

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.**

Cr. Misc. Appln. No.S- 127 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 hearing of main case.
- 3.For hearing of M.A No.1550 of 2024.

**09.5.2025.**

Mr. Sher Ali Chandio, advocate for the applicant.

Mr. Muhammad Noonari, D.P.G. a/w ASI Nawaz.

Mr. Abdul Ghani Junejo, advocate for the respondent No.3.

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By this criminal miscellaneous application, applicant/accused Mashooque Ali has challenged the order dated 15.4.2024 whereby learned Additional Session Judge-II/Ex-Officio Justice of Peace, Kamber directed SHO P.S Nasirabad to record statement of respondent No.3, in case he discloses a cognizable offence, same shall be incorporated in FIR. Being aggrieved with the said order, applicant has filed this application.

Allegation against the present applicant is that on 23.3.2024, he alongwith co-accused Meer Akhtar Tunio, armed with knives, and two unknown accused came over cold drink shop of complainant and robbed cash Rs.100,000/= from counter, caused kicks to P.W Javed Ali and also taken away loader rikshaw containing bottles of beverages worth Rs.200,000/= and after receiving Rs.50,000/= only returned the loader rikshaw.

Per learned counsel for the applicant/accused, applicant is innocent and he has been falsely implicated in this case with malafide and ulterior motives; applicant is well known to complainant party therefore, it is highly improbable that accused would indulge themselves in such like offence; incident has not taken place as alleged by the complainant but complainant has managed the false story; the allegation against the applicant are in fact based upon professional intrigue as the applicant is also running same business and in order blackmail the applicant, respondent No.3 has obtained impugned order from learned Ex-Officio Justice of Peace which is liable to be set aside.

Learned D.P.G duly assisted by respondent No.3 Gada Hussain present in person supported impugned order.

It is alleged by the complainant that applicant and others on show of only knives robbed cash from counter of his cold drink shop also taken away loader rikshaw containing bottles of beverages worth Rs.2 Lacs and then very same day returned only loader rikshaw after receiving Rs.50,000/=. Such story on the face of it appears to be highly doubtful as no any photo or video of the incident has been produced by complainant which is commonly made in such like occurrences. Perusal of record reflects that report was furnished by the concerned police, copy whereof is brought on record vide annexure C, in which it is categorically stated that proposed accused Mashooque Ali is running cold drink company and there is some dispute between complainant and him on rates of beverages otherwise applicant is innocent and no such incident has taken place as alleged by the complainant. Admittedly the shop was located in public area and the applicant/accused is running company of beverages thus he is well known to the complainant, therefore, it is does not appeal to a prudent mind that despite being well known to complainant applicant would involve himself in such like offence. All these aspects were not considered by learned Ex-Officio Justice of Peace while passing impugned order which is lacking justified reasoning.

For what has been discussed above, instant application is allowed. Impugned order dated 15.4.2024 is set aside. However, respondent No.3 Gada Hussain is at liberty to file Direct Complaint before competent court of law if he chooses so.

**JUDGE**

Shabir/P.S