

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

*Constitutional Petition No. D- 630 of 2026.  
(Shahid Islam vs. Province of Sindh and others)*

**Present;**

***Mr. Justice Amjad Ali Bohio***

***Mr. Justice Ali Haider 'Ada'***

**Fresh case**

1. For orders on CMA No.2492/2026 (U/A)
2. For orders on office objection at flag 'A'
3. For orders on CMA No.2493/2026(Ex.A)
4. For hearing of main case
5. For orders on CMA No.2494/2026 (S/A)

**08.04.2026.**

Mr. Shabbir Ali Bozdar, Advocate for the Petitioner.

**ORDER**

**Ali Haider 'Ada', J:-** Through this petition, the petitioner seeks quashment of FIR No. 01 of 2026, lodged on 31.03.2026 by the Anti-Encroachment Force through its Assistant Director, wherein the petitioner has been nominated as an accused on the allegation of encroachment over the subject property. After registration of the FIR, the petitioner obtained bail from the competent Court and has now challenged the validity of the same through the instant petition.

2. Learned counsel for the petitioner contends that the Anti-Encroachment Tribunal had earlier passed an order on an application filed by one Muhammad Asif, who appears to be the main complainant. It is submitted that despite dismissal of his application before the Tribunal, the Anti-Encroachment Force, at his instance, lodged the impugned FIR against the present petitioner. It is further contended that the petitioner has a valid defence, as the subject property was allotted to him by the Town Committee, Ubauro, and he has been regularly paying rent. On these grounds, he seeks quashment of the FIR.

3. Heard. Perused the material available on record.

4. At the outset, it is evident from the contents of the FIR that it discloses the commission of a cognizable offence. It is well-settled that where an FIR prima facie discloses a cognizable offence, the same cannot ordinarily be quashed at the initial stage, particularly when the matter falls within the domain of the investigating agency.

5. Furthermore, the factual controversy regarding the petitioner's claim of lawful possession or tenancy over the property can only be determined after recording of evidence, which necessarily requires appreciation of pro and contra material. Such an exercise cannot be undertaken by this Court while exercising constitutional jurisdiction. The petitioner, being an accused, has an adequate remedy to raise his defence before the Investigating Officer and, subsequently, before the trial Court. Entertaining the present petition at this stage would amount to unwarranted interference in the investigative process. In this regard, reliance is placed upon the case of *Balquiz Ali Shah alias Attaullah Khan vs. Wrashem Gul and others* (PLD 2025 Peshawar 36).

6. It is also a settled principle of law that once allegations disclose the commission of a cognizable offence, the matter is to be investigated and, if required, proceeded with in trial. Such process should not be obstructed through premature quashment of the FIR. In the case of *Dr. Ghulam Mustafa vs. The State and others* (2008 SCMR 76), it has been held that the High Court cannot act as an investigating agency and ordinarily lacks jurisdiction to quash an FIR in exercise of constitutional powers under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, or under Section 561-A, Cr.P.C., unless exceptional circumstances are made out. In this context mere assertion of defence does not constitute such an exceptional ground.

7. Similarly, in *Muhammad Mansha vs. SHO, Police Station (City) Chiniot, District Jhang and others* (PLD 2006 SC 598), it has been held that the determination of guilt or innocence of an accused

squarely falls within the domain of the trial Court and should not be interfered with at a premature stage in the absence of exceptional circumstances.

8. In view of the foregoing facts and circumstances, the instant constitutional petition, being devoid of merits, is hereby dismissed in *limine*, along with all pending applications.

**JUDGE**

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