

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 2066 of 2025

[Shahida Parveen v. Federation of Pakistan and others]

Before:

Justice Arbab Ali Hakro

Justice Muhammad Osman Ali Hadi

Petitioner by : Mr. Mir Israr Hussain Talpur, Advocate

Respondents by : Syed Naveed Ahmed Shah, Deputy Attorney General and Mr. Khalil Ahmed Maitlo, Deputy Prosecutor General

Date of Hearing : 15.09.2026

Date of Decision : 15.09.2026

ORDER

ARBAB ALI HAKRO, J. – Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (the Constitution), the petitioner seeks quashment of FIR No.40/2025, registered on 20.11.2025 at Police Station National Cyber Crime Investigation Agency, Sukkur (hereinafter referred to as ‘**NCCIA**’), for offences under sections 20, 21 and 24 of the Prevention of Electronic Crimes Act, 2016 (hereinafter referred to as ‘PECA, 2016’) (the impugned FIR). She further prays that the official respondents be restrained from arresting her and from submitting the challan, that respondent No. 4 be directed not to harass her at the instance of respondent No. 5, and that respondent No. 5 be called upon to furnish a personal bond.

2. Respondent No. 5, a press reporter from Gambat, lodged FIR No.44/2025 at Police Station Agra, District Khairpur on 27.05.2025 under sections 502, 504 and 506(ii), P.P.C. (the earlier FIR). He alleged that a video abusing him, a video of him in a state of undress and photographs of his family had been uploaded on a Facebook ID described as “Shahidan Bhellar” and made viral, and that on the morning of that day Comrade Sajid Ali Samtio, Muhammad Ali Channa and Ali Hyder alias Hyderu Ujjan intercepted him near Pir Usman Shah, demanded money, threatened to circulate more such material and extended threats to his life.¹ During investigation, the Investigating Officer added sections 20 and 21 of PECA, 2016. The District

¹ FIR No. 44/2025, Police Station Agra (Annexure “A” to the petition).

Public Prosecutor, Khairpur, opined that, as photographs had been collected from the ID of the petitioner, “the case is exclusively triable by the Court of FIA” and the police papers were placed before the learned Civil Judge & Judicial Magistrate-III, Gambat (the Magistrate).²

3. By order dated 17.06.2025, the Magistrate held that “per story, the same comes under the PECA ACT which does not come within jurisdiction of this court to take cognizance in later stage” and directed return of the police file “to place before proper agency and court”. By the same order, the three accused, who were on bail, were “discharged u/s 63 Cr.P.C” and their sureties were released “in lieu of Fresh PR bond of Rs.100,000/- with clear assurance to appear before any court or agency as & when required”.³ The Senior Superintendent of Police, Khairpur, thereafter sent the original case papers to the Federal agency.

4. NCCIA Circle Sukkur registered Enquiry No.147/2025 on 03.07.2025. In his statement recorded that day, respondent No. 5 named the petitioner Ali Hyder Ujjan, Muhammad Ali Channa and Comrade Sajid Ali Sameto as persons who shared defamatory and objectionable content against him through their Facebook accounts and alleged that they had also circulated a nude video and private pictures of him and of his family members.⁴ Notices under section 160, Cr.P.C. were issued to all four. Ali Hyder Ujjan and Muhammad Ali Channa appeared; the police seized their mobile phones, and, according to the agency, forensic examination confirmed the Facebook accounts and related posts. The petitioner and Comrade Sajid Ali did not appear. With the approval of the competent authority, the impugned FIR was registered against all four.⁵

5. The Investigating Officer of NCCIA, in the report filed on behalf of respondents Nos. 3 and 4, states that the petitioner did not join the enquiry despite service of notices, that the investigation has been completed on the basis of documentary, electronic and digital material, and that the final charge sheet will be submitted to the competent court after approval by the competent authority.⁶ The Senior Superintendent of Police, Khairpur and the Station House Officer, Police Station Agra, confirm the registration of the earlier FIR,

² Report of the Senior Superintendent of Police, Khairpur, dated 15.09.2026, para 4; letter of the Senior Superintendent of Police, Khairpur, No. INJP/-1655 of June 2025, annexed thereto.

³ Order dated 17.06.2025 in FIR No. 44/2025 (Annexure “A-1” to the petition).

⁴ Statement of respondent No. 5 dated 03.07.2025 in Enquiry No. 147/2025, annexed to the report of NCCIA.

⁵ FIR No. 40/2025, Police Station NCCIA, Sukkur (Annexure “B” to the petition).

⁶ Report of the Investigating Officer, NCCIA Circle Sukkur, on behalf of respondents Nos. 3 and 4.

the order dated 17.06.2025 and the transmission of the case papers to the Federal agency, which is now investigating the matter.⁷

6. Learned counsel for the petitioner contends that the petitioner, a social worker, has been falsely implicated; that respondent No.5 is a habitual blackmailer against whom several criminal cases are registered; that the complaint against a police officer was dismissed by the learned Sessions Judge, Naushahro Feroze, with a warning; that the allegations in the impugned FIR are identical to those in the earlier FIR, in which the accused were discharged under section 63, Cr.P.C.; that the Magistrate never directed registration of any FIR; that a second FIR on the same facts cannot be sustained and that, without any notice to the petitioner, raids are being conducted to arrest her. He relies upon *Sughran Bibi*.⁸

7. Learned Deputy Attorney General and learned Deputy Prosecutor General, relying upon the reports on record, oppose the petition and pray for its dismissal.

8. The questions that arise are (i) whether the impugned FIR is a second FIR in respect of the same occurrence and, for that reason, is unsustainable; (ii) whether the discharge of the accused under section 63 Cr.P.C. in the earlier FIR bars the present proceedings; (iii) whether the impugned FIR has been registered without lawful authority or discloses no offence, so as to call for interference under Article 199 of the Constitution; and (iv) whether the remaining reliefs can be granted.

9. This Court has no power under section 561-A Cr.P.C. to quash an FIR or an investigation. The registration of an FIR and the conduct of an investigation are, however, amenable to judicial review under Article 199(1)(a)(ii) of the Constitution and an accused may invoke that jurisdiction where, before submission of the report under section 173 Cr.P.C., the FIR has been registered, or the investigation is being conducted without lawful authority.⁹ The jurisdiction is exercised in exceptional cases, i.e where the facts unequivocally show that no offence can be established, where the registration of the FIR reflects a misuse of authority or lacks legal justification or where the case has been registered without proper authority; it is not to be invoked where the allegations establish a *prima facie* case.¹⁰ As held in *Ajmeel*

⁷ Reports of the Senior Superintendent of Police, Khairpur, and the Station House Officer, Police Station Agra, both dated 15.09.2026.

⁸ *Mst. Sughran Bibi v. The State* PLD 2018 SC 595, placed on record through statement dated 12.08.2026.

⁹ *F.I.A. through Director General, FIA and others v. Syed Hamid Ali Shah and others* PLD 2023 SC 265, paras 4 and 6; *Shahnaz Begum v. The Hon'ble Judges of the High Court of Sind and Baluchistan and another* PLD 1971 SC 677.

¹⁰ *The State through Prosecutor General Punjab, Lahore v. Chaudhry Mohammad Khan and others* PLD 2025 SC 254, para 7.

Khan, “Quashment of F.I.R. during investigation tantamounts to throttling the investigation, which is not permissible in law.”¹¹ Nor can this Court, in its jurisdiction, resolve factual controversies or assume the role of the investigating agency or of the trial court.¹²

10. PECA, 2016 is a special law. Section 29, as substituted by the Prevention of Electronic Crimes (Amendment) Act, 2025, establishes NCCIA for the inquiry into, investigation of, and prosecution of the offences specified under the Act. It treats its officers as police officers of equivalent rank for the purposes of inquiry and investigation and requires them to follow the procedure laid down in the Code to the extent that it is not inconsistent with the Act. Section 30 declares: “Only an authorized officer of the investigation agency shall have the powers to investigate an offence under this Act”. Since 29.01.2025, offences under sections 20 and 21 are non-bailable, non-compoundable and cognizable by the investigation agency under section 43(2), whereas the offence under section 24 remains non-cognizable, bailable and compoundable under section 43(1).¹³ Offences under the Act are triable by the courts designated under section 44. Where the same act falls within a special law, the special law prevails over the general law.¹⁴

11. In *Sughran Bibi*, a larger Bench of the Supreme Court declared that upon registration of an FIR, a “case” comes into existence; that later versions of the same incident are to be recorded under section 161Cr.P.C. in that case and that “No separate FIR is to be recorded for any new version of the same incident brought to the notice of the investigating officer during the investigation of the case.”¹⁵ The rule rests on the power and duty of the officer investigating the registered case to examine every version of the incident within that case.¹⁶ It presupposes that the registered case is one the investigating agency is competent to investigate.

12. That is not the position here. When the earlier FIR was lodged, section 30 of PECA, 2016 had already confined the investigation of offences under that Act to NCCIA. The local police could not investigate offences under sections 20 and 21 within the earlier FIR and the Magistrate, holding that the matter fell under the special law, returned the file for placement before the proper agency and court. The allegations regarding online content were,

¹¹ *Ajmeel Khan v. Abdur Rahim and others* PLD 2009 SC 102, para 6.

¹² *Chaudhry Mohammad Khan* (n.10 above), paras 16 and 17.

¹³ Sections 29, 30 and 43 of PECA, 2016, as substituted and amended by sections 6, 7 and 9 of the Prevention of Electronic Crimes (Amendment) Act, 2025 (Act No. II of 2025), in force from 29.01.2025.

¹⁴ *Syed Mushahid Shah and others v. Federal Investment Agency and others* 2017 SCMR 1218, paras 10 and 19.

¹⁵ *Sughran Bibi* (n.8 above), para 27(iii) and (iv).

¹⁶ *Sughran Bibi* (n.8 above), paras 12 to 15.

therefore, never lawfully investigated in the earlier FIR. NCCIA, a distinct agency with its own police station, was bound on receipt of the information to proceed under its own statute. The impugned FIR is thus the first information of offences under PECA, 2016 recorded by the only agency competent to investigate them; it is not a fresh version of an incident already under investigation by that agency. The earlier FIR, for its part, concerns offences under the Penal Code and the alleged interception and threats of 27.05.2025 by three named persons, of whom the petitioner is not one. The rule in *Sughran Bibi* is, therefore, not attracted, and the objection fails.

13. Section 63 Cr.P.C. provides: “No person who has been arrested by a police officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.” A discharge under this provision concerns the release of the accused; it is not a verdict on the accusation. The order dated 17.06.2025 bears this out, for the Magistrate, having held that the matter lay beyond his cognizance, returned the file to the proper agency and court and released the three accused on personal bonds conditioned on their appearance “before any court or agency as & when required”. Where a Magistrate discharges an accused on a police report, he does not act as a criminal court and “there is no lis before him, there is no duty to hear the parties, there is no decision given, no finality or irrevocability attaching to the order”.¹⁷ A discharge is not an acquittal, and Article 13(a) of the Constitution is attracted only where the earlier prosecution has culminated in a conviction for the same offence.¹⁸ The discharge in the earlier FIR, which on its face did not concern the petitioner, is therefore no bar to the investigation or trial of the offences under PECA, 2016.

14. Whether a cognizable offence is made out is to be judged from the contents of the FIR; as held in Hamid Ali Shah, “it is the contents of an FIR which are to be seen to ascertain whether a cognizable offence is made out of the allegations contained therein”.¹⁹ The impugned FIR alleges that defamatory and objectionable material concerning respondent No. 5, including a nude video and private pictures of him and his family, was shared through the Facebook accounts of the petitioner and her co-accused. The District Public Prosecutor noted that such material was collected from the petitioner’s account, and the agency states that forensic analysis of the phones of two co-accused confirms the related posts. These allegations, on their face, attract

¹⁷ *Bahadur and another v. The State and another* PLD 1985 SC 62.

¹⁸ *Raja Tanveer Safdar v. Mrs. Tehmina Yasmeen and others* PLD 2024 SC 795, para 7.

¹⁹ *Hamid Ali Shah* (n.9 above), para 8.

sections 20 and 21 of PECA, 2016, both of which are cognizable. The FIR has been registered after enquiry, with the approval of the competent authority, by the agency designated under section 30. The registration cannot, therefore, be said to be without lawful authority, nor can it be said that no offence is disclosed. Whether the material was false, whether it falls within section 21, and whether the petitioner uploaded it, are matters of evidence.

15. The offence under section 24 is non-cognisable and therefore stands on a different footing. Under section 155(2) Cr.P.C., no police officer may investigate a non-cognisable case without the order of a Magistrate, and the record does not show whether such an order was obtained. This does not affect the registration of the FIR, which rests independently on the cognizable offences under sections 20 and 21; whether the report can proceed in respect of section 24 is for the trial court to examine when taking cognizance.

16. The pleas that respondent No. 5 is a blackmailer with a record of criminal cases, that the complaint is actuated by malice and that no notice was served on the petitioner, raise disputed questions of fact. They may be urged before the investigating officer and the trial court, but cannot be resolved here, for “if prima facie an offence has been committed, ordinary course of trial before the Court should not be allowed to be deflected by resorting to constitutional jurisdiction of High Court”.²⁰ The investigation is stated to be complete, and the report under section 173 Cr.P.C. is to be submitted. Once the trial court takes cognizance, the fate of the case will rest with that court and the petitioner will have her remedy under section 249-A or 265-K Cr.P.C., as the case may be.²¹

17. A direction restraining the submission of the challan would stifle a lawful investigation, which is impermissible.²² Protection against arrest, if any, is to be sought from the competent court under section 498, Cr.P.C. The investigating agency is, nonetheless, bound by the law declared in *Sughran Bibi* that ordinarily no person is to be arrested merely because he has been nominated as an accused and that arrest is to be deferred until sufficient material becomes available to satisfy the investigating officer about his involvement.²³ As to the prayer for a personal bond, respondent No. 5 is a private person, and no such direction can issue against him under Article 199

²⁰ Col. Shah Sadiq v. Muhammad Ashiq and others 2006 SCMR 276, para 7.

²¹ Director-General, Anti-Corruption Establishment, Lahore and others v. Muhammad Akram Khan and others PLD 2013 SC 401, para 2.

²² *Ajmeel Khan* (n.11 above), para 6.

²³ *Sughran Bibi* (n.8 above), para 27(vi).

of the Constitution; if the petitioner apprehends a breach of the peace, her remedy lies under Chapter VIII Cr.P.C.

18. The papers of the earlier FIR, including the portion relating to offences under the Penal Code, have been sent to NCCIA. It is observed that to avoid two proceedings on the same allegations, the allegations regarding online content should be dealt with only in the impugned FIR under PECA 2016, and that the remaining portion of the earlier FIR should be dealt with by the competent agency and court in accordance with law, so that no accused faces two trials on the same facts.²⁴

19. For the foregoing reasons, no case for quashment of the impugned FIR is made out. Accordingly, the petition is dismissed.

20. The observations made herein are tentative and confined to the disposal of this petition; they shall not prejudice the case of either party before the trial court.

J U D G E

J U D G E

Naveed Ali

²⁴ Mushahid Shah (n.14 above), paras 17 and 19.