

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Misc. Appln. No. S-776 of 2024

Applicant : Mst. Kaneez Fatima W/O Jamaluddin  
Through Mr. Ahmed Mehran Goraya,  
Advocate

Resp. Nos.04 & 05 : Through Mr. Rameez Ali Chhajro, Advocate

Resp. Nos.8 to 11 & 14 : Through Mr. Naseem Ahmed Siyal, Advocate

The State : Mr. Muhammad Raza Katohar, DPG

Date of hearing : 22.09.2025  
Date of Order : 06.10.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.-** Applicant\_Mst. Kaneez Fatima invokes inherent jurisdiction of this court, challenging the impugned order dated 10.12.2024 passed by the learned Additional Sessions Judge-IV/Ex-Officio Justice of Peace, Khairpur, in Cr. Misc. Application No.4318/2024, whereby her application seeking direction to register FIR against the proposed accused was dismissed. The applicant seeks to set aside the said order and prays for directions to record her statement and register FIR against respondent Nos. 4 to 14.

2. The applicant alleges that on 02.09.2024 at about 2:00 am, while she was sleeping at her house along with her son Zamin, relative Noman, Jamalan Khatoon and other family members, the proposed accused including SHO Iqbal Noon, SIP Yousif Narejo, HC Mumtaz Shaikh, along with private accused Azizullah, Nadir, Irshad and Aamir, forcibly entered her house armed with deadly weapons including pistols, lathis and SMG. According to the applicant's version, accused Azizullah stated "you are not withdrawing from cases, today they would teach lesson to applicant party," following which the accused forcibly kidnapped her son Zamin and relative Noman without any complaint or N.C and illegally confined them at PS Shaheed Murtaza Mirani, Khairpur. The applicant claims that when she approached the police for their release, they demanded a huge amount and refused to issue police letter to injured Jamalan Khatoon. The applicant further alleges that due to maltreatment during illegal detention, she filed multiple applications under Section 491 Cr.P.C for recovery of the detainees. During a surprise visit by the concerned magistrate, SHO Iqbal

Noon allegedly handed over custody of Noman to P.S Kotdiji, where a false FIR No. 138/2024 for offence U/S 9-B CNS Act was registered against him by HC Inayat Ali Shah. The applicant contends that while being transported to Central Prison Khairpur after remand, all proposed accused in collusion committed murder of Noman and managed a false story that he died due to suffocation. The provisional post-mortem report revealed a 4-5 days old lacerated wound at the anterior aspect of left lower leg measuring 3cm x 0.5cm on the deceased's body, which the applicant claims shows maltreatment during police custody.

3. The learned counsel for the applicant Mr. Ahmed Mehran Goraya contended that the proposed accused persons being armed with deadly weapons entered the house, forcibly kidnapped Zamin and Noman, and thereafter applicant went to PS and met with proposed accused for release of illegal detainees but they refused and demanded amount. He argued that due to non-payment of amount, the proposed accused maltreated both detainees. The counsel submitted that during a raid conducted by learned Judicial Magistrate, the SHO handed over custody of Noman to PS Kotdiji where he was falsely booked in FIR No. 138/2024 U/S 9-B CNS Act, 1997. He contended that all proposed accused committed murder of Noman while transporting him to Central Prison and managed false story of death due to suffocation. The counsel argued that the version is supported by provisional post-mortem examination report of deceased Noman and prayed for directions to concerned SHO for registration of FIR.

4. Mr. Rameez Ali Chhajro, advocate for proposed accused No. 4 & 5, mainly contended that the application is false and fabricated. He argued that police arrested Noman and lodged FIR against him bearing crime No.138/2024 U/S 9-B CNSA and there is no concern of proposed accused No.1 to 4 with the same FIR, but the applicant implicated them to get revenge as there is property dispute between parties. He further contended that DSP complaint cell Khairpur made thorough enquiry and submitted report negating the version of the applicant, and that the private proposed accused and applicant are close relatives to each other. He submitted that during post-mortem no fresh injury was found on the person of deceased and prayed for dismissal of the application.

5. Mr. Ghulam Rasool Narejo, advocate for proposed accused, contended that no offence was committed by the proposed accused and the death of deceased was natural. He argued that as per post-mortem report, no fresh injury on the person of deceased was noted by the doctor, and prior to death, deceased was produced before learned Judicial Magistrate for remand where he did not complain of maltreatment. He submitted that the application was filed with ulterior motives and malafide intention to rope innocent persons in a murder case.

6. The learned APG supported the police reports.

7. Having carefully examined the record, arguments of counsel, and the comprehensive investigation report submitted by DSP Complaint Cell Khairpur, this Court observes several critical aspects that warrant detailed consideration. First, while it is undeniable that deceased Noman died in police custody, such death does not necessarily constitute murder unless there is cogent proof to the contrary. The deceased was accused in FIR No.138/2024 offence U/S 9-B CNS Act, 1997 of PS Kotdiji and was being shifted to Central Prison Khairpur when he unfortunately died en route. Second, the post-mortem examination conducted by Dr. Inayatullah Memon, Casualty Medical Officer, KMC Civil Hospital, Khairpur, issued a provisional report which does not show any fresh injury over the person of deceased, however a 4-5 days old lacerated wound at lower left leg was noted only. Since the deceased was being shifted to Central Prison after remand, there appears to be no logical reason for police to commit his murder. Third, the DSP Complaint Cell Khairpur conducted a thorough enquiry and submitted a detailed report which did not support the applicant's version. The enquiry revealed that from the perusal of remand order dated 09.09.2024 passed by the learned Civil Judge & Judicial Magistrate-I, Kotdiji, the accused Noman (now deceased) had not complained against maltreatment at the hands of police when produced before the Magistrate. During the course of enquiry, the alleged charges against police could not be proved. Fourth, regarding the applicant's claim that deceased was illegally kidnapped from his house and locked at PS Shaheed Murtaza Mirani, the record shows that when the applicant filed a Cr. Misc. Application U/S 491 Cr.P.C for recovery of deceased Noman through raid commissioner, the learned Judicial Magistrate/P.O Consumer

Protection Court, Khairpur conducted raid at police station Shaheed Murtaza Mirani, but the alleged detainees Noman and Zamin were not found confined within the premises. Fifth, there exists a previous dispute between the applicant and private proposed accused persons over landed property, and they have been filing applications against each other. Both civil and criminal litigation between them is already pending adjudication before concerned courts.

8. The Court finds guidance in the recent Supreme Court decision dated 08.04.2024 in Criminal Petition No. 31-K of 2022 *Re: Munawar Alam Khan versus Qurban Ali Mallano and others*, wherein the Honorable Supreme Court observed that there are many precedents regarding misuse of provisions of Sections 22-A and 22-B Cr.P.C and it is the prime duty of the Court that such misuse be taken care of. Applications filed should not be lightly entertained and decided in a mechanical manner for issuing direction to police to lodge FIR, conduct investigation and prosecute the accused.

9. The Court also draws guidance from *Muhammad Mushtaque Versus The State* (2008 YLR 2301) which held that law does not expect and require to allow the request of complaining person mechanically, blindly and without application of legal mind. Justice of Peace is competent to examine complainant with full application of legal mind and is not supposed to accept and believe the same as gospel truth. If allegations appear to be ridiculous, self-contradictory, vague, barred by law, or offensive to public policy and accepted standards of morality, the request for registration of case may be legally justified to be turned down.

10. The record reveals that this is the applicant's fourth attempt seeking similar relief. She previously filed Cr. Misc. Application Nos. 502/2024, No.491/2024, and No. 3940/2024, all relating to the same incident but with varying details regarding the number of accused persons, which creates doubts about the veracity of her claims. The applicant's allegations are not supported by credible evidence. The thorough enquiry conducted by DSP Complaint Cell negated her version, and the judicial raid found no detainees at the alleged place of illegal confinement.

11. The provisional post-mortem report does not support the theory of murder. No fresh injuries were found on the deceased's body, and the 4-5 days old wound predates the alleged incident. Given the ongoing property dispute between the parties and the pattern of multiple applications with inconsistent details, it appears that this application has been filed with ulterior motives to pressurize and disgrace the opposite party rather than seek genuine justice.

12. After careful consideration of all evidence, legal precedents, and the comprehensive investigation report, this Court concludes that *prima facie* no case for registration of FIR is made out against the proposed accused. The applicant has failed to establish with credible evidence that the deceased was murdered in police custody by the accused persons. The death of Noman in police custody, while unfortunate, appears to be due to natural causes as claimed by the police (suffocation), and the applicant has not provided cogent proof to establish murder. The allegations appear to be motivated by the ongoing property dispute and personal animosity between the parties.

13. Accordingly, the instant Criminal Miscellaneous Application is hereby dismissed for want of merit. However, the applicant is at liberty to exhaust alternative remedy by filing a direct complaint before the appropriate forum for redressal of her grievances, if she so desires.

**J U D G E**