

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

C.P. No.D-737 of 2026

[Mir Muhammad v. Province of Sindh & others]

Before:

Mr. Justice Adnan Iqbal Chaudhry

Mr. Justice Riazat Ali Sahar

Petitioner : Mir Muhammad through Mr. Irfan Khaskheli, Advocate.

Respondents No.1to6 : Province of Sindh and others through M/s. Rafique Ahmed Dahri, Additional A.G. Sindh and Nazar Muhammad Memon, A.P.G. Sindh along with SIP Sardar Khan Umrani PS Kishorepur, on behalf of SSP Shaheed Benaziraabd and Inspector Sanaullah Panhwar PS-Section Nawabshah.

Respondent No.7 : Bakhshan Khan through Mr. Ishrat Ali Lohar, Advocate, who filed Vakalatnama, taken on record.

Date of Hearing : 13.05.2026

Date of Decision : 13.05.2026

ORDER

RIAZAT ALI SAHAR. J. - Through the instant Constitutional Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has called in question the legality and propriety of the impugned order dated 05.03.2026 passed by the learned Ex-Officio Justice of Peace/Additional Sessions Judge-II, Shaheed Benazirabad in Criminal Miscellaneous Application No.649 of 2026, whereby the application filed under Sections 22-A & 22-B Cr.P.C for transfer/change of investigation in Crime No.02 of 2026 registered at Police Station Kishorepur was dismissed. The petitioner has sought setting aside of the impugned order and issuance of directions for appointment of an impartial and independent Investigation Officer from another district to conduct fair, transparent and unbiased investigation of the case.

2. The background of the case is that FIR No.02 of 2026 was registered at Police Station Kishorepur under Sections 302, 324, 337-H (ii), 148, 149, 504 PPC read with Sections 6/7 of the Anti-Terrorism Act, 1997 against the petitioner and other co-accused persons regarding an incident alleged to have occurred on 16.02.2026. The petitioner stated that the FIR has been lodged falsely due to deep-rooted enmity and long-standing disputes between the Bhand and Zardari communities over land and previous criminal litigations pending between the parties. It is further stated that earlier cases arising out of the same hostility were fairly investigated by Inspector Siraj Ahmed Lashari, therefore, the petitioner sought transfer of investigation of the present crime to the said officer or any impartial officer of DSP rank from another district. The petitioner also alleged apprehension of biased and partial investigation at the hands of local police owing to influence of the complainant party. Prior thereto, representations were also submitted before higher police authorities including the Inspector General of Police; however, no relief was extended. Subsequently, an application under Sections 22-A & 22-B Cr.P.C was filed before the learned Ex-Officio Justice of Peace, Shaheed Benazirabad; however, the same was dismissed vide impugned order dated 05.03.2026, hence, this Petition.

3. The respondent No.5/Senior Superintendent of Police, Shaheed Benazirabad, through para-wise comments, opposed the petition and submitted that no specific allegation has been levelled against him. It is stated that during investigation incriminating material surfaced against the petitioner and co-accused persons, leading to arrest of accused and recovery of weapons allegedly used in the offence. It is further contended that investigation is being conducted lawfully under supervision of senior police officers and challan has already been submitted before the learned Anti-Terrorism Court, Shaheed Benazirabad. The respondents prayed for dismissal of the petition.

4. Learned counsel for the petitioner contended that the impugned order is illegal, arbitrary and contrary to settled principles of law as the learned Ex-Officio Justice of Peace failed to appreciate the peculiar facts and circumstances of the case. He contended that the parties are involved in long-standing enmity and several

previous criminal cases are pending between them, therefore, there exists serious apprehension of unfair and partisan investigation by local police at the behest of the complainant party. He further submitted that Inspector Siraj Ahmed Lashari had earlier conducted fair and impartial investigations in connected matters between the same parties, hence, in the interest of justice, investigation of the present case ought to have been transferred to him or any other independent officer from another district.

5. Conversely, learned A.A.G Sindh and learned A.P.G Sindh opposed the petition and supported the impugned order by contending that the investigation is being conducted strictly in accordance with law and under supervision of competent police officers. They contended that the case involves offences under Sections 6/7 of the Anti-Terrorism Act, 1997 and, therefore, the matter falls within the exclusive domain of the learned Anti-Terrorism Court. They further contended that the learned Ex-Officio Justice of Peace has rightly declined interference in investigation proceedings in view of the bar contained under the special statute, hence, they prayed for dismissal of the petition.

6. Learned counsel for respondent No.7/complainant adopted the arguments advanced by the learned Law Officers and further contended that the petitioner and his accomplices are nominated in a heinous offence involving multiple murders and injuries to innocent persons. He submitted that during investigation sufficient evidence has surfaced against the accused persons, several accused have already been arrested, weapons have been recovered and challan has been submitted before the learned Anti-Terrorism Court. He further argued that the present petition has been filed merely to delay the trial proceedings and to create hurdles in lawful investigation, therefore, the same is liable to be dismissed.

7. Heard and perused the record.

8. In the instant matter, it is an admitted position that the parties are involved in deep-rooted hostility and several criminal litigations are pending inter-se them since long. The record further reflects that the present FIR is not an isolated occurrence but appears to be continuation of previous disputes between the parties.

The record further reflects that the parties belong to rival groups of the Bhand and Zardari communities and have been involved in a long-standing land dispute, which previously culminated in a **violent clash during the year 2022 resulting in death of six persons and injuries to several others**. In consequence thereof, multiple criminal cases were registered between the parties, including Crime No.03 of 2022 registered at Police Station Mirzapur under Sections 302, 324, 337-H (ii), 147, 148 and 149 PPC read with Sections 6/7 of the Anti-Terrorism Act, 1997, wherein Roshan and Mehdi (accused in the instant crime) were cited as witnesses and the matter was subsequently resolved through compromise. Another connected case bearing Crime No.04 of 2022 registered at Police Station Mirzapur under Sections 302, 324, 337-F (i), 337-F (iii), 337-F (v), 337-H (ii), 147, 148 and 149 PPC against the present complainant Bakshan Khan and his relatives is still pending adjudication before the learned Additional Sessions Judge, Naushahro Feroze. The aforesaid background clearly demonstrates the intensity of previous enmity and recurring criminal litigation between the parties.

9. The petitioner has consistently maintained before the police authorities as well as before the learned Ex-Officio Justice of Peace that there exists a genuine apprehension of partial, unfair and influenced investigation at the hands of local police owing to the influence allegedly exercised by the complainant party. It is also noteworthy that Inspector Siraj Ahmed Lashari, who had previously investigated connected matters involving the same parties, was specifically asserted to have conducted fair, impartial and transparent investigation and no material has been brought on record to discredit such assertion. The impugned order further reveals that the learned Ex-Officio Justice of Peace declined the relief primarily on the premise that offences under Sections 6/7 of the Anti-Terrorism Act, 1997 were incorporated in the FIR and, therefore, the matter falls within the exclusive domain of the learned Anti-Terrorism Court, without adverting to the grievance of the petitioner regarding fairness and transparency of investigation.

10. It is now well settled that although ordinarily constitutional jurisdiction is not exercised to interfere in the process of investigation, however, where allegations of *mala fide*, biased or

unfair investigation are made out, the Court, in exercise of jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, is fully competent to issue appropriate directions to ensure fair play and administration of justice. In this regard, reliance may safely be placed upon the reported case of GHULAM SARWAR ZARDARI v. PIYAR ALI alias PIYARO and another [2010 SCMR 624], wherein the Honourable Supreme Court of Pakistan held that where investigation is launched *mala fide*, in colorable exercise of authority, in abuse of process of law or beyond lawful parameters, the same can be corrected by the High Court in constitutional jurisdiction to ensure justice and fair play. The Honourable Supreme Court further observed that the investigating authorities do not possess unfettered authority to conduct investigation according to their whims and where circumstances disclose likelihood of *mala fide* or abuse of powers, constitutional jurisdiction can validly be invoked for corrective measures.

11. In the present case, considering the peculiar facts and circumstances, the admitted previous enmity between the parties, pendency of interconnected criminal cases, allegations of partisan investigation and the necessity of maintaining public confidence in the fairness of investigative process, we are of the considered view that ends of justice would be adequately secured if the investigation of Crime No.02 of 2026, Police Station Kishorepur, is entrusted to an independent, experienced and neutral officer. **Since D.S.P. Siraj Ahmed Lashari had earlier conducted investigations relating to disputes between the same parties** and possesses requisite background knowledge of the controversy, continuity of facts and antecedents of litigating sides, therefore, his appointment would best serve the cause of transparent, fair and impartial investigation.

12. For what has been discussed above, the instant Constitutional Petition is **allowed**, the impugned order dated 05.03.2026 passed by the learned Ex-Officio Justice of Peace/Additional Sessions Judge-II, Shaheed Benazirabad in Criminal Miscellaneous Application No.649 of 2026 is **set aside** and the investigation of Crime No.02 of 2026, Police Station Kishorepur, is directed to be entrusted to D.S.P. Siraj Ahmed Lashari, presently posted as DSP RRF/CMU Hyderabad, who shall conduct

further investigation strictly in accordance with law, independently, transparently and without being influenced by any quarter and thereafter submit report before the competent Court of law.

JUDGE

JUDGE

Abdullah Channa/PS