

**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

C.P.No.S- 609 of 2025

Muhammad Nawaz and 2 others Vs. Wahid Bux Aajiz Leghari and 4 others

1. For orders on office objections.
2. For orders on MA 4258/2025.
3. For hearing of main case.

Date of hearing: 30.10.2025.

Date of Order: 30.10.2025.

Mr. Rao Faisal Ali, Advocate for petitioners.

ORDER

JAWAD AKBAR SARWANA, J: The petitioners Muhammad Nawaz (P-1), Muhammad Jaman (P-2) and Shahnawaz (P-3) are aggrieved by the Orders passed by the two forums below wherein F.C.Suit No.64/2024 for damages on account of malicious prosecution filed by the four (04) respondents was challenged by the petitioners by way of application under Order 7 Rule 11 CPC and such challenge was dismissed by the said two forums vide impugned order dated 04.01.2025 passed by the 1st Senior Civil Judge, Tando Muhammad Khan in F.C. Suit No.64/2024 and order dated 16.05.2025 passed by 1st Additional District Judge, Tando Muhammad Khan in Civil Revision Application No.3/2025.

2. Counsel for the petitioners contends that all the ingredients of the case for malicious prosecution as set out in PLD 1999 Supreme Court 28 were not met in the Plaint. He contended that only one Juman prosecuted case against the plaintiffs and therefore, Muhammad Nawaz and Shahnawaz could not

have been impleaded as defendants in the Suit. He further contended that the prosecution had ended in favour of the respondents / plaintiffs by way of acquittal. Therefore, no case for malicious prosecution could be made out. Finally he contended that the entire family of Muhammad Juman could not be held accountable for the prosecution made by Juman alone. The claim ought to have been filed against him alone. He relied on Abdul Majeed Khan v. Tawseen Abdul Haleem and others (PLD 2012 Supreme Court 80) in support of his contention.

3. Heard Counsel. I have perused the impugned order dated 04.01.2025 passed by the Senior Civil Judge, Tando Muhammad Khan and order dated 16.05.2025 passed by Additional District Judge-I, Tando Muhammad Khan. Both forums have articulated that merely one ingredient being absent in a case for malicious prosecution out of the several ingredients listed by the Supreme Court in PLD 1999 Supreme Court 28 cannot be a valid ground for rejection of the Plaint. It is the case of the respondents / plaintiffs that petitioners / defendants are liable for damages which requires proof and opportunity must be given to the plaintiffs / respondents to prove their case. The plaintiffs could not be deprived of their claim at this fledging stage without giving them the opportunity to prove their case. The impugned order of the Additional District Judge-I, Tando Muhammad Khan has gone into further details of crime articulated in detail as to why an opportunity must be given to the plaintiffs to prove their case as well. Counsel for the petitioners has contended that the entire family cannot be held responsible in a suit for malicious prosecution however the review of the plaint reveals that the plaintiffs have claimed both general and special damages including *inter alia* damages for malicious prosecution. Therefore, in such circumstances the plaint cannot be rejected in parts.

4. Given the above, I do not find any material irregularity in this petition nor anything that this is “without lawful authority” and / or “is of no legal effect” in the orders passed by the two forums below. Accordingly this petition is dismissed for the above reasons alongwith listed application.

JUDGE

Tufail