

Order Sheet
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANO**

Criminal Misc. Application No. D- 03 of 2024.
(Pahlwan Vs. SHO, P.S, Chak and others)

Before:

Mr. Justice Shamsuddin Abbasi.
Mr. Justice Ali Haider 'Ada'.

Applicant:	Pahlwan S/o Shafi Muhammad by caste Naseerani, Through Mr. Abdul Rehman A. Bhutto, Advocate.
The State:	Through, Mr. Sardar Ali Solangi, Deputy Prosecutor General, Sindh.
Date of hearing:	16.09.2025.
Date of Order:	16.09.2025.

ORDER

Ali Haider 'Ada', J:- Through the instant application, the applicant, being the complainant of the case, has assailed the order passed by the learned Special Judge, Anti-Terrorism Court, Shikarpur, whereby the FIR was disposed of under B-Class. Feeling aggrieved by such order, the applicant has called in question the said verdict before this Court.

2. The applicant, being the complainant, lodged FIR No. 44 of 2023 at Police Station Chak for offences punishable under Sections 386, 506/2, 148, 149, 337-H(ii), PPC read with Sections 6/7 of the Anti-Terrorism Act, 1997. The FIR was lodged on 10-06-2023, whereas the incident was shown to have occurred on 08-06-2023. In the FIR, it was narrated that five unknown persons, armed with deadly weapons, demanded an extortion amount from the complainant and further issued threats of dire consequences in case of non-payment. Accordingly, the incident was reported. After registration of the FIR, the statements of the witnesses were recorded and a memo of the place of incident was prepared. Initially, the investigation was carried out by one Inspector; thereafter, a Joint Investigation Team (JIT) was constituted to further investigate the matter. The JIT submitted its report, wherein the case was disposed of under A-Class on the ground of being untraceable.

3. Subsequently, upon submission of the said report, the learned trial Court issued notice to the concerned SHO to produce the complainant party before the Court. On account of their non-appearance, the learned Court directed the SSP to depute a senior officer to investigate the matter afresh and submit a report. In compliance, a DSP-rank officer was deputed to conduct the investigation, who later on disposed of the matter under B-Class before the trial Court. The said report was duly approved by the learned trial Court.

4. Learned counsel for the applicant/complainant contends that, on the very face of the record, the subsequent investigation entrusted to a DSP-rank officer was disposed of under B-Class without adhering to the prescribed parameters of law. He submits that a case cannot be disposed of under B-Class unless some cogent reasons and convincing evidence come on record to establish that the FIR was false or malicious. It is further argued that, since the FIR itself was lodged against unknown persons, the proper course available to the Investigating Officer was to dispose of the matter under A-Class and to continue efforts to trace out the culprits. However, instead of doing so, the Investigating Officer submitted a report under B-Class, which is impermissible in law. Learned counsel further submits that the trial Court also committed an error in approving such report in a mechanical manner, without proper judicial scrutiny. He, therefore, prays that the impugned order may be set aside and the FIR of the applicant be disposed of under A-Class, with directions to the police to continue tracing out the culprits.

5. Conversely, the learned State Counsel has supported the impugned order, contending that initially the matter was disposed of under A-Class, but on subsequent investigation by a DSP-rank officer, the case was rightly disposed of under B-Class due to the non-appearance of the complainant.

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

7. As per the facts of the case, the FIR was registered against unknown persons. The Joint Investigation Team, after conducting investigation, disposed of the matter under A-Class, treating it as untraced. However, during subsequent investigation, the second Investigating Officer disposed of the case under B-Class solely on the ground that the complainant party did not appear to record their

statements. This approach is legally unsustainable, as the statements of the complainant party were already available on record from the initial investigation. Moreover, the second Investigating Officer made no effort to ascertain the facts of the case or to employ any intelligence or investigative measures in order to trace the unknown culprits.

8. As per the settled practice under law, the disposal of criminal cases into classes has its origin in the colonial-era *Bombay Presidency Police Rules*, which practice still continues to be followed by the police in Sindh and other parts of Pakistan. These classifications are resorted to while submitting the final report under Section 173, Cr.P.C, and are subject to judicial scrutiny by the Magistrate or the trial Court.

A-Class: This category is applicable where the case is found to be true, but the accused remain untraced or unidentified. The investigation report reflects that despite sincere efforts, the culprits could not be arrested. In such cases, the FIR is kept pending an investigation may be continued if fresh information comes to light.

B-Class: This class is reserved for maliciously false cases. Where, after investigation, it appears that the FIR was frivolous or false and the complainant knowingly lodged false information, the case is disposed of under B-Class. Such disposal may also entail legal action against the complainant under Section 182, PPC for furnishing false information.

C-Class: This category applies to cases which are neither established as true nor proved to be maliciously false. It covers situations where there is insufficient evidence to proceed, where the matter is non-cognizable, where the facts appear to be of a civil nature. In essence, C-Class is meant for cases which cannot be substantiated due to lack of material proof.

9. It is also a settled proposition of law that such classification by the Investigating Officer is not binding on the Court, and the Magistrate/trial Court is duty-bound to examine whether the disposal falls within the ambit of the respective class before approving the summary. The authority of classifying a case must be exercised strictly in accordance with law, keeping in view the distinction between a true but untraced case (A-Class), a false case (B-Class), and a case with insufficient evidence (C-Class).

10. Moreover, as per *Rule 24.4 of the Police Rules, 1934*, if the information received during investigation gives rise to doubt regarding the commission of an offence, the law prescribes a specific procedure to

record such findings and to endorse that no offence has been committed. For ready reference, Rule 24.4 (I) of the Police Rules, 1934 reads as under:

24.4. Action when reports are doubtful.--(1) If the information or other intelligence relating to the alleged commission of a cognizable offence is such that an officer in charge of a police station has reason to suspect that the alleged offence has not been committed, he shall enter the substance of the information or intelligence in the station diary and shall record his reasons for suspecting that the alleged offence has not been committed and shall also notify to the informant, if any, the fact that he will not investigate the case or cause it to be investigated.

11. So far as the cancellation of a case is concerned, the same powers are also prescribed and defined in the relevant provisions of the Police Rules. The mechanism for cancellation or disposal of a case is specifically provided under *Rule 24.7 of the Police Rules, 1934*. For ready reference, the said Rule is reproduced as under:

24.7. Cancellation of cases.-- Unless the investigation of a case is transferred to another Police Station or district, or first information report can be cancelled without the orders of a Magistrate of the 1st class.

When information or other intelligence is recorded under section 154, Criminal Procedure Code, and, after investigation, is found to be maliciously false or false owing to mistake of law or fact or to be non-cognizable or matter for a civil suit, the Superintendent shall send the first information report and any other papers on record in the case with the final report to a Magistrate having jurisdiction and being a Magistrate of the first class, for orders of cancellation. On receipt of such an order the officer in charge of the police station shall cancel the first information report by drawing a red line across the page, noting the name of the Magistrate canceling the case with number and date of order. He shall then return the original order to the Superintendent's office to be filed with the record of the case.

12. Now, adverting to the aspect of cases registered against unknown or untraced persons, it is significant to note that the Police Rules, 1934, provide a complete process to regulate such situations. The law does not permit the outright abandonment of such cases without due inquiry or investigation; rather, specific provisions have been framed to ensure that even when the offenders remain untraced, the case file remains alive for future action. For the sake of clarity, the relevant rules of Police Rules 1934, are reproduced and explained as under:

Rule 21.35 (h) To co-ordinate and guide the efforts of police station staff throughout the district in securing the arrest of absconders and proclaimed offenders and in locating absentee bad characters,

criminal tribesmen and other untraced persons and to maintain close co-operations with the C.I.As. of other districts in this work.

27-39. Monthly sorting. - (1) At the end of each month, or sooner if convenient, the cases in the upper row which are no longer pending investigation shall be sorted and divided into separate packets as follows:-

(a) All traced cases and untracedailable cases, including cancelled cases.

(b) Untraced non-ailable cases, in which action under section 512, Code of Criminal Procedure, has not been taken.

(c) Untracedailable and non-ailable cases in which action under section 512, Code of Criminal Procedure, has been taken.

13. Thus, after elaboration, it clearly emerges from the record that when the FIR was registered against unknown persons, the mandatory provisions of the Police Rules were required to be followed. In the present case, instead of adhering to the prescribed procedure and classifying the case under A-Class (being a true case with untraced culprits), the Investigating Officer, without lawful justification, disposed of the matter under B-Class, which is meant for false or frivolous cases. Such a course is not sustainable in law. Even the learned trial Court endorsed the findings of the Investigating Officer without appreciating the relevant provisions of the Police Rules, 1934, and without considering to the peculiar facts of the present case.

14. So, keeping in view the above facts and circumstances of the case, the instant FIR No.44 of 2023, registered under Sections 386, 506(2), 148, 149, 337-H(ii), PPC read with Section 7 of the Anti-Terrorism Act, 1997 at Police Station Chak, which was earlier disposed of under A-Class, shall be treated accordingly. The impugned order of the learned trial Court dated 15.01.2024 is hereby set aside. The Investigating Officer is directed to strictly adhere to the relevant provisions of law, make all possible efforts to trace out the real culprits, and thereafter proceed in accordance with the prescribed legal mechanism. The complainant shall also ensure his cooperation with the Investigating Agency during the course of investigation.

Accordingly, this Criminal Miscellaneous Application stands disposed of in the above terms, with no order as to costs.

JUDGE

JUDGE