THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No.43 of 2025

Applicant	:	Mst. Zamarrud Jabir wife of Jabir Saddiq through Mr. Shaukat Hayat, ASC
Respondent No.1	:	Mst. Shahzadi Alishba Khan daughter of Shahzada Murad Khan through Syed Ahsan Imam Rizvi, Advocate
The State	:	Through Mr. Zahoor Ahmed Shah, Additional Prosecutor General, Sindh
Date of hearing	:	24.12.2025
Date of decision	:	26.01.2026

O R D E R

Jan Ali Junejo, J.- This Criminal Revision Application, filed under Sections 435/439 Cr.P.C., calls in question two interlocutory orders dated 06.02.2025 (hereinafter referred to as the "Impugned Orders") passed by the learned Additional Sessions Judge-XI, Karachi South (hereinafter referred to as the "Trial Court") in Sessions Case No. 2315 of 2019 (State v. Mst. Zamarrud @ Sadia & another), whereby:

a) an application under Articles 46-A and 164 of the Qanoon-e-Shahadat Order, 1984, read with Section 94 Cr.P.C., seeking forensic examination of certain videos and photographs already exhibited through PW-01, and related relief, was allowed to the extent of sending the digital material for forensic authentication; and

b) an application under Section 540 Cr.P.C., read with Articles 46-A and 164 QSO, for summoning Dr. Afzal Ahmed, alleged author of the Medico-Legal Certificate already exhibited as Exh. 5/F, was allowed.

2. Succinctly stated, FIR No. 499/2019 was registered at P.S. Darakhshan under Sections 354-A, 506, 504, 509, 337-A(i) PPC on the complaint of Mst. Shahzadi Alishba Khan alleging physical maltreatment, humiliation, and criminal intimidation at Bungalow No. 119/1, Street No. 33, Khayaban-e-Muhafiz, Phase-VI, DHA, Karachi, attributing primary roles to her husband (Accused) and her mother-in-law, the present Applicant. Interim challan dated 27.08.2019 was treated as final on 20.09.2019; charge was framed on 03.09.2020, inter alia under Section

354-A/506/504/509/337-A(i) PPC read with Section 6 of the Sindh Domestic Violence Act, 2013. The complainant (PW-01) produced the medico-legal report (Exh. 5/F), a USB and photographs which, by order dated 06.04.2021, were permitted to be exhibited with liberty for forensic audit if the defense so objected; the USB, photographs and transcript (Exh. 5/I) were exhibited and videos were played in camera, whereupon the defense disputed authenticity. Prosecution evidence was closed on 23.06.2023; the Applicant's statement under Section 342 Cr.P.C. was recorded on 26.08.2023 and the case was posted for final arguments. On 05.04.2024, the complainant moved applications under Articles 46-A and 164 QSO read with Section 94 Cr.P.C. for forensic authentication of the already-exhibited digital material, and under Section 540 Cr.P.C. to summon the author of Exh. 5/F. By separate orders dated 06.02.2025, the learned trial Court allowed both applications to the extent recorded therein. The Applicant has assailed the said interlocutory orders through the present Criminal Revision Application under Sections 435/439 Cr.P.C.

3. Learned counsel for the Applicant contends that the impugned orders dated 06.02.2025 are illegal, without jurisdiction and liable to be set aside as they were passed at a highly belated stage after closure of the prosecution evidence on 23.06.2023 and recording of the Applicant's statement under Section 342 Cr.P.C. on 26.08.2023, when the matter stood posted for final arguments; that the complainant's applications were moved by private counsel in derogation of Section 493 Cr.P.C., without control, endorsement or directions of the Public Prosecutor; that the learned trial Court failed to exercise powers under Section 265-F(3) Cr.P.C. to refuse summoning where the evident object is vexation, delay and defeating the ends of justice; that earlier judicial orders dated 06.04.2021 and 11.04.2023 stood disregarded despite non-compliance by the complainant for over three years; that permitting forensic authentication now amounts to filling lacunae of investigation and stepping into the shoes of the I.O.; and that the impugned orders are unreasoned and offend Articles 4, 9, 10-A, 14 of the Constitution. It is further urged that summoning the medico-legal officer under Section 540 Cr.P.C. after closure of evidence is an abuse of process lacking "essential to the just decision" threshold. On these premises, he prays that the Criminal Revision Application be allowed, the impugned orders dated 06.02.2025 be set aside, and further proceedings pursuant thereto be restrained. The learned counsel has relied upon the case laws i.e. 1. 2019 MLD 2048 (The State v. Abdul Wahab); 2. 2020 MLD 1917 (Muhammad Mohiuddin v. Director General NAB); 3. 2011 YLR 2058 (Muhammad Ayub v. ADJ, Hafizabad), 4. 2018 MLD 489 (Allah Wasaya v. The State), 5. 2016

PCr.LJ 197 (Ali Gul v. The State), and 6. PLD 2001 Supreme Court 384 (Dildar v. The State).

4. Conversely, learned counsel for Respondent No.1 supports the impugned orders, contending that the digital material, including the USB, photographs and transcript, already stands duly exhibited pursuant to order dated 06.04.2021, which itself envisaged forensic audit upon any objection by the defence; that the defence has squarely disputed the authenticity and chain of custody of the said material, thereby necessitating forensic authentication under Articles 46-A and 164 of the Qanun-e-Shahadat Order to enable proper assessment of its evidentiary value; that the trial Court has not permitted introduction of fresh evidence but has merely sought expert evaluation of material already on record; and that summoning the medico-legal officer under Section 540, Cr.P.C. falls within the widest amplitude of the Court's powers to summon a material witness "at any stage" for a just decision of the case. It is further argued that technical objections under Section 493, Cr.P.C. cannot override the Court's paramount duty of truth discovery, particularly when the learned ADPP was present and raised no objection and the Court was otherwise competent to act suo motu; that no prejudice is caused to the defence as full opportunity of cross-examination has been preserved and the proceedings have been directed to be expedited; and, therefore, the Criminal Revision Application is liable to be dismissed. In support of his contentions, learned counsel has relied upon 2011 SCMR 713, PLD 2013 SC 160, 2016 MLD 1937, 2000 PCrLJ 1882, 2019 YLR 2460, 2019 PCrLJ 1701, 2018 MLD 1533, 2022 PCrLJ 1214, PLD 2020 Karachi 596, 2005 YLR 134, PLD 1989 Peshawar 227, 2005 YLR 1351, PLD 1987 Lahore 252, 1987 SCMR 1353 and 2024 SCMR 1085.

5. Learned Additional Prosecutor General, appearing for the State, while emphasizing the Court's duty to ascertain truth, supports the general tenor of the impugned orders as facilitative of a just adjudication, namely, forensic authentication of already-exhibited electronic evidence in the face of defense objections, and the summoning of the medico-legal officer as a material witness in respect of Exh. 5/F, subject to strict safeguards of expedition and fair opportunity to the defense. He submits that the exercise of discretion by the trial Court does not disclose jurisdictional error or perversity warranting revisional interference; however, timelines should be enforced and the scope confined to authenticity/integrity of existing exhibits, with limited, focused examination of the medico-legal witness. He accordingly prays that the Criminal Revision Application be dismissed.

6. I have carefully considered the arguments advanced by the learned counsel for the Applicant, the learned counsel for Respondent No.1/Complainant, and the learned A.P.G. for the State, and have also perused the material available on record with utmost care and caution. The revisional jurisdiction of this Court is supervisory in nature and is confined to examining the correctness, legality or propriety of any finding, sentence or order passed by the subordinate Court, as well as the regularity of its proceedings. It is well settled that interlocutory or discretionary procedural orders passed to facilitate and advance the trial are not ordinarily liable to interference in revision, unless it is demonstrated that such orders are manifestly illegal, without jurisdiction, or so grossly prejudicial as to result in a failure of justice.

7. Articles 46-A and 164 QSO, 1984 recognize the admissibility and consideration of evidence made available by modern devices or techniques, including audio and video recordings, and permit the Court to make such evidence intelligible and reliable through appropriate means. Where authenticity, integrity or provenance of electronic evidence is challenged, resort to forensic authentication is not only permissible but, in many cases, necessary to ascribe proper evidentiary weight. The trial record reflects that: the USB, photographs and transcript were exhibited pursuant to an earlier judicial permission dated 06.04.2021 expressly contemplating forensic audit “if any such objection [is] raised by the accused”; the defense formally objected to authenticity; and the learned trial Court has merely directed a forensic expert to examine the already-produced material and report on authenticity, while deferring any coercive step such as obtaining a voice sample.

8. The applicant’s principal grievance is the timing, post-closure of evidence and at the stage of final arguments. While delay is relevant, two features are decisive here. Firstly, the defense itself urged forensic verification at the time of PW-01’s recall and production of the USB and transcript, thereby putting authenticity in issue. Secondly, the trial Court’s direction does not introduce “fresh” substantive evidence outside the record; it seeks expert evaluation of material already exhibited. In such circumstances, allowing forensic authentication lies within the trial Court’s discretion to ensure a just decision, provided expedition and fair opportunity to the accused are safeguarded.

10. The contention of the learned counsel for the Applicant that the trial Court has “filled the lacunae of the investigation” is misconceived. Forensic authentication undertaken at the trial stage, particularly when

triggered by a specific challenge from the defence to the authenticity and integrity of the material, does not amount to the Court assuming the role of an Investigating Officer; rather, it constitutes a legitimate evidentiary aid expressly contemplated by the Qanun-e-Shahadat Order and the overall scheme of criminal procedure to enable a just and proper adjudication of the case. No perversity or jurisdictional infirmity is made out. Interference in revision is unwarranted.

11. Section 540, Cr.P.C. empowers the Court, “at any stage” of an inquiry, trial or other proceeding, to summon or recall any person if his evidence appears essential to the just decision of the case. This power is wide and purposive, intended to aid the Court in discovering the truth; however, it is not to be exercised to fill lacunae in the prosecution case arising from sheer negligence, to cause vexation or delay, or to prejudice the defence unfairly—limitations that also find reflection in Section 265-F(3), Cr.P.C. The authority conferred under Section 540, Cr.P.C. may be exercised at any stage of the criminal proceedings, including after closure of the prosecution evidence and even at the stage of final arguments, before the judgment is pronounced, provided the Court is satisfied that such evidence is essential for a just decision of the case. In this regard, the consistent view of the Superior Courts is that the decisive consideration is not the stage of the proceedings but the necessity of the evidence for doing complete justice. Reliance is placed on the principle laid down in the case of ***Ansar Mehmood v. Abdul Khaliq and another (2011 SCMR 713)***, wherein, the Hon’ble Supreme Court in Para-10, has held, as under_

> ***“10. Survey of the law undertaken by us, in no uncertain terms, declares that powers of a Court under section 540, Cr.P.C. are widest in its amplitude; it is obligatory upon the Court to summon evidence of a material witness whose evidence is essential for justice; the Court exercising power under section 540, Cr.P.C. has to guard itself from the exploitation and shall keep the guiding principle, what the ends of justice demands; the avoidance to fill gaps is in negation of justice, when a Court arrives at the conclusion that evidence is essential for a just decision, and, that the delay in moving an application is not relevant as the Court itself is empowered, even, without application from any of the parties to summon the witness deemed essential for just decision by applying its judicial mind”.***

A Division Bench of this Court, in the case of ***Muhammad Sharif Shar v. The State (2000 P.Cr.L.J. 1882)***, wherein, this Court in Para-22, has observed that_

> ***“22. The perusal of the above provision of law shows that Part I of this section is mandatory, whereas the Part II of this***

section is obligatory. This provision of law confers wide powers upon the trial Court. In order to ascertain the truth and to arrive at a just decision of the case, the trial Court at any stage of the case can summon, examine or recall and re-examine any person, already examined. The object of this section is to enable the Court to elucidate/ascertain the truth in order to impart justice, which is the primary duty of the Court. In exercise of powers under this provision of law Court is not absolved from performing its duty because of certain technicalities. If evidence of any person is essential for the just decision of the case, irrespective of the fact that his name is mentioned or not mentioned in the charge-sheet, the Court can summon and examine such person. The powers of the Court under section 540, Cr.P.C. are unfettered and they can be exercised at any stage of the case before pronouncement of judgment".

12. Here, the MLR (Exh. 5/F) is already on record, tendered by PW-01. The proposed witness is the authoring medico-legal officer, necessary to speak to the document, the nature and seat of injuries, and to face cross-examination. That the I.O. omitted to list him, or that the prosecution closed its side earlier, would not, by itself, bar the Court from calling a material witness whose evidence bears directly on a core issue. The learned trial Court has recorded the necessity in aid of a just decision and has directed expedition so as not to prolong the trial. On balance, summoning the MLO falls within the legitimate exercise of Section 540 Cr.P.C., particularly where the underlying document is already exhibited and the defense will have full right of cross-examination. No patent illegality or abuse is shown.

13. For the foregoing reasons, no jurisdictional error, manifest illegality, perversity, or material irregularity is established in the impugned interlocutory orders so as to warrant interference in revision. The Criminal Revision Application is, therefore, dismissed along with pending applications, if any.

JUDGE

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