

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

C.P No. D-2310 of 2025
[Kamran Ali v. Province of Sindh & others]

Before:
Mr. Justice Arbab Ali Hakro
Mr. Justice Riazat Ali Sahar

Petitioner: Kamran Ali through Mr. Sajjad Ahmed Chandio, Advocate.

Respondent Nos.1to7: Province of Sindh and others through Mr. Muhammad Ismail Bhutto, Additional Advocate General, Sindh along DSP Sirajuddin Lashari.

Respondents No.8to12: Abdul Razaque and others through Mr. Pervaiz Tariq Tagar, Advocate along with Mr. Imran Ali Tunio, Advocate.

Date of Hearing: 12.032026.

Date of Order: 12.03.2026.

O R D E R

RIAZAT ALI SAHAR, J: - Through this constitutional petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner seeks following reliefs:-

- A)** Declare that the impugned order dated 26-11-2025 passed by respondent No. 03, changing the investigation of FIR No. 372 of 2025, is illegal, unlawful, arbitrary, mala fide, and without jurisdiction.
- B)** Set aside the impugned order dated 26-11-2025 passed by respondent No. 03 and direct that the investigation of FIR No. 372 of 2025 remain with the original Investigating Officer or be entrusted to an independent and impartial officer in accordance with law.
- C)** Direct respondent No. 01 and 02 to initiate and conduct a departmental inquiry against respondent No. 03, who, being the Provincial Head of Investigation under Article 18 of the Sindh (Repeal of the Police Act, 1861 and Revival of Police Order, 2002) (Amendment) Act, 2019, deliberately and mala fide failed to comply with the mandatory

provisions and requirements for change of investigation while passing the impugned order dated 26-11-2025, and to take strict departmental action in accordance with law.

- D)** Direct the respondents to conduct the investigation of FIR No. 372 of 2025 strictly in accordance with the law, rules, and mandatory provisions of Article 18(4) of the Sindh (Repeal of the Police Act, 1861 and Revival of Police Order, 2002) (Amendment) Act, 2019, and to ensure fair, impartial, and transparent investigation without interference.
- E)** Restrain and prohibit the respondents, particularly respondent No. 06, from taking any steps to release the accused persons under Section 169 Cr.P.C. or otherwise tamper with the investigation of FIR No. 372 of 2025.
- F)** Grant any other relief as this Honorable Court deems fit and proper.

2. The petitioner is a student of LL.B., belonging to a poor middle-class family. According to the petitioner, respondents No.01 to 07 being public servants serving in the Police Department, Government of Sindh are legally obligated to protect the life and property of citizens and to perform their duties strictly in accordance with law without being influenced by political or feudal pressures. The petitioner stated that on 19.11.2025 at about 06:00 p.m., respondents No.08 to 12 allegedly attacked the petitioner's party and resorted to indiscriminate firing, as a result whereof the petitioner's brother, namely Abid Ali Khoso, aged about 30 years, died on the spot due to firearm injuries, while another brother, Abdul Samad, sustained serious firearm injuries. After completion of legal formalities and burial of the deceased, the petitioner lodged FIR No.372 of 2025 under Sections 302, 324, 337-H (ii), 109, 148, 149 and 504 PPC at Police Station Kazi Ahmed, District Shaheed Benazirabad against the said accused persons. It is further the case of the petitioner that prior to the said occurrence the accused party had lodged FIR No.140 of 2022 at Police Station Kazi Ahmed, District Hyderabad, under section 302, 506-B, 147, 148, 149, 109 and 337-H (ii) PPC wherein the petitioner's brothers, including the deceased Abid Ali and injured Abdul Samad, were allegedly implicated; however, both were subsequently granted post-arrest bail by the competent courts. The petitioner stated that the accused persons are influential and have been exerting pressure upon the local police, due to which, except for one accused, the remaining nominated

persons have not been arrested and are freely moving in the area. The petitioner further stated that the accused persons, in connivance with certain police officials, managed to have the investigation of FIR No.372 of 2025 transferred within seven days of its registration. It is stated that respondent No.03, being the Deputy Inspector General of Police, Crime & Investigation Branch, Sindh, Karachi and Provincial Head of Investigation, passed an order dated 26.11.2025 transferring the investigation to respondent No.06 (Mr. Sirajuddin Lashari) without providing any opportunity of hearing to the petitioner and without following the mandatory procedure prescribed under Article 18 (4) of the Sindh (Repeal of the Police Act, 1861 and Revival of Police Order, 2002) (Amendment) Act, 2019, which requires deliberation and recommendation by a duly constituted board and recording of reasons for such change. According to the petitioner, the impugned order is non-speaking and does not disclose any reasons or circumstances warranting change of investigation. It is also stated that respondent No.05 subsequently directed respondent No.07 to hand over the case file to respondent No.06, who, according to the petitioner, is making attempts to release the accused persons under Section 169 Cr.P.C. The petitioner claims to have filed an application before the concerned authorities raising apprehensions regarding unfair investigation and also approached the Ex-Officio Justice of Peace, Shaheed Benazirabad through Criminal Miscellaneous Application No.4081 of 2025 under Section 22-A (6) Cr.P.C. which was dismissed vide order dated 13.12.2025. The petitioner further stated that the impugned order has been passed arbitrarily, without lawful authority and in violation of the mandatory provisions of law and principles of natural justice, allegedly to extend undue favour to the accused persons. Hence, the petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution seeking setting aside of the order dated 26.11.2025 and directions for fair, impartial and lawful investigation of the case.

3. Pursuant to Court notice, the respondents filed their respective statements, wherein they have primarily taken the position that no specific allegations have been leveled against them in the instant constitutional petition and that they have been impleaded merely in their official capacities. Respondent No.03 (DIGP Hyderabad Range) has stated that he is a formal party and has already directed the concerned officers, particularly the SSP Tando Allahyar (respondent No.04), to submit para-wise comments and ensure appearance of relevant police officials along with the record before

this Court, while also assuring compliance with any order passed by the Court. Respondent No.04 (SSP Tando Allahyar) and respondent No.05 (DSP City Tando Allahyar) have similarly denied the general allegations of misuse of authority and stated that they have acted strictly in accordance with law and that no harassment has been caused to the petitioners. It has further been stated that, on the complaint of Roshan Ali, FIR No.55 of 2026 dated 13.02.2026 under Sections 380, 409, 420, 269, 270 and 273 PPC was registered at Police Station A-Section Tando Allahyar against the petitioners and others and the matter is presently under investigation wherein necessary proceedings, including preparation of mashirnama of the place of incident and recording of statements under Section 161 Cr.P.C., have been carried out. Respondent No.06 (SHO PS A-Section Tando Allahyar) has also reiterated the same stance, denying any illegality or misuse of powers and stating that all actions have been taken strictly in accordance with law, while leaving the matter to the discretion of this Court and undertaking to comply with any order passed by it in letter and spirit.

4. Learned counsel for the petitioner, while reiterating the contents of the petition, contends that the impugned change of investigation was effected in a *mala fide* and arbitrary manner to extend undue favour to the accused persons. He contends that the Investigating Officer, after taking over the investigation, has submitted an interim report under section 173 Cr.P.C. before the learned Civil Judge & Judicial Magistrate, Kazi Ahmed, wherein six accused persons have been let off and their names have been placed in column No.2 merely on the basis of the plea of alibi, which is legally unsustainable. He further contends that it is a settled principle of law that the plea of alibi is a matter of defence which can only be determined by the trial Court after appreciation of evidence in corroboration with other material available on record.

5. Learned A.A.G. Sindh contends that the investigation has been conducted by DSP Sirajuddin Lashari, who has already submitted an interim challan before the competent Magistrate and is likely to submit the final report shortly. He contends that since the investigation has practically been concluded, the matter now falls within the domain of the trial Court.

6. Learned counsel appearing on behalf of respondents No.08 to 12 supports the stance of the official respondents and submits that the investigation has been conducted strictly in accordance with law. He contends

that the Investigating Officer, after examining the available material, has submitted the interim challan and therefore no interference by this Court is warranted at this stage.

7. Heard and perused the record.

8. The Investigating Officer, DSP Sirajuddin Lashari, appeared before this Court and submitted that he has already filed an interim report under section 173 Cr.P.C. (interim challan) before the Court of learned Civil Judge & Judicial Magistrate, Kazi Ahmed and that the final challan shall be submitted shortly. In view of the fact that the investigation has already been concluded and the matter presently lies before the competent Magistrate and this Court is not inclined to interfere in the investigative process at this stage in exercise of its constitutional jurisdiction. However, the contentions raised by learned counsel for the petitioner regarding the plea of alibi and the placing of certain accused persons in column No.2 of the challan can appropriately be agitated before the learned Magistrate. The learned Magistrate shall examine such objections in accordance with the settled principles of law, after providing due opportunity of hearing to all concerned parties and shall pass a speaking and reasoned order strictly in accordance with law. Needless to observe that if any party remains aggrieved by the order passed by the learned Magistrate, he shall be at liberty to avail the remedy available to him in accordance with law. It is expected that, while passing an order on the final report under section 173 of Code of Criminal Procedure (challan) submitted by the Investigating Officer, the learned Magistrate shall ensure that neither the real culprit escapes the process of law nor any innocent person is unnecessarily implicated in the instant matter.

9. Instant petition stands **disposed of** in the above terms.

JUDGE

JUDGE