

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA**  
**Cr. Misc. Application No.S-149 of 2024**  
**(Mst. Fahmeeda v/s The State)**

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DATE	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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- 1. For orders on office objection “A”
- 2. For hearing of main case.

Applicant:	Mst. Fahmeeda Through Mr. Habibullah Ghouri, Advocate.
Respondent No 2:	Nusrat Hussain Through M/s. Ashique Ali Jatoi and Naseer Ahmed Waggan, Advocates
The State:	Through Mr.Nazeer Ahmed Bhangwar, Deputy Prosecutor General.
Date of hearing:	25-08-2025
Date of Decision:	25-08-2025

**ORDER**

**NISAR AHMED BHANBHRO, J.-** Through instant Criminal Miscellaneous Application, the applicant has challenged the order dated 22-03-2024 passed by the court of learned Consumer Protection Judge/Judicial Magistrate, Larkana (Learned Trial Cour), wherein report filed under section 173 Cr.P.C seeking disposal of FIR No.5/2024, of police station Waleed, for offence u/s 364 PPC under false “B Class” was approved and modified by disposing the FIR under “C” Class.

2. Mr. Habibullah Ghouri learned counsel for the applicant contended that the offence is heinous and serious in nature. The accused is specifically named in the FIR, which was recorded by the applicant at police station Waleed on 09-01-2024, for the abduction of her son Ghulam Shabeer. He argued that the FIR was fully supported by the

statements of witnesses and the alleged abductee recorded under section 161 CrPC. He further contended that Police recommended the disposal of FIR under false “B” class on the basis of the statements of defense witnesses, which cannot outweigh the statement of abductee. He argued that no reason was assigned by Learned Trial for the disposal of FIR under “C” class. He prayed that it was a fit case for cognizance as police cannot assume the role of the court of law to decide the fate of criminal case. The complainant ought to have been afforded an opportunity of proving her case by leading evidence before the Court of Law. He prayed for allowing the application and setting aside the impugned order.

3. Mr. Ashique Ali Jatoti learned counsel for the respondent No 2 contended that there is an old enmity between the parties over the landed property. He argued that earlier an FIR No.32/2019 was lodged against the accused / Respondent No 2 by the husband of the present applicant namely Manthar Ali at police station Kamber city, which too was disposed of under false “B” class and police report was also approved by the learned Magistrate. He further contended that the respondent No.2 has also lodged FIR No.272/2023 at police station Kamber, against the accused for allegedly occupying his land. He contended that a Civil Suit No.21/2024 was pending adjudication between the parties before the court of learned Senior Civil Judge, Kamber. He contended that mobile number mentioned in the FIR did not belong to applicant, the same was in the name of one Ali Sher Rind, who is close friend of husband of applicant. He prayed that learned Trial Court passed a well-reasoned order after assessing the material collected during the investigation, that too after affording reasonable opportunity of hearing to the applicant. He prayed for dismissal of the application.

4. Learned Deputy Prosecutor General has supported the impugned order on the ground that no material worth was collected during investigation to support version narrated in the FIR, therefore, investigation team disposed of the FIR in “B” Class and learned Trial Court taken the lenient view and converted in “C” Class. He prayed for dismissal of the application.

5. Heard arguments and perused the material available on record.

6. It is the case of the applicant that her son went missing from Yaseen Chowk from the Kiryana shop on 14-12-2023 but she remained silent until 25.12.2023, when per her version, she received phone call through cell phone citing the name of caller as Nusrat Hussain, the respondent No 2. Per stance of the Applicant that caller informed that her son was abducted and he would be done to death, if she raised any hue and cries. After receipt of phone call, the information of the incident was not conveyed to the concerned police station but a Criminal Miscellaneous Application was filed before learned Justice of Peace,

Larkana, who directed the applicant to approach the police station for recording the FIR. After registration of FIR, investigation took its course, investigation officer arrived at the conclusion that no incident of abduction took place and false FIR was lodged against the Respondent No 2 to settle the score of ongoing disputes over landed property.

7. The findings of the investigation officer appeared to be well reasoned and based upon the proper assessment of evidence collected during investigation for a particular flaw in the prosecution case that there is no eyewitness of the incident to have witnessed the abduction. The alleged incident has taken place in Larkana city at the shop of alleged abductee but none from the place of incident has been shown as witness. The complainant in FIR disclosed that she received phone call from a phone number, the said cell number per record did not belong to the respondent No.2. Counsel for the respondent No.2 placed on record the Call Date Report(CDR) of the said cell number which was part of investigation report, CDR revealed that on different dates the calls were made and received by the applicant party from the suspicious cell number, but it has not been stated before the investigation officer as to why applicant party remained in contact with the suspects for such a long period of time. There is no demand on the part of the respondent No.2 regarding the ransom or otherwise, there is only a threat conveyed through cell phone which even was not corroborated through confidence inspiring evidence before the investigation officer confirming the abduction with intention to commit murder of abductee Ghulam Shabeer.

8. It is also the case of prosecution that the abductee Ghulam Shabeer has voluntarily appeared before the police and was not recovered from the possession of respondent No.2. The counsel for the respondent No.2 has placed on record FIR registered earlier by the husband of the present applicant which was also disposed of in "C" class. A Civil litigation is also pending between the parties before a proper forum. It has by now become a trend to convert the Civil disputes into the criminal actions so as to pressurize the parties to settle the terms. Respondent No.2 is a teacher by profession and the allegations of abduction against him appear to be nothing but to stain his credibility in the society. Respondent No.2 has also filed a suit for damages against the husband of complainant for the malicious prosecution regarding registration of earlier FIR which is also pending before the competent forum.

9. Though Police is not empowered to conduct trial and give a verdict of acquittal in favor of the accused. The purpose of investigation is to sift grain from the chaff, in case sufficient material was lacking to connect the accused with the commission of crime, then right course was to file a report under section 169 CrPC, seeking discharge of the accused for want of incriminating evidence. In the present case, Investigation Officer reached to a

conclusion that the FIR was false and no incident as alleged had taken place, thus he filed report before Learned Trial Court for further orders.

10. The Court of Magistrate is well within its powers to concur with the findings of the investigation officer. It is always appropriate that Learned Magistrate, while taking cognizance of the case under section 190 CrPC should make assessment of the evidence collected during investigation and pass appropriate orders as deemed fit.

11. Exercise of jurisdiction under Section 561-A, Cr.P.C by this Court is supervisory in nature and not to be exercised in routine and or as a matter of course merely because such jurisdiction is available and or could be exercised. Inherent jurisdiction is exercised by this Court when there is gross miscarriage of Justice and interference by this Court seems to be necessary to prevent abuse of process of court or to secure the ends of justice. Jurisdiction under section 561-A, Cr.P.C is neither alternative nor, additional in its nature and is to be rarely invoked only to secure the ends of justice. The inherent jurisdiction is extraordinary in nature and designed to do substantial justice. It is neither akin to appellate nor the Revisional Jurisdiction.

12. For the aforementioned reasons, no case for indulgence of this Court is made out. Learned Trial Court has rightly assessed the material available on record and by taking the lenient view has converted the report seeking disposal of FIR in “B” class to “C” class, which prevented the applicant from prosecution under section 182 PPC. The impugned order did not suffer from any illegality, irregularity or perversity. The application is, therefore, dismissed with no order as to cost.

**JUDGE**

Asghar/P.A

Approved for reporting

Larkana

25.08.2025