

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

Criminal Revision Application No.S-03 of 2025

Applicant : Munir Ahmed Bangulani  
Through Mr. Safdar Ali Ghouri,  
Advocate

Respondent : Through Mr. Athar Abbas Solangi,  
Advocate.

The State : Through Mr. Nazir Ahmed Bhangwar,  
Deputy Prosecutor General.

Date of hearing : 10.07.2025

Date of order : 17.07.2025

**ORDER**

**Khalid Hussain Shahani, J:-** This Criminal Revision Application, filed under Sections 435, 439 read with Section 561-A of the Code of Criminal Procedure, 1898, challenges the order dated January 21, 2025, passed by the learned Additional Sessions Judge-I, Jacobabad, in Sessions Case No.348/2024. The trial court dismissed the applicant's request for acquittal under Section 265-K Cr.P.C.

2. The brief facts of the prosecution case, as per FIR No.07/2024 lodged on February 21, 2024, at Police Station Mubarakpur, District Jacobabad, by Gul Hassan (Respondent No.2), are that the complainant's family had a long-standing dispute with the Jahangeer Bangulani party, stemming from the murder of Jahangeer's son, Majid, in 2016, in which the complainant's father and brother were implicated before being released on bail after a compromise with the actual killers. The complainant alleged that on February 21, 2024, at about 4:30 p.m, while he along with his brothers Sajad Ali, Javed Ali, and Irshad Ali were present at the land of Muhammad Ayob Bangulani, accused Muneer Ahmed, Muhammad Shareef, Aijaz Ahmed, Aftab Ahmed, and Fakhurdin

arrived on two motorcycles. It is alleged that accused Muneer Ahmed challenged Sajad Ali, claiming he had killed his nephew Majid Ali, and then fired a pistol shot that hit Sajad Ali on the left mid-axillary region. Accused Muhammad Shareef also allegedly fired a pistol shot that hit Sajad Ali on his back, and accused Aftab Ahmed fired a pistol shot that hit Sajad Ali on his left arm. The complainant and his brothers raised cries, whereupon the accused persons allegedly threatened them with murder if they raised their voices, before fleeing the scene. Sajad Ali succumbed to his injuries on the spot. The FIR further alleged that the murder was committed by Muneer Ahmed, Aftab Ahmed, and Muhammad Shareef, on the abetment of Jahangeer, and that all accused issued murderous threats.

3. Following investigation, a final report under Section 173 Cr.P.C. was submitted on May 21, 2024, showing applicant (Muneer Ahmed) in column No.02, while remaining accused were shown on interim bail. However, the concerned Magistrate did not concur with the police opinion regarding applicant and took cognizance of the offence against all accused persons, including the applicant, vide order dated June 27, 2024. Subsequently, the applicant and co-accused approached the court of learned Sessions Judge, Jacobabad, for pre-arrest bail, which was granted by the learned Additional Sessions Judge-II, Jacobabad, through three separate orders on June 27, 2024.

4. The core of the applicant's defense is a plea of alibi. He asserts that at the time of the alleged incident, he was in Saudi Arabia performing Umrah. Crucially, the Investigating Officer (I.O.), after verifying the documentary evidence (passport, visa, air tickets, and boarding passes) with the FIA, placed the applicant's name in Column-II of the charge sheet, indicating insufficient evidence against him. Furthermore, the learned Magistrate also independently verified these documents from the FIA, confirming that the

applicant's travel history, including entry and exit records, clearly shows his departure from Karachi Airport on February 21, 2024, at 00:17 hours (12:17 a.m.), well before the reported time of the incident. These documents were found to be correct and genuine.

5. Despite this verified alibi and the I.O.'s report, the learned Magistrate took cognizance of the offense against the applicant. The applicant's subsequent application under Section 265-K Cr.P.C. before the Additional Sessions Judge-I, Jacobabad, was dismissed on the grounds that an alibi is typically a defense to be presented during the trial after the prosecution's evidence.

6. Learned counsel for the applicant/accused strongly argued that the continuation of proceedings against Munir Ahmed, given the irrefutable and officially verified alibi, constitutes a clear abuse of the court's process and a waste of judicial time. He emphasized that both the I.O. and the Magistrate confirmed the applicant's absence from the country at the time of the crime. He contended that under Section 265-K Cr.P.C., the court has the power to acquit an accused at any stage if there's no probability of conviction based on the available evidence.

7. The learned Deputy Prosecutor General (DPG) for the State and the learned counsel for the complainant opposed the application, arguing that there's sufficient material to connect the applicant to the crime and that the alibi should be proven during a full trial.

8. This Court has meticulously examined the Revision Application, the impugned order, and the record of the lower court, with particular attention to the verified documentary evidence regarding the applicant's alibi and the I.O.'s findings.

9. Section 265-K Cr.P.C. empowers a court to acquit an accused at any stage of the case if, after considering the material available, it forms the opinion that there is no probability of the

accused being convicted of any offense. The words "any stage" are crucial, indicating that this power can be exercised even before a formal charge is framed or evidence is recorded. This interpretation is strongly supported by legal precedent:-

- In *Yaseen Khan Babar v. State* (1995 P.Cr.L.J 1424), it was held that the words "any stage" in Section 265-K clearly indicate that the power to acquit can be exercised before a charge is framed and without hearing the complainant.
- *State v. Gulfam Hussain* (2018 YLR 1223) reinforced this, stating that recording of prosecution evidence is not a prerequisite for taking action under Section 265-K Cr.P.C.
- Furthermore, *Khan Zia Ahmed AJK Ehtisab Bureau* (PLD 2017 SC AJ & K 11) clarified that Section 265-K Cr.P.C. empowers the court to acquit an accused if, even assuming all proposed prosecution evidence were true, there would still be no chance of conviction.

10. In the present case, the evidence of alibi is not merely an assertion; it is verified documentary proof. The Investigating Officer, after thorough examination and verification from the FIA, deemed the evidence insufficient against the applicant and placed him in Column-II of the challan. More significantly, the learned Magistrate also undertook independent verification of the travel documents, confirming their authenticity and the applicant's absence from the country at the time the crime was committed.

11. When a crucial piece of evidence, like a verified alibi, fundamentally undermines the very possibility of the accused committing the crime, and this fact has been corroborated by official investigative agencies and even verified by the Magistrate, insisting on a full trial becomes an exercise in futility. If the applicant was demonstrably outside Pakistan, it is impossible for him to have committed the alleged offense within Pakistan. To proceed with

recording evidence when the core fact connecting the accused to the crime has been disproven by irrefutable and verified documentary evidence would be a sheer waste of the court's precious time and an undue burden on the accused.

12. The scheme of Section 265-K Cr.P.C. is precisely designed to prevent such unnecessary proceedings when the likelihood of conviction is virtually non-existent. The documentary record, duly verified by competent authorities, clearly establishes that the charges against the applicant are groundless.

13. In light of the verified alibi, the I.O.'s report placing the applicant in Column-II, the Magistrate's independent verification of the travel documents, and the consistent interpretation of Section 265-K Cr.P.C. by superior courts, this Court finds that there is no probability of the applicant being convicted for the alleged offenses. Therefore, the impugned order dated January 21, 2025, passed by the learned Additional Sessions Judge-I, Jacobabad, is hereby set aside. The Criminal Revision Application is allowed, and the applicant, Munir Ahmed, is hereby acquitted of the charges under Section 265-K Cr.P.C.

**J U D G E**

Asghar Altaf/P.A