitutional safeguards cannot be circumvented under the pretext of expediency or evidentiary necessity, and any procedure violating these provisions would be liable to be struck down as unconstitutional.

16. In an adversarial legal system, the role of the judge is confined to that of a neutral arbiter, whose paramount duty is to ensure that the trial is conducted fairly, impartially, and strictly in accordance with the law. The judge must refrain from adopting a partisan posture or taking any step that may create an appearance of bias or partiality. It is impermissible for the court to facilitate one party in curing evidentiary deficiencies or in augmenting the strength of its case, particularly after the close of evidence. Any judicial intervention that enables a litigant, especially the prosecution in a criminal trial, to fill lacunae in its case compromises the foundational principles of neutrality and procedural fairness, and imperils the integrity of the adjudicatory process. Such conduct is not only inconsistent with the

principles of natural justice but also constitutes a violation of the accused's fundamental right to a fair trial, as enshrined in Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973. The preservation of judicial objectivity is not merely a matter of procedural formality but a constitutional imperative essential to the legitimacy of the criminal justice system.

17. In the present case, the direction issued by the learned trial court to obtain the voice sample of the accused effectively amounts to affording the prosecution a second opportunity to cure material deficiencies in its evidentiary record. Such judicial intervention, rendered after the closure of prosecution evidence, is antithetical to the settled principles governing adversarial proceedings, wherein the prosecution bears the exclusive burden of proving its case beyond reasonable doubt without judicial assistance or supplementation. This act not only distorts the role of the trial court as a neutral and impartial adjudicator but also infringes upon the fundamental rights of the accused, including the right to due process and a fair trial, as guaranteed under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973.

18. In conclusion, while it may be presumed that the courts below acted with the intent to ensure that all relevant evidence is thoroughly examined, the procedural irregularities and constitutional infirmities attendant to the belated request for forensic analysis cannot be overlooked. The directions issued in the impugned orders, particularly the directive compelling the accused to provide voice samples for comparative analysis, are, notwithstanding any well-intentioned objectives, in derogation of the accused's fundamental rights enshrined in Articles 13(b) and 10-A of the Constitution of the Islamic Republic of Pakistan, 1973. Such compulsion not only contravenes the prohibition against self-incrimination but also undermines the guarantee of a fair trial and due process. Furthermore, the reliance placed by the learned trial court on the unreported decision in *Sarang Shar* (Criminal *Suo Moto* Revision No. 155/2023) is legally misconceived, as the factual circumstances in that case are materially distinguishable and do not justify analogous application in the present matter. In view of the foregoing, it is respectfully submitted that the directions issued by the learned Judicial Magistrate and subsequently upheld by the learned Appellate Court vitiate the fairness of the trial proceedings, infringe upon the constitutional

protections afforded to the accused, and are therefore liable to be set aside for being legally and constitutionally untenable.

19. In view of the foregoing analysis, the impugned orders are found to suffer from material legal and constitutional infirmities warranting interference by this Court. Accordingly, the instant Criminal Miscellaneous Application is allowed. Consequently, the findings recorded by the learned Judicial Magistrate and subsequently upheld by the learned Appellate Court are hereby set aside. The learned trial court is directed to proceed with the matter strictly in accordance with law.

**J U D G E**