

## IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Misc. Application No.208 of 2025

Applicant : Aamir Rashid son of Rashid Ahmed  
through Mr. Aamir Mansub Qureshi, Advocate

Respondents : The State  
through Mr. Siraj Ahmed Khan Chandio, Addl.  
P.G.Sindh.

Date of hearing : 21.04.2025.

Date of order : 24.04.2025.

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – The Crl. Misc. Application is preferred against the order dated: 24.06.2024, whereby learned XVTH Judicial Magistrate Karachi East on a report submitted under section 173 Cr.P.C. emanating from the FIR No.1092/2023, offence u/s 322, 436, 427, 288, 285, 34 PPC r/w Section 201 PPC of P.S. Sharah-e-Faisal, took cognizance against the applicant and others while directing investigation officer to join them as an accused in the case.

2. The proceedings emanating out of FIR registered on 25.11.2023 in respect of a devastating fire incident that occurred at about 5:00 a.m. at the RJ Shopping Mall, located on Main Rashid Minhas Road, Gulshan-e-Iqbal, Karachi. As per prosecution theory, the fire engulfed the entire six-storey commercial structure, resulting in the loss of multiple lives, injuries to several individuals, and extensive damage to property. Initial inspection by the investigating officer revealed that the building lacked basic fire safety equipment, including fire extinguishers and emergency exits. Eyewitnesses reported that the fire spread rapidly, allegedly due to an electrical short circuit. A number of persons perished either at the site or subsequently at hospitals, while others sustained serious burn injuries. The FIR attributes the incident to gross criminal negligence, *inter alia*, in the planning, approval, and construction of the building, highlighting violations of safety regulations, non-compliance with building codes, and the absence of requisite NOCs. It was further alleged that such approvals were obtained through unlawful means or collusion with delinquent officials. Proceedings under Section 174 Cr.P.C. were initiated for the deceased, whose identities were ascertained, and medico-legal formalities were completed in accordance with law. Injured

persons were examined and issued medico-legal certificates. The FIR invokes offences under Sections 322, 436, 427, 288, 285, and 34 PPC. Following the incident, the Cantonment Board Faisal (CBF) conducted an internal inquiry and conditionally recommended partial reopening of the building, limited to the lower basement through the 2<sup>nd</sup> Floor, subject to compliance with fire safety standards, disconnection of electrical supply (except by K-Electric), and submission of a renovation and rehabilitation plan by the management. The upper floors were to remain sealed pending clearance by relevant authorities.

3. After registration of FIR, the investigation was initially undertaken by the Incharge Investigation, who submitted Interim Charge Sheet dated 22.12.2023. The same did not contain any material or imputation of negligence against the present applicant. Thereafter, Charge Sheet No. 25/2024 dated 19.01.2024 was submitted, which likewise did not implicate the applicant. However, upon scrutiny, the learned Judicial Magistrate XV, Karachi East, identified numerous deficiencies in the investigation and, vide order dated 26.01.2024, directed the SSP Investigation-I to undertake further investigation and file a comprehensive report within seven days. In compliance thereof, a supplementary Charge Sheet No.25-A/2024 dated 17.02.2024 was filed. Notably, at this stage even, no material emerged to suggest any culpability on part of the applicant. Meanwhile, this Court vide order dated 12.02.2024, while granting bail to co-accused, directed that further investigation be conducted by an officer not below the rank of SSP. Consequently, the Inspector General of Police transferred the matter to SSP Investigation, who delegated the inquiry to a DSP. The DSP, after detailed investigation, concluded that no act of negligence could be attributed to the Cantonment Board Faisal (CBF), as no completion certificate had ever been issued for RJ Mall. A subsequent charge sheet (No. 25-B/2024) was submitted accordingly, without naming the present applicant. Despite this, the learned Magistrate vide order dated 24.06.2024 took cognizance and directed submission of a fresh charge sheet by joining department heads. This order led to Criminal Miscellaneous Applications being filed by affected officials of K-Electric and the CEO, CBF. Vide orders dated 09.07.2024 and 24.07.2024 respectively. This Court suspended the operation of the impugned order dated 24.06.2024 to the extent of directing filing of a fresh charge sheet against those officials. Ultimately, both applications were disposed of vide consolidated order dated 06.12.2024, converting them into protective bail. Subsequently, on 06.02.2025, in purported compliance with the earlier order dated 24.06.2024, a fresh Charge Sheet No. 25-B/2025 was submitted before

the learned Magistrate, wherein the name of the present applicant was included in Column No. 2. However, the District Public Prosecutor issued a detailed scrutiny note highlighting major legal and procedural defects in the charge sheet. Despite the objections, the learned Magistrate proceeded to accept the same in light of his previous order dated 24.06.2024. It is in this backdrop that the instant Criminal Miscellaneous Application is being filed, seeking redress against the impugned inclusion of the applicant's name at belated stage without substantial evidence brought on the record and further relief as deemed appropriate.

4. The learned advocate for the applicant reiterated the grounds urged in the Crl. Misc. Application and assailed the orders dated 24.06.2024 and 10.02.2025 passed by the learned Judicial Magistrate No. XV, Karachi East, as being arbitrary, unreasoned, and without lawful authority. It was submitted that the orders reflect a mechanical exercise of jurisdiction in disregard of settled legal principles and due process. The main thrust of the argument was that the applicant was not nominated in the police report submitted under Section 173 Cr.P.C., nor is there any material on record connecting him with the alleged incident. Despite the absence of any incriminating evidence, cognizance was taken against him, which, it was contended, amounts to judicial overreach and is not sanctioned by law. It was further submitted that the applicant was not serving as CEO of the Cantonment Board at the relevant time when building approvals were granted, and no act or omission is attributable to him. The investigation, according to the learned counsel, was selective and failed to identify the actual responsible officials, thus rendering the process arbitrary and unfair. It was argued that the Magistrate's direction to file a fresh charge sheet including the applicant's name, without supporting material, interferes with the investigative domain and undermines the applicant's fundamental rights under Article 10-A of the Constitution. The subsequent inclusion of the applicant in the charge sheet was claimed to be the result of a flawed process lacking legal justification. Accordingly, it was prayed that the impugned orders be set aside as being without jurisdiction and contrary to law.

5. The learned APG, recorded objections mainly contending that order passed by the learned Magistrate taking cognizance against the heads of department was just, proper and no illegality whatsoever has been pointed out in the order. However, submitted that no evidence was brought on the record to suggest that applicant has remained CEO or signed approval plan of the building.

6. Upon consideration of the submissions advanced by the learned advocate for the applicant, and having perused the record with due care, it appears manifestly clear that the investigation conducted in the matter has been marred by glaring irregularities and omissions. Initially, the Investigating Officer submitted Charge Sheet No. Nil/2023 on 22.12.2023, wherein the name of the present applicant was not cited. The scrutiny memo of the learned District Public Prosecutor unequivocally recorded that the investigation was deficient, lacking in fairness and completeness, and directed rectification of the defects identified therein, more particularly name of the applicant introduced without cogent evidence that he remained signatory for the approval of the building.

7. The learned Magistrate, vide order dated 26.01.2024, clearly observed that, despite the complete absence of emergency arrangements such as fire trolleys and emergency exits, the final approval for the subject building was nonetheless granted by the concerned authorities. Such dereliction of duty resulted in the tragic death of eleven individuals and injuries to several others. It was noted, and rightly so, that the officers who granted such approval were not made part of the investigation, an omission that cannot be brushed aside as inconsequential. The learned APG further pointed out thirteen distinct defects in the challan, indicative of a manifestly dishonest and superficial investigation. Consequently, the SSP Investigation-I East Karachi was directed to intervene and ensure submission of a proper charge sheet. Even thereafter, in Charge Sheet No. 25-B, the name of the applicant remained absent. The subsequent order dated 24.06.2024 passed by the learned Magistrate is unequivocal in its findings: that various high-ranking public officials, including the CEO Cantonment Board Faisal, General Manager K-Electric, Additional Director (East) Civil Defense, Deputy Commissioner Karachi East, and Director SBCA, were responsible for gross negligence. Despite this, the Investigating Officer failed to join them in the array of accused. One Haider Ali Sial, Executive Officer of Cantonment Board Faisal, filed Cr. Misc. Application No. 746/2024, and the operation of the Magistrate's order dated 24.06.2024 was rendered inoperative to the extent of his inclusion in the charge sheet. Yet, it is noted with grave concern that, while protective bail was granted, the applicant herein, Aamir Rashid, was thereafter wrongly and arbitrarily substituted in place of Haider Ali Sial, a substitution that reeks of mala fides and prosecutorial misconduct. If, as per the inquiry, Cantonment Board Faisal was to be treated as culpable, there is no plausible explanation why the Executive Officer who challenged the order was spared, and the present applicant roped in by sheer substitution. The

DPP's scrutiny memo further reflects that the learned Magistrate had sufficient material before him to justify taking cognizance against a host of senior functionaries. However, the Investigating Officer brazenly disregarded the prior directions of this Court issued on 24.07.2024 and 06.12.2024. Despite lapse of the protective bail period, the then CEO was not impleaded as an accused but conveniently placed in Column No. II, which calls for immediate correction. The DPP has also noted that the roles of key public officials, including the Ex-Deputy Commissioner, Ex-Director SBCA, and Ex-Secretary of the Technical Committee, have not been properly scrutinized. No statements were recorded, no responsibility assessed, and no effort made to fix accountability in line with their command and control positions. This is nothing short of deliberate investigative neglect. The opinion of the DPP explicitly calls for further inquiry, examination of relevant witnesses, and if found warranted, insertion of charges relating to criminal misconduct. It has also been opined that the current investigation has comprehensively failed to address the culpability of those in Column No. II. Under Section 9(5) and (7) of the Sindh Criminal Prosecution Service Act, 2009, such lapses are intolerable and require immediate rectification.

8. This Court is therefore, left with no doubt that the name of the applicant has been arbitrarily inserted without legal or factual justification. The order passed by the learned Magistrate, to the extent it includes the applicant's name, is not sustainable in law. Consequently, the impugned order is modified accordingly and the name of applicant Aamir Rashid is ordered to be removed. The learned Magistrate is further directed to ensure proper and lawful investigation of the matter, and to pass afresh, reasoned order strictly in accordance with law and in light of earlier directions issued by this Court. The Crl. Misc. Application stands disposed of accordingly.

**J U D G E**