

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Misc. Application No.1222 of 2024

For Applicant:	Mr. Moulvi Iqbal Haider, advocate
For Respondents Nos.3 to 5:	Mr. Muneeb Ahmed Damrah, advocate
For State:	Syed Mumtaz Ali Shah, APG
Date of hearing:	20.03.2025
Date of Short Order:	20.03.2025
Date of judgment:	21.03.2025

JUDGMENT

Jan Ali Junejo, J:-- The instant Criminal Miscellaneous Application has been filed by the Applicant under Section 561-A, Cr.P.C., challenging the legality and propriety of the Order dated 25-11-2024 (hereinafter referred to as the “Impugned Order”), passed by the learned VI Additional Sessions Judge, Karachi-Central, in Criminal Miscellaneous Application No. 3319/2024. The Applicant seeks directions for the registration of an FIR against the proposed accused persons, asserting that the learned trial court committed a grave error in directing an inquiry prior to the registration of the FIR, which is contrary to the provisions of Section 154, Cr.P.C. and established judicial precedents.

2. The Applicant, a law-abiding citizen, alleges that on 07-11-2024, the proposed accused persons set fire to his father’s shop, causing significant loss. On 11-11-2024, while the Applicant was standing near the burned shop at around 11:00 PM to 12:00 AM, the proposed accused persons, armed with weapons, along with two unknown individuals, attacked him with iron pipes and rods, resulting in serious injuries, including a broken

finger. The Applicant immediately approached the police station requesting a Medico-Legal Officer (MLO) letter, but the police refused to issue it without a bribe. Later, the Applicant obtained the MLO letter through CPLC and sought legal action, but the SHO and other police officials failed to register an FIR. Instead of directing the registration of an FIR, the learned VI Additional Sessions Judge, Karachi Central, in its impugned order dated 25.11.2024, directed an inquiry into the matter, which, according to the Applicant, is against the law and has caused undue delay, emboldening the proposed accused to continue their threats and harassment.

3. Learned counsel for the Applicant, vehemently argued that the impugned order dated 25-11-2024 is in violation of settled legal principles enshrined in Section 154 Cr.P.C. He contended that when a cognizable offense is disclosed, the police have no discretion but to register an FIR, as held in ***Muhammad Bashir v. Station House Officer, Okara Cantt*** (PLD 2007 SC 539). He further emphasized that the Applicant suffered a brutal attack by the proposed accused persons on 11-11-2024, resulting in serious injuries, yet the police refused to register an FIR or issue an MLO letter. Instead of ensuring justice, the learned trial court directed an inquiry, thereby delaying the matter and providing an opportunity for the accused persons to escape the clutches of law. He argued that *justice delayed is justice denied*, and any delay in lodging an FIR would allow tampering of evidence and intimidation of witnesses. Lastly, the learned counsel prayed for allowing the Criminal Misc. Application.

4. Conversely, learned counsel for Respondents Nos. 3 to 5, Mr. Muneeb Ahmed Damrah, opposed the application, asserting that the allegations leveled by the Applicant are fabricated and an attempt to misuse the legal process for personal vendetta. He argued that the proposed accused persons have no involvement in the alleged incident, and there exists no independent evidence corroborating the Applicant's version. He contended that the direction for an inquiry was justified, as it ensures that only genuine complaints are entertained, preventing frivolous litigation and false implications. He further argued that the Applicant failed to provide any cogent proof that the police refused to act lawfully and that an FIR should only be registered based on substantive evidence, not mere accusations. Lastly, the learned counsel prayed for dismissal of the Criminal Misc. Application.

5. Learned APG, supported the impugned order, maintaining that the direction for an inquiry was in accordance with the principles of justice. He submitted that not every complaint warrants immediate registration of an FIR, particularly when the allegations involve personal enmity and property disputes. He argued that law enforcement agencies have a duty to verify complaints before initiating criminal proceedings to prevent abuse of the legal process. He further contended that the inquiry ordered by the learned trial court would have facilitated the collection of evidence to ascertain whether a cognizable offense had been committed, and therefore, the impugned order did not suffer from any legal infirmity. Lastly, the learned APG prayed for dismissal of the application in hand.

6. I have given due consideration to the arguments advanced by both sides and have perused the material on record. The crux of the controversy revolves around the legal obligation of the police under Section 154 Cr.P.C., which mandates the registration of an FIR when information regarding a cognizable offense is disclosed. The Hon'ble Supreme Court, in ***Muhammad Bashir v. Station House Officer, Okara Cantt*** (PLD 2007 SC 539), has unequivocally held that the police are duty-bound to register an FIR upon receiving such information, and any delay or refusal in this regard is against the law. The impugned order directing an inquiry before the registration of an FIR is contrary to the settled principles of law. The Applicant has produced sufficient material, including a medical report from Abbasi Shaheed Hospital, indicating that he sustained injuries. The allegations made in the application disclose a cognizable offense, and as such, the refusal of the police to register an FIR is unjustified. The learned trial Court erred in directing an inquiry, thereby causing unnecessary delay, which is against the principle that *justice delayed is justice denied*. In Case of ***Muhammad Bashir*** referred above, it was observed by the Honourable Supreme Court of Pakistan that: *"What, therefore, transpires from the above noticed scheme, the spirit, the intention and even the letter of the relevant law was that there was no room for any inquiry into the veracity of the information received by an officer incharge of a Police Station with respect to the commission of an offence and he was consequently clothed with no authority to refuse to record an F.I.R. only because, in his opinion, the information conveyed to him, lacked credibility"*. In another Case of ***Iftikhar Hussain and others v. The State*** (2004 SCMR 1185), it was held by the Apex Court of Pakistan that: *"As far as F.I.R: under section 154, Cr.P.C. itself is concerned, it is always treated to be a*

corner stone of the prosecution case to establish guilt against culprits involved in the crime. Thus it has got a very significant role to play. If there is any doubt in lodging of F.I.R. and commencement of investigation, it gives rise to a doubt in benefit of which, of course, cannot be extended to anyone else except to the accused.

However, an F.I.R. under section 154, Cr.P.C. which has been lodged after conducting an inquiry loses its evidentiary value as held in the cases of *Muhammad Hanif v. State* PLD 1977 Lah. 1253, *Mst. Muhammadia v. Zari Bacha* and another PLD 1982 Pesh. 85, *Nazir Masih v. State* 1997 MLD 48, *Muhammad Javed v. S.S.P. Gujranwala and others* PLD 1.998 Lah. 214 and *Qazi Muhammad Javed v. S.S.P. Gujranwala and others* 1999 PCr.LJ 1645”.

The underlining is supplied.

7. In view of the above discussion, this Criminal Miscellaneous Application is allowed. The impugned order dated 25-11-2024, passed by the learned VIth Additional Sessions Judge, Karachi Central, is set aside. The concerned SHO is directed to record the statement of the Applicant under Section 154 Cr.P.C. and proceed in accordance with the law. The police authorities are further directed to ensure the safety and security of the Applicant and his family and to take necessary legal action against the proposed accused persons if a cognizable offense is made out. These are the reasons of short order Dated: 20-03-2025.

JUDGE