

Order Sheet
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Misc. Appln No.99 of 2025

Date	Order with Signature of Judge
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- 1. For hearing of office objection
- 2. For hearing of main case

06.08.2025

Mr. Qadir Hussain Khan, Advocate for Applicant
Mr. Fayyaz Hussain, APG

This Criminal Miscellaneous Application No.99/2025 filed on 25.01.2025, arises out of three separate orders: (i) order dated 24.07.2024 passed by the Ex-Officio Justice of Peace, Karachi South in Cr. Misc. Application No.2751/2024 (“the first order”); (ii) order dated 07.08.2024 passed by the Judicial Magistrate XXIII Karachi South in Cr. Misc. Report No. Nil of 2024 (“the second order”); and (iii) order dated 30.09.2024 passed by the same Judicial Magistrate in Cr. Misc. Report No.2 of 2024 (“the third order”). In this lis, the applicant in all three orders, that is, Saad-ud-din s/o Shakar-ud-din, is aggrieved by two out of the three orders, namely the first order passed by the Ex-Officio Justice of Peace and the third order passed by the Judicial Magistrate XXIII Karachi South, notwithstanding that the challenged to the third order cannot stand alone as it emerges out of the second order.

The brief background is that the first order was granted in favour of the Applicant, Saad-ud-din, to the extent that SHO PS Arambagh was directed to record the Statement of the Complainant-Applciant and initiate action against the proposed accused/respondents in accordance with law. Police protection was also ordered for the applicant. Thereafter, the record reflects that an inquiry was carried out under the first order dated 24.07.2024. However, as per the second order, a report was submitted by the Police Authorities based on this inquiry, but it was found unsatisfactory, and the Magistrate passed the second order that the investigation be carried out afresh. Such fresh investigation culminated in the submission by the Police of a fresh report submitted to the same Magistrate who observed in the third order that no case was/is made against the proposed accused-respondents.

The facts of the dispute are also not entirely clear. According to the information available in the file, it appears that the applicant sent the hotel’s bar boy to recover certain dues from the proposed accused/respondent, Muhammad Shahid, but the proposed accused/respondent, Muhammad Shahid’s son, threw stones and/or glass bottles at the applicant’s bar boy and injured him. Additionally, the other proposed accused-respondents also beat up the bar boy.

The matter would have been simple except that the applicant also appears to be aggrieved that Muhammad Shahid, who owes the applicant money in terms of a loan, was/is operating an illegal business, a mava and gutka pan shop, contrary to the law. He alleged that he had complained to the Police, but they did not take any action to close the illegal business of the proposed accused-respondents.¹ Further, the proposed accused-respondents had also filed a family suit, and there were some payment dues between the family too.²

Heard Counsel for Applicant. No defect is identified by the applicant viz, the first order of the Ex-Officio Justice of Peace. Indeed, the first order was/is in favor of the applicant. It was as a result of the first order that the matter proceeded to the recording of statements. The first order also provided the applicant with police protection. Consequently, no case can be made out for the applicant being aggrieved by the first order. With regard to the third order dated 30.09.2024, the same was passed by the Judicial Magistrate after giving due consideration to the submission made by the Police Authorities that no case could be made out. Indeed, initially, the father of the applicant, Shakar-ud-Din impugned the third order in Cr. Misc. Appln. No.1124/2024 filed on 05.11.2024 before this (High) Court, which he withdrew on 16.01.2025. Thereafter, the present applicant, Saad-ud-Din filed this list on 25.01.2025. Yet no explanation is given by the present applicant for the delay/laches in filing this application after almost four (4) months of the third order dated 30.09.2024. The conduct of the applicant does not inspire confidence. Further, the applicant has not identified any clear illegality or defect in the third order.

It is pertinent to mention here that the bar boy who allegedly sustained injury was an employee of the father of the applicant, who was the owner of the hotel, "Muhammad Jamshed Hotel". The bar boy never filed any complaint against the proposed accused-respondents. The applicant also did not implead the bar boy as a witness-respondent, either before the Ex-Officio Justice of Peace. It was the bar boy who allegedly suffered injury, but he is/was nowhere to be found. Yet the applicant continues to exercise the right to avail alternative forums to agitate his grievance against the proposed accused-Respondents, which he is at liberty to do.

Given the above, this application is dismissed.

JUDGE

Ashraff

¹ Paragraphs 3, 4, 5 and 7 of the section titled "Facts of the Case" on pages 3 and 5 of the Application.

² Paragraphs 2 and 3 of the section titled "Grounds" on page 7 of the Application.