

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Cr. Misc. Appln No.640 of 2021

Date	Order with signature of Judge
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For hearing of main case  
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25.11.2021

Syed Mureed Ali Shah, advocate/applicant is present in person

Mr. Zahoor Shah, APG

Mr. Muzaffar Ali Laghari, advocate for respondent No.2  
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**AFTAB AHMED GORAR, J.:-** Through this criminal miscellaneous application, applicant Syed Mureed Ali Shah son of Syed Anwar Ali Shah assailed the order dated 12.10.2021 passed by the learned Additional Session Judge, Sujawal whereby the application under section 265-K Cr.P.C of the applicant was dismissed which was filed for quashing FIR No.01.2021 under sections 147, 148, 149, 354, 436, 504 & 506/2 PPC registered Police Station Dhabeji.

2. The applicant who is appearing in person submitted that he is innocent and has falsely been implicated in this case. He further contended that there is inordinate delay of more than 26 hours in lodging the FIR. He also contended that neither his name transpired in the FIR nor any role has been assigned to him. He submitted that he has nothing to do with the dispute of the parties as he only remained Counsel for the rival party of the respondent which annoyed the respondent and she dragged him in litigation as a party. He also contended that even his name is not mentioned in the statement of the witnesses and complainant recorded under section 161 Cr.P.C. He submitted that his name was added in further statement of the complainant recorded under section 162 Cr.P.C which is not only improvement but afterthought. He further submitted that even in the 162 Cr.P.C. statement of the complainant the only allegation made

against him was of instigation to other co-accused for commission of offence. He therefore submitted that the learned Court below has passed the impugned order without considering the facts and applying the judicial mind and as such the impugned order is liable to be set aside and the proceedings arising out of FIR No.01/2021 registered at Police Station Dhabeji may be quashed.

3. Learned Additional Prosecutor General assisted by the learned Counsel for the complainant has opposed the instant application and added that the present applicant has been named by the complainant in her statement recorded under section 162 Cr.P.C. to be one of the accused who instigated the co-accused to commit the offence. They submitted that the present application is nothing but to escape from the proceedings initiated against him. They further submitted that the learned Court below has rightly dismissed the application of the applicant filed under section 265-K Cr.P.C. as the inherent powers of the Court cannot be used blindly and unless some evidence comes on record exonerating the applicant, the proceedings against the applicant could not be quashed. They therefore, submitted that the instant application merits no consideration and the same may be dismissed with directions to the applicant to face trial and he may be set at liberty to file the same after some evidence exonerating him from the allegation comes on record.

4. I have heard the applicant who is appearing in person, learned Additional Prosecutor General, learned Counsel for the complainant and perused the record available before me.

5. Admittedly the applicant is not nominated in the FIR and even in the statement of complainant recorded under section 161 Cr.P.C. she did not name him which was recorded on 13.1.2021. Record further reveals that on the very same day i.e. 13.1.2021 at one hand the complainant is not nominating the applicant in her 161 Cr.P.C.

statement while on the other hand she got her further statement recorded under section 162 Cr.P.C. in which she named the applicant that too with the role that he has instigated co-accused for committing offence. Even the statements of the Prosecution witnesses recorded under section 161 Cr.P.C are silent in respect of any involvement of the applicant.

6. The Hon'ble Supreme Court of Pakistan in alike case reported as ***Falak Sher @ Sheru vs. The State (1995 SCMR 1350)*** made following observations, relevant portion of the order is reproduced herein below:-

*“18. The learned counsel for the State insisted that in supplementary statement recorded by SI Muhammad Aub on same day the complainant had disclosed name of the appellant. The supplementary statement of the complainant be read as part of the F.I.R. The contention is devoid of force. It may be observed hat F.,I.R is the document which is entered into 154 Cr.P.C. book maintained at the police station at the complaint of informant. It bring the law into motion. The police under section 156 Cr.P.C. starts investigation of the case.*

*19. Any statement or further statement of the first informant recorded during the investigation by police would neither be equated with First Information Report nor read as part of it.-----”*

7. The case in hand has similar circumstances where the FIR as well as statement of the complainant recorded under section 161 Cr.P.C are silent in respect of any connection of the applicant with the alleged offence whereas she has improved her statement recorded later under section 162 Cr.P.C. which could not be equated with the First Information Report nor could it be read as part of it.

8. in view of the above discussion, the impugned order dated 12.10.2021 passed by the learned Additional Session Judge, Sujawal is set aside and the proceedings in respect of FIR No.01.2021 under sections 147, 148, 149, 354, 436, 504 & 506/2 PPC registered Police Station Dhabeji are quashed.

JUDGE