

ORDER SHEET

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

Cr. Misc. Application No.S- 188 of 2024.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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- 1.For orders on office objection as flag A.
- 2.For orders on M.A No. 2605/2024.
- 3.For hearing of main case.

21.4.2025.

Mr. Ashfaq Hussain Abro, advocate for the applicant/injured
Saeed Ahmed Bhurt.

Mr.Aitbar Ali Bullo, D.P.G

Accused/Respondents No.3 and present in person.

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AMJAD ALI SAHITO-J.:-Through this criminal miscellaneous application, applicant/injured has impugned order dated 06.5.2024 passed by learned Civil Judge and Judicial Magistrate0I, Mehar whereby he has accepted the report submitted by I.O under Section 173 Cr.P.C in which the names of accused Syed Muhammad Shah and Ali Mardan @Ali Murad Shah respondents No.3 and 4 respectively were placed in column No.II of the challan and they were discharged from the charge.

Details and particulars of the FIR are already available in the memo of instant application, same can also be gathered from the copy of FIR attached with the application, hence need not reproduce the same hereunder.

Per learned counsel, sufficient evidence was available against the accused/respondents No.3 and 4 but the I.O of the case placed their names in column No.II of the challan with malafide and ulterior motives. He submits that applicant is injured person in the case as such he is aggrieved by the impugned order passed by learned Civil Judge and Judicial Magistrate-I, Mehar. He further contended that P.Ws in their statements under Section 161 Cr.P.C have implicated the applicant/accused with direct role as such the investigation conducted by the I.O is based on malafide and impugned order 06.5.2024 is liable to be set aside.

On the other hand, accused/respondents No.3 and 4 are present in person and state that they are innocent and have been implicated in this case with malafide and ulterior motives. They further pointed out that

investigation of the case was transferred to DSP Siraj Lashari who also held them innocent. Learned D.P.G. also supported the impugned order.

Heard learned counsel for the applicant as well as D.P.G duly supported by accused/respondents No.3 and 4 present in person.

From perusal of the record it reflects that instant FIR was registered on 22.6.2023 whereas the incident took place on 08.6.2023. Complainant/ASI Ali Asghar Lakhair disclosed in the FIR that he first received information from one Sadam Hussain who appeared at P.S alongwith his relative Saeed in injured condition and disclosed incident has taken place between the parties and due to fire one person has become injured and asked for police letter for treatment. Subsequently Saleem informed on mobile phone that his brother Farid has received fire at the hands of Bhurt brothery and he will appear lodge FIR. Per ASI Ali Asghar he was waiting for complainant party to come and lodged the FIR but they failed to appear and subsequently he lodged the FIR on behalf of the State and disclosed that in fact accused Abdul Karim, Mansoor, Wakeel, Mumtaz, Muharam, manthar, Gamthar, Niaz @Dilair, Bashir, Lakhmeer and Rashid are involved in the commission of offence.

The investigation was conducted and report was submitted before learned Civil Judge and Judicial Magistrate, whereby accused/respondents No.3 and 4 were joined as accused. However Cr. Misc. Application No.S-209 of 2023 was filed before this Court and the matter was transferred by this Court to DSP Siraj Lashari vide order dated 18.7.2023 with direction to new I.O DSP Siraj Lashari to record statements of the aggrieved parties/injured persons and submit such compliance report. He has conducted the investigation and exonerated both accused/respondents No.3 and 4 by placing their names in column NO.II of the challan

Further the names of accused/respondents No.3 and 4 do not transpire in the FIR; no specific role has been assigned to them; statements of P.Ws were recorded on 12.7.2023 i.e. after delay of one month and six days of lodgment of FIR and subsequently statement of other witnesses were recorded on 20.9.2023 i.e. after delay of three months and 12 days. In both statements they have implicated the accused/respondents No.3 and 4 in the commission of offence; however, in the investigation no proof has been brought on record connecting them with the commission of offence. Since I.O has found them innocent and placed their names in column No.II of the challan vide police report, as such no irregularity or illegality has been pointed out in the impugned order. Resultantly instant criminal miscellaneous

application is dismissed. However, applicant and injured witnesses are at liberty to record their evidence before learned trial court and if they are implicating both the accused/respondents No.3 and 4, they may file application for joining them as accused. The learned trial Court, once the application is filed, after notice to all concerned, shall decide the same in accordance with law.

In view of above, instant application is dismissed.

JUDGE

Shabir/P.S