

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
LARKANA**

***Criminal Miscellaneous Application No.S-139 of 2025***  
***(Rashid Hussain v. SHO PS Nasirabad & Ors)***

Applicant : Rashid Hussain Kathio *through*  
Mr. Zameer Ahmed K.H. Solangi,  
Advocate.

Official Respondents: SHO, P.S, Nasirabad and others,  
*through* Mr. Aitbar Ali Bullo, Deputy  
Prosecutor General, Sindh.

Private Respondents: Yaseen and others *through* Mr. Ali  
Akbar Buriro, Advocate.

Date of hearing : 30.01.2026.

Date of decision : 30.01.2026

**O R D E R**

**Ali Haider 'Ada' J:-** Through this Criminal Miscellaneous Application, the applicant, who is the complainant in FIR No. 174 of 2024, registered at Police Station Nasirabad for offences punishable under Sections 324, 506(2), 427, and 34 PPC, has assailed the order dated 27.03.2025 passed by the learned Civil Judge / Judicial Magistrate, Nasirabad, whereby the report filed by the Investigation Officer under Section 170 read with Section 173 Cr.P.C. was disposed of under 'C' class.

2. Briefly, the prosecution case, as reflected in the FIR, is that on 10.11.2024, the complainant along with his witnesses reached the bypass at Nasirabad, where they observed that the respondents / accused party had removed and thrown banners of a political figure affiliated with the complainant. When the complainant requested that the accused refrain from doing so, the accused allegedly assaulted him,

causing injuries. Subsequently, FIR No. 174 of 2024 was lodged on 13.11.2024.

3. During the course of investigation, conducted initially by Sub-Inspector of the range, two accused were arrested, while two others obtained pre-arrest bail. The Investigation Officer submitted a report in the form of a challan, following which, on 16.01.2025, the learned Magistrate passed an order directing further investigation and instructing the SSP Kamber-Shahdadkot to depute a new Investigation Officer not below the rank of Inspector.

4. Thereafter, the second Investigation Officer conducted further investigation and submitted the report under Section 170 Cr.P.C., read with Section 173 Cr.P.C., in the format of a challan. In this report, respondent Nos. 6 and 7 were exonerated and placed in Column No. 2, whereas respondent Nos. 5 and 6 were arrested and produced before the Magistrate. However, the learned Magistrate, by the impugned order, released the arrested accused and disposed of the positive report submitted by the Investigation Officer by converting it into 'C' class.

5. Learned counsel for the applicant contends that the learned Magistrate committed a manifest error while passing the impugned order. It is submitted that the Magistrate acted beyond the scope of his jurisdiction by acting as a trial court, evaluating the defence evidence, and rejecting the report on the ground of an alleged land dispute between the parties. Such observations, according to the applicant, are contrary to settled principles of law, as the function of the Magistrate at this stage is limited to scrutinizing the challan and the investigation report, and not to determine guilt or resolve disputes.

6. Conversely, learned counsel for the respondents / accused contends that respondent Nos. 7 and 8 are government servants and produced documentary evidence before the Investigation Officer, which justified their exoneration. As for respondents Nos. 5 and 6, it is submitted that they are economically weak and had no intention to

remove or tamper with the political banners. It is further contended that the complainant and the respondents are cousins and that a pre-existing land dispute existed between them, which prompted the filing of this FIR to settle personal scores. Learned counsel submits that the learned Magistrate passed a well-reasoned order based on these considerations and, therefore, the application is liable to be dismissed.

7. Learned Deputy Prosecutor General, on the other hand, did not support the impugned order, submitting that the learned Magistrate acted as a trial court and went beyond his jurisdiction, passing findings that were not within his prerogative at the stage of acceptance or consideration of the challan.

8. Heard and perused the material available on record.

9. At the outset, to reach a proper conclusion in the matter, it is necessary to briefly examine the purpose and scope of an investigation under the statutory framework of the Code of Criminal Procedure.

**Section 4(1)(l) Cr.P.C** defines the term "investigation," and an understanding of its scope is essential to delineate the mandate of the Investigating Officer and the procedural obligations cast upon him while inquiring into an offence. For ready reference, the provision is reproduced below.

*"Section 4(1) (l) "Investigation": -includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf.*

10. Having considered the statutory definition of "investigation" under Section 4(1)(l) Cr.P.C., it is also necessary to examine the legal framework defining the powers, jurisdiction, and responsibilities of an Investigating Officer. The Code of Criminal Procedure prescribes the extent and limits of an officer's authority, while the Police Rules, 1934, outline procedural duties and standards to be observed during investigation. In particular, **Section 156 Cr.P.C., read with Rules 25.1 and 25.2 of the Police Rules, 1934 (Volume III)**, sets out the

operational parameters within which an Investigating Officer is required to function. For convenience, the provisions are reproduced below.

*"Section 156. Investigation into cognizable cases: (1) Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would, have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.*

*(2) No proceeding of a police-office in any such case shall at any stage be called in question on the ground that the case was one, which such officer was not empowered under this section to investigate.*

*(3) Any Magistrate empowered under Section 190 may order such an investigation as above mentioned.*

*[4) Notwithstanding anything contained in sub-sections (2) or (3) no police-officer shall investigate an offence under Section 497 or Section 498 of the Pakistan Penal Code, except upon a complaint made by the husband of the woman, or, in his absence by some person who had the care of such woman on his behalf at the time when such offence was committed.]*

*25.1-Power to investigate. – (1) An officer in charge of a police station is empowered by section 156, Criminal Procedure Code, to investigate any cognizable offence which occurs within the limits of his jurisdiction.*

*(2) He is also empowered under section 157(1), Criminal Procedure Code, to depute a subordinate to proceed to the spot to investigate the facts and circumstances of the case and, if necessary, to take measures for the discovery and arrest of the offenders. Any police officer may be so deputed under this section, but where a police officer under the rank of assistant sub- inspector is deputed the investigation shall invariably be taken up and completed by the officer in charge of the police station or an assistance sub-inspector at the first opportunity.*

*3) An officer in charge of a station shall also render assistance whenever required to all officers of the Criminal Investigation Department working within his jurisdiction.*

*25.2 Power of investigating officers.-- (1) The powers and privileges of a police officer making an investigation are details in sections 160 to 175, Criminal Procedure Code. An officer so making an investigation shall invariably issue an order in writing in Form 25.2(1) to any person summoned to attend such investigation and shall endorse on the copy of the order retained by the person so summoned the date and time of his arrival at, and the date and time of his departure from the place to*

*which he is summoned. The duplicate of the order shall be attached to the case diary.*

*(2) No avoidable trouble shall be given to any person from whom enquiries are made and no person shall be unnecessarily detained.*

*(3) It is the duty of an investigating officer 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."*

11. The Investigating Officer occupies a central role in the criminal justice system, as the thoroughness, integrity, and impartiality of an investigation directly impact the fairness of the trial and the dispensation of justice. It is well-settled, as reiterated in *Syed Qamber Ali Shah v. Province of Sindh (2024 SCMR 1123) and Suo Motu Case No. 19 of 2011 (2012 SCMR 437)*, that investigation must be conducted diligently, honestly, and strictly in accordance with statutory mandates.

12. The Investigating Officer's role is strictly investigative, confined to the collection, preservation, and submission of evidence. He is neither authorized to draw legal conclusions nor to assume adjudicatory powers. Determination of guilt or innocence is exclusively a judicial function, as emphasized in *Muhammad Ahmad v. The State (2010 SCMR 660)*. All powers must be exercised within statutory boundaries, ensuring that evidence is obtained impartially, lawfully, and meticulously.

13. So far as the categorization of criminal cases into A, B, and C classes originates from the colonial-era Bombay Presidency Police Rules and was subsequently incorporated into the **Bombay Police Manual, Part III, under Rule 219**. Although framed during the British period, this system continues to be consistently followed by police authorities in Pakistan to guide the proper disposal of cases. The classes are defined as follows:

**A-Class:** Allegations are substantively true but the accused remain untraced or unidentified. FIR is kept pending for possible future investigation.

**B-Class:** Complaints found to be malicious, false, or frivolous. Complainant may be liable under Section 182 PPC.

**C-Class:** Cases where evidence is insufficient, the matter is primarily civil in nature, or the offence is non-cognizable.

14. These classifications guide the proper disposal of cases while respecting the investigative and judicial roles of the police and Courts. In this regard, this Court, in the case of **Syeda Afshan versus Syed Farukh Ali and others (PLD 2013 Sindh 423)**, observed that:

*"5. There is no procedural law in our country in which a Magistrate can grant administrative approval for disposal of a case under "A", "B" or "C" class, but the Magistrate has disposed of the case under "C" class by passing impugned order, therefore, it is to be clarified that these classes are in practice to dispose of the criminal cases after completion of investigation since long, this continuous practice has become usage and is not in consistent with or in derogation of fundamental rights as prescribed by Article 8 of the Constitution, therefore, such usage has force of law and now such practice is a part and parcel of the procedural law. Actually these classes were prescribed by Bombay Presidency Police Guide. According to Bombay Presidency Police Guide, report of investigation under section 173 of the Code of Criminal Procedure, 1898, is to be filed either in the form of a charge-sheet, if the accused is sent for trial, or in the form of a Final Report, in other cases. Final Reports are classified into 'A'---true cases, maliciously false cases, neither true nor maliciously false cases but non-cognizable. As per practice/usage the class "A", "B" and "C" are defined as under:--*

**CLASS 'A':**

*F.I.R. is true, but accused is/are untraced, therefore, Magistrate can dispose of the case till the appearance/arrest of the accused.*

**CLASS 'B':**

*The F.I.R. is maliciously false and after passing summary orders by directing the S.H.O. to initiate proceedings for offence punishable under section 182, P.P.C. against the complainant/person, who gives information, which he knows or believes to be false.*

**CLASS 'C':**

*F.I.R. can be disposed of being non-cognizable offence, but in this class it is suffice to say that if there is evidence regarding non- cognizable offence, the Magistrate can direct the S.H.O. to submit a separate*

*report under section 155, Cr.P.C. for taking cognizance and proceedings or otherwise."*

15. Moreover, under **Rule 24.4 of the Police Rules, 1934**, if information collected during an investigation casts doubt on the commission of an offence, the officer is required to formally record the findings and indicate that no offence has been committed. This ensures clarity, accountability, and proper documentation of the investigative process. For ready reference the same is read 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."*

16. So far as the cancellation or final disposal of a case is concerned, the powers and procedures are expressly prescribed under the Police Rules, 1934. **Rule 24.7** specifically governs the framework for such action, ensuring that cases are disposed of in accordance with established procedures and statutory mandates. For ease of reference, the Rule is reproduced below.

*"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 Superintendents' office to be filed with the record of the case."*

17. After perusal of the relevant legal provisions, it is evident that in the present case the learned Magistrate, while passing the impugned

order, classified the case as 'C' class on the basis that no incident had taken place and that a land dispute existed between the parties. On this basis, the Magistrate concluded that the report submitted under Section 173 Cr.P.C. be approved as C class. However, this approach is legally untenable. While exercising administrative powers, the Magistrate exceeded his jurisdiction by effectively delving into questions of trial and making conclusions akin to those of a trial court, without the production of evidence or adherence to judicial procedures. Such findings are wholly contrary to law. The impugned order, which assumes the character of a judgment on the merits, is hereby treated as void ab initio, as it reflects a failure to apply proper judicial mind and exceeds the statutory jurisdiction and authority of the Magistrate.

18. Though, where a report under Section 173 Cr.P.C. is positive, reflecting that the Investigating Officer has acted under Section 170 Cr.P.C. and forwarded the accused in custody for trial, the Magistrate is required to exercise his jurisdiction in terms of Section 190(1)(b) Cr.P.C., or, as may be appropriate, refer the matter for trial under Section 190(3) Cr.P.C. In this context, reliance may be placed on *Abdul Hafeez Junejo v. The State (2010 YLR 470)*, wherein it was held that:

*"12. As to the second controversy regarding non-application of mind through a speaking order by the learned Magistrate while sending up the case to the Court of session for trial, there appears to be no cavil to the proposition that in cases where the Investigating Officer proposes to terminate/cancel the First Information Report by proposing it to be a "false case" or "case of no evidence" or for any other reason submits report under sections 169/ 173, Cr.P.C., then the Magistrate Incharge in either case whether he concurs or disagree with such report is required to appreciate the report of the Investigating Officer in the light of material collected during the investigation and then to pass just and fair speaking order reflecting judicious application of mind and this is for the reason that by such order the Magistrate endorses termination or decides to take cognizance in a case proposed for termination and in both events either the complainant or the accused have a right to know the reasons which prevailed with the learned Magistrate to endorse termination or to proceed in a case proposed for termination. However, in my opinion in cases where upon completion of investigation the Investigating Officer under section 170, Cr.P.C. on the basis of martial*

collected during such investigation in his report under section 173, Cr.P.C. proposes the trial of the accused for an offence then such principle is hardly applicable for the simple reason that a Magistrate upon receiving Report under sections 170/173 Cr.P.C. cannot dismiss such report and is duty bound to proceed to deal with it in accordance with law, which means that the Magistrate shall proceed to issue process or send it to the Court of Session for trial, such view of mine finds support from the dicta laid down in the case of *Said Jalal and 2 others v. The State and another* (1972 SCMR 516). Likewise in the case of *Habib v. The State* (1983 SCMR 370) the apex Court observed:-

*"If however, a report under section 173, Cr.P.C. shows that the Police Officer has taken action under section 170, Cr.P.C. and has forwarded the accused under custody for trial, the Magistrate shall proceed to take cognizance under section 190(1) (b) Cr.P.C. or send up the case for trial under section 190(3) Cr.P.C."*

19. Further guidance and authoritative precedent can be drawn from the case of **Amanat Ali versus 1st Civil Judge and Judicial Magistrate, Daharki, and 2 others (2015 YLR 2312)**, as it was held that:

*"12. Barring the above provisions of law, the Magistrate is not competent to wash off his hands from the trial of which he has already taken cognizance on the report submitted by the investigating officer under section 173, Cr.P.C. If however the report of the investigating officer placed before the Magistrate for his approval is in negative, whereby he has disposed of the prosecution case either under (a), (b) or (c) class, the Magistrate in such case under the law is competent after evaluating the material placed before him to either agree with the conclusion drawn therein or to make his own independent opinion by disagreeing with the inference arrived at by the investigating officer. However, if the report of the investigating officer is in positive, thereby he has referred the accused to the Magistrate for the purpose of trial along with the material collected against him or them, the Magistrate is not empowered in such situation to disagree with the conclusion of the investigating officer. For the purpose of reliance the following cases can be cited, SBLR 2010 Sindh 306, 1972 SCMR 516."*

20. Additionally, in case of **Khadim Hussain Versus The State and 12 others PLD 2025 Sindh 12**, as it had been held that:

*"4. It is settled, as per scheme of law, that in a positive report of I.O. in investigation referring the accused to a trial, the Magistrate has no jurisdiction to disagree with him by disposing of the case or deleting a particular section. The conclusion drawn by the I.O. that there is sufficient material to show that a particular offence or the case as reported has been made out for the Court to hold a trial thereon is always based on some material collected by him during investigation."*

*The evidentiary value of which the Magistrate is not competent to discard on taking a summary tour of material before him. It requires examination of witnesses. Therefore, it would be for the Court, be it Magistrate's trial or the Sessions' trial, to apply its mind, in the trial, and decide whether the case is made out; or there is sufficient material to attract applicability of a particular section and then follow the procedure accordingly."*

21. In view of the foregoing facts and circumstances, this application is hereby allowed, and the impugned order dated 27.03.2025 is set aside. The two accused persons, Respondent Nos. 05 and 06 were initially shown as arrested but were released pursuant to the impugned order. The Investigating Officer is directed to take this fact into account, in accordance with the procedure prescribed by law, and thereafter submit a report accordingly. The learned Magistrate shall then pass an appropriate order and proceed strictly in accordance with the principles laid down by law.

**JUDGE**