

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Cr. Miscellaneous Application No. S-171 of 2025

Applicants : 01. Syed Ali Asghar Shah,
02. Shafique Ahmed Narejo and
03. Bashir Ahmed Lakhair
Through Mr. Safdar Ali Ghouri, advocate.

Respondent : Through M/s Ali Nawaz Deepar &
Muzafar Ali Wadhio, advocates.

The State : Through Mr. Sardar Ali Solangi, DPG.

Date of hearing : 23-07-2025
Date of order : 01-08-2025

ORDER

KHALID HUSSAIN SHAHANI, J:- The applicants, who are police officials, have invoked the inherent jurisdiction of this Court for setting aside impugned order dated 21.05.2025, passed by the learned 2nd Additional Sessions Judge/Ex-Officio Justice of Peace, Mehar, whereby SHO, Police Station Radhan, to register an FIR on the application of respondent No. 3, Mst. Rani.

2. The factual matrix presents two conflicting narratives. According to respondent No.3 (Mst. Rani), on 09.05.2025, the applicants, along with other police officials, raided her home, caused damage, assaulted her family members, and applicant Ali Asghar Shah fired at her 13-year-old son, Zakir Hussain, causing a gunshot injury to his knee.

3. Conversely, the applicants assert that they were on official duty to arrest accused persons wanted in a murder case (FIR No.135/2025, PS Mehar). During the arrest of accused Sajjad and Dhani Bux Panhwar, they were attacked and resisted by the family of respondent No.3. They allege that in the ensuing confrontation, Zakir Hussain was injured by a firearm discharged by his own accomplices. This incident led to the registration of FIR No.52/2025 at PS Radhan against

the family of respondent No.3 for interfering in police duty. They further allege that a mob from the Bhurt community subsequently attacked PS Mehar to free the arrested accused, resulting in another FIR No.136/2025 being registered. The applicants contend that the application filed by respondent No.3 before the Justice of Peace was a malicious attempt to create a counter-blast to these genuine FIRs.

4. Learned counsel for the applicants vehemently argued that the impugned order is illegal and passed in violation of settled law. The cornerstone of his argument is that since an FIR bearing Crime No.52/2025 regarding the same incident is already registered, the direction to lodge a second FIR is barred by the authoritative pronouncement of the Honourable Supreme Court in the case of *Mst. Sughran Bibi v. The State (PLD 2018 SC 595)*. He particularly drew the Court's attention to the legal declarations made in paragraph 27 of the said judgment, arguing that law is now crystal clear and has been settled by a larger bench of the Apex Court, such a scheme. It declares that an FIR is merely the first information of a cognizable offence. Once FIR No.52/2025 was registered, the 'case' came into existence. Any other version, such as the one belatedly presented by Respondent No.3, must be recorded under Section 161 Cr.P.C. during the investigation of that very case. The law does not contemplate parallel investigations arising from multiple FIRs for the same transaction. The investigating officer is duty-bound to probe all angles, including the cross-version, and discover the actual facts. To direct a new FIR would be to fly in the face of the definitive law laid down by the Supreme Court and would create chaos in the criminal justice system. He also relied upon the case laws cited at 2024 YLR 1252 and un-reported order in Cr. Misc. Application No.190/2024.

5. On the other hand, learned counsel for respondent No.3 defended the impugned order. He argued that this is a case of extreme police high-handedness and abuse of authority, where the police officials themselves are the perpetrators. He submitted that a simple statement

under Section 161 Cr.P.C. before the accused police officials would be a futile exercise. He placed reliance on *Mrs. Ghanwa Bhutto v. Government of Sindh* (PLD 1997 Karachi 119), *Syed Qamber Ali Shah v. Province of Sindh* (2024 SCMR 1123), and 2017 P.Cr.L.J 1477 to argue that a second FIR is permissible in exceptional circumstances to investigate the criminal acts of the police. He framed his arguments on paragraphs 28 and 29 of the *Sughran Bibi* case that applicants are reading the *Sughran Bibi* judgment in a vacuum. A holistic reading is required. The petition in *Sughran Bibi* was dismissed, as noted in paragraph 28, because the aggrieved party had already availed the efficacious remedy of a private complaint, which was at an advanced stage. This shows the Court's focus on the availability of a genuine remedy. In this case, being relegated to a statement before the very police officers who shot a minor boy is no remedy at all. Furthermore, the anguish expressed by the Apex Court in paragraph 29 over inordinate delays and apathy must be considered. Forcing the respondent, a poor woman, into the lengthy process of a private complaint against influential police officials would perpetuate the very injustice and delay the Supreme Court decried. The only effective path to justice here is a separate FIR to investigate the criminal excesses of the police.

6. The learned Deputy Prosecutor General has supported the impugned order passed by the Justice of Peace.

7. The law on this subject has been authoritatively and conclusively settled by the larger bench of the Honourable Supreme Court in the case of *Mst. Sughran Bibi* (supra). The scheme of law, as clarified by the Apex Court, is that there can only be one FIR for an incident. Any subsequent or divergent version of the same occurrence must be recorded by the investigating officer under Section 161 Cr.P.C. and be made part of the investigation of the original case. The learned Justice of Peace, in his impugned order, has heavily relied upon the case of *Syed Qamber Ali Shah* (2024 SCMR 1123). This reliance, with respect, is

misplaced and misconceived. The said judgment is distinguishable on facts and law. In *Qamber Ali Shah*, the police had refused to register an FIR *at all*. The Supreme Court, in that context, held that the role of a Justice of Peace is not to evaluate evidence but to determine if the application discloses a cognizable offence for the purposes of initiating the process of law. The present case is fundamentally different. Here, FIR No.52/2025 is already registered concerning the incident of 09.05.2025. The issue is not about the initial registration of a case, but about the legality of a *second* FIR, a subject which is squarely and decisively covered by the judgment in *Mst. Sughran Bibi*. Similarly, the other case law relied upon by the respondent's counsel must be read as subservient to the definitive principles laid down by the larger bench in *Sughran Bibi* and having no binding upon this court in existence of the case of Mst. Sughra Bibi.

8. This Court's attention is also drawn to the order sheet dated 22.05.2025, which indicates that a direction was issued to record the statement of the complainant Mst. Rani. However, the comments filed by the police officials show a conspicuous absence of any compliance with this Court's directive. The Senior Superintendent of Police, Dadu, has filed a perfunctory reply seeking the deletion of his name, thereby abdicating his responsibility as the head of the district police force to ensure compliance with court orders. This blatant disregard for the orders of this Court is unacceptable and cannot be overlooked.

9. This Court, while applying the definitive law laid down in *Mst. Sughran Bibi* (Supra), is not oblivious to the practical challenges and legal implications that arise from its application, particularly in circumstances such as the one at hand, where the allegations of criminality are levelled against law enforcement officials themselves. The pronouncement in *Mst. Sughran Bibi* serves as a foundational pillar of procedural reform, designed to bring clarity and uniformity to the nascent stages of the criminal justice process. It sought to eliminate the procedural incongruity

that allowed for the registration of multiple FIRs concerning a single transaction, a practice which often led to the mischief of parallel investigations, conflicting reports, and vexatious litigation.

10. The judgment's primary object was to streamline the investigative process, ensuring that an accused person is shielded from the harassment of being embroiled in several proceedings for one event, and to guarantee that the trial court receives a single, comprehensive final report under Section 173 Cr.P.C. for a holistic and effective adjudication of cross-versions. Consequently, the ruling fundamentally recalibrates the function of the Investigating Officer (IO). It places upon the I.O a profound duty of impartiality, transforming his role from a mere proponent of the initial informant's version to a neutral discoverer of fact, mandated to investigate all versions of the incident to ascertain the objective truth. However, the rule posits a veritable dilemma for an aggrieved party who must approach the very institution or individuals they accuse of perpetrating a crime to have their statement recorded. This carries an inherent risk of intimidation, suppression of facts, or a subsequent sham investigation. It is precisely to remedy such a potential for injustice that the law provides for the robust and efficacious mechanism of a private complaint under Section 200 Cr.P.C. The Honourable Supreme Court, by circumscribing the registration of a second FIR, has consciously channelled such grievances towards the magisterial courts, thereby reinforcing the judiciary's role as the ultimate sentinel of citizens' rights against executive excesses. The private complaint allows for the complete circumvention of the potentially biased executive machinery, placing the matter under direct judicial supervision from its very inception, where a statement is recorded under oath and any ensuing inquiry or investigation proceeds under the authority of the court, not the police. It is, therefore, the most appropriate and potent remedy for a citizen who apprehends that their grievance will not be justly investigated by the police.

11. The legal framework, however, is not without an antidote to this potential for prejudice. The procedural law itself contains robust mechanisms designed to cure such defects and to ensure that an allegation, particularly one directed against the functionaries of the state, is not stifled at the threshold. The legislative scheme, as interpreted by the superior courts, provides for a tiered system of remedies which collectively operate to safeguard the complainant's rights. The foremost and most potent of these cures is the statutory remedy of a private complaint, as enshrined in Sections 200 to 204 of the Criminal Procedure Code, 1898. This mechanism is the designated judicial pathway to circumvent the executive machinery entirely and lay a grievance directly before a court of law. Its efficacy lies in its procedure: the Magistrate is bound to record the initial statement of the complainant under oath, immediately vesting the narrative with a degree of judicial sanctity that a statement under Section 161 Cr.P.C. lacks. The true power of this cure is manifest in the Magistrate's authority under Section 202 Cr.P.C. to order an inquiry or investigation, not necessarily by the local police, but by any independent officer or agency deemed fit. This authority directly neutralizes the apprehension of a biased investigation. Ultimately, the decision to issue process against an accused rests as a judicial determination in the hands of the Magistrate, not as an administrative discretion with the police. Beyond this primary judicial remedy, the system also provides for administrative redress. An aggrieved party may approach the superior hierarchy within the police force to petition for a change of investigation, thereby removing the inquiry from the hands of the implicated officials. Furthermore, in exceptional cases of patent injustice or a complete failure of the investigative machinery, the constitutional jurisdiction of this Court under Article 199 of the Constitution may be invoked. While this jurisdiction cannot be used to direct the registration of a second FIR against the mandate of *Mst. Sughran Bibi*, it can be exercised to issue prerogative writs compelling the

state to ensure that the investigation is conducted fairly, impartially, and effectively, which may include directions for the constitution of a special investigation team. Therefore, the cumulative effect of these legal provisions ensures that while police procedure is streamlined by the rule against multiple FIRs, the citizen's fundamental right to access justice and demand accountability remains paramount, with the judiciary standing as the ultimate guarantor of this right.

12. For the foregoing reasons, this application is allowed. The impugned order dated 21.05.2025 passed by the learned 2nd Additional Sessions Judge/Ex-Officio Justice of Peace, Mehar, is hereby set aside, being contrary to the law laid down in *Mst. Sughran Bibi (Supra)*. In light of the serious allegations of criminality and high-handedness levelled against the local police officials, who are themselves the applicants herein, and considering their demonstrated failure to comply with the previous lawful orders of this Court, it is evident that a fair and impartial investigation cannot be expected if the matter remains within their purview or under the influence of the local police hierarchy. Therefore, to ensure transparency, inspire confidence, and uphold the ends of justice, a special directive is warranted. Accordingly, the Inspector General of Police (IGP), Sindh, is hereby directed to immediately withdraw the investigation of FIR No.52/2025, registered at Police Station Radhan, from the local police of District Dadu. The IGP shall forthwith assign the investigation of the said case to a senior, independent officer, not below the rank of Assistant Superintendent of Police or Deputy Superintendent of Police (DSP), who shall be posted outside of District Dadu. To ensure specialized and unbiased handling of this sensitive matter, the investigation shall be entrusted to a competent officer from either the Special Investigation Unit (SIU) or the Counter-Terrorism Department (CTD) of the Sindh Police. The newly appointed Investigating Officer shall:

(a) Immediately summon the aggrieved person, respondent No. 3 Mst. Rani, and record her detailed

statement under Section 161 Cr.P.C., ensuring all facts and circumstances constituting her grievance are properly documented. He shall be strictly guided by the legal declarations made in paragraph 27 of the Mst. Sughran Bibi judgment, which mandates that the duty of an investigating officer is "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.

(b) *Conduct a thorough, transparent, and fair investigation into both versions of the incident, strictly adhering to the principles of neutrality and fact-finding as laid down by the Honourable Supreme Court in the case of **Mst. Sughran Bibi v. The State (PLD 2018 SC 595)**.*

(c) *Conclude the investigation expeditiously and submit a final, comprehensive report under Section 173 Cr.P.C. to the competent court.*

13. The Inspector General of Police, Sindh, shall ensure strict compliance with this direction and submit a report confirming the assignment of the new Investigating Officer to the Additional Registrar of this Court within fifteen (15) days from the date of this order. It is clarified that respondent No.3 is not without alternative remedies. If she remains dissatisfied with the police investigation, the law provides a robust and efficacious remedy in the form of a private complaint under Section 200, Cr.P.C. This allows a citizen to directly approach a Magistrate, bypassing the police entirely. The Magistrate can record the complainant's statement on oath, hold an inquiry, and, if a prima facie case is made out,

can issue process directly against the accused. This is a particularly potent remedy in cases involving allegations against police officials.

14. Before parting with this order, this Court cannot blindfold his eye, thus in view of the non-compliance with the previous orders of this Court, notice is issued to the Senior Superintendent of Police (SSP), Dadu, to show cause why proceedings should not be initiated against him. The Inspector General of Police, Sindh, is directed to personally look into this matter, ensure that the directions contained in this order are complied with in letter and spirit, and submit a report to the Additional Registrar of this Court within four weeks.

15. This Criminal Miscellaneous Application is disposed of in the above terms.

J U D G E

Asghar Altaf/P.A