

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Crl. Miscellaneous Application No.S-83 of 2022

Present: Justice Jawad Akbar Sarwana

Applicant : Imran Rashid s/o Abdul Rashid through
Mr.Muhammad Jamil Ahmed, Advocate

Respondents Nos.1: FIA, through Mr.Shamsuddin Rajper, Deputy
and 2 Attorney General

Respondent Nos.3 : Nida, Nayab and Asif, through Mrs.Rehana
and 6 Nazeer Gujjar, Advocate

Date of hearing : **14.10.2025**

Date of decision : **14.10.2025**

ORDER

JAWAD AKBAR SARWANA, J: The applicant/complainant, Imran Rashid, is aggrieved by the administrative order dated 01.12.2021, passed by the Judicial Magistrate-I/Model Trial Magistrate Court-II, Hyderabad, whereby the complaint filed by the applicant was dismissed on the ground that there was insufficient evidence and no cognizable offence was made out.

2. Learned counsel for the applicant/complainant contends that the Magistrate, while observing in the impugned administrative order that no digital evidence was available in support of his (applicant's) complaint, did not note that no opportunity to produce evidence was provided to the applicant/complainant. He argues that if he had been given such an opportunity, the conclusion would have been different. He therefore prays that the administrative order be set aside to allow him to present the relevant evidence/material to make out a case against the proposed accused/respondent nos.3 to 6.

3. Counsel for the respondent/proposed accused submits that no case is made out in light of the impugned administrative order. The learned Deputy Attorney General (D.A.G.) further submits that the

process prescribed under the Prevention of Electronic Crimes Act (PECA) was duly followed and that appropriate recourse remains available to the applicant/complainant.

4. Heard Counsel. The brief history of the matter is that the applicant/complainant filed a complaint with the FIA CCRC, Hyderabad, which led to the competent Court issuing orders appointing an Investigating Officer from the Agency to conduct an inspection and investigate the matter under Section 155 Cr.P.C. This investigation resulted in a report, which formed the basis of the impugned administrative order. Additionally, based on the perusal of the documents available on record, it is also evident that the applicant/complainant and the proposed accused have had a history of enmity, with complaints and cross-complaints having been filed against each other since at least 2018. The applicant/complainant has also annexed at least two cr. misc. applications filed by the proposed accused against the applicant/complainant since 2018 before the Ex-Officio Justice of Peace, in which merely police protection was ordered for the proposed accused but this did not lead to registration of FIR.

5. Upon plain reading of the impugned administrative order dated 01.12.2021, it emerges that a complaint was filed by the applicant/complainant with the P.S. FIA CCRC Hyderabad, and an investigation was initiated under Section 155 Cr.P.C. to determine whether a cognizable offence was made out and whether there existed any grounds for the investigation authority to proceed further. This investigation was conducted in the backdrop of an FIR No. 58/2021 (apparently still pending before the VIIth Civil Judge and Judicial Magistrate Hyderabad, at the material time), lodged by the proposed accused against the applicant/component. The applicant's complaint to P.S. FIA CCRC Hyderabad was a subsequent event, i.e. the said complaint was filed with the investigation authority after an FIR had already been lodged against him at PS Tando Jam, and also after a Cr. Misc. Appln. No.2349/2021 filed by the applicant/complainant against

the proposed accused had been dismissed by the 9th Additional Sessions Judge/Ex Officio Justice of Peace of Hyderabad.

6. I have read the impugned administrative Order and do not find any defect in the same. It is not within the domain of the Magistrate to conduct a full-fledged inquiry akin to a trial. The scope of consideration here is to make a preliminary determination within the framework of Section 155 Cr.P.C. and to see if a case is made out to escalate the complaint, which may lead to the registration of an FIR. It is not the business of the Court to take over the investigation or to intervene in the same. In the present facts and circumstances, no case is made out (for registration of FIR).

7. Without prejudice to the above, even on merits, hypothetically speaking, after more than three years have elapsed since the alleged incident, even the digital information and/or data relevant to the complaint may no longer be available online and/or exists in the same form as it did at the material time. Consequently, at this stage, a re-investigation will be neither expedient nor efficient. Suffice to say that the same data is already secured in FIR No. 58/2021, and if it overlaps with the complaint filed before the FIA by the applicant/complainant and/or requires consideration, it may still be on record in those proceedings, and may be considered, if deemed fit by the competent Court. Therefore, the applicant/complainant may still assert his stance even after the disposal of this cr. misc. appln.

8. Given the above, the Criminal Miscellaneous Application is hereby **dismissed**. Meanwhile, the statement filed by the learned D.A.G. is taken on record, along with the service report submitted by the office of the Senior Superintendent of Police (SSP).

JUDGE