

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Crl. Revision Application No.S- 82 of 2022

Applicant : Iqbal Hussain S/o Raza Muhammad Ujjan,
through Mr. Sheeraz Fazal, Advocate.

Respondent No.1 : Dr. Abdul Jabbar Lashari, through M/s
Manzoor Hussain N. Larik and Waqar Ali
Phulpoto, Advocates a/w said respondent.

Respondent No.3 : Raja Meerani, through Mr. Manzoor Hussain
Halepoto, Advocate

Respondent No.5: The State through Mr. Shafi Muhammad
Mahar, Deputy Prosecutor General

Date of hearing : **28.09.2026**
Date of order : **08.10.2026**

ORDER

TASNEEM SULTANA, J:- Through this Criminal Revision Application, applicant Iqbal Hussain has called in question the order dated 11.10.2022 passed by the learned Additional Sessions Judge-II, Khairpur, in Criminal Direct Complaint No.27 of 2021, whereby his complaint under Section 200, Cr.P.C., against respondents No.1 to 4 for offences under Sections 302 and 34, P.P.C., was dismissed.

2. Briefly stated, the applicant filed the direct complaint alleging that his brother Muhammad Nawaz, aged about 30 years, was working as a male nurse and was also running a medical store at village Muhammad Mithal Ujjan. He was also engaged in the business of sale and purchase of vehicles with respondent No.1, Dr. Abdul Jabbar Lashari, and the other proposed accused. According to the complainant, a dispute had arisen between the deceased and the proposed accused over outstanding business dues. On 29.04.2021, at about 10:30 p.m., respondents No.1 to 4 came in a black GLI car and the deceased accompanied them for settlement of the dispute, taking cash and certain documents with him. He did not return and, on the following day, his dead body was found near Dargah Pir Shahenshah Kat Kapal.

3. The statement of the complainant was recorded under Section 200, Cr.P.C., whereafter a preliminary inquiry was ordered. During such inquiry, statements of Muhammad Siddique and Muhammad Ilyas were recorded

under Section 202, Cr.P.C. The body of the deceased was subsequently exhumed on 05.03.2022 and examined by a Special Medical Board. The Board ultimately recorded the cause of death as undetermined, while toxicological examination did not detect poison.

4. Learned counsel for the applicant contended that the learned trial Court had gone beyond the scope of preliminary inquiry by disbelieving the complainant and his witnesses; that the deceased had last been seen accompanying respondents No.1 to 4; that serious discrepancies were subsequently noticed in the original postmortem report; and that the available material was sufficient for bringing the complaint on regular file and proceeding against the proposed accused in accordance with law.

5. Conversely, learned counsel appearing for the respondents supported the impugned order and contended that no material connected the proposed accused with the death of Muhammad Nawaz; that neither the complainant nor the witnesses had seen what transpired after the deceased accompanied the respondents; and that the subsequent medical material did not establish either poisoning or the cause of death. Learned Additional Prosecutor General also assisted the Court with reference to the record.

6. Heard. Record perused.

7. A perusal of the record reflects that the case against respondents No.1 to 4 primarily rests upon the allegation that, on the night of 29.04.2021, they came to the house of the deceased in a black GLI car and took him with them for settlement of a business dispute. He did not return and was found dead on the following day. So far as respondent No.1, Dr. Abdul Jabbar Lashari, is concerned, the complainant also relies upon the postmortem report issued in his name, which recorded internal findings and attributed the cause of death to myocardial infarction, whereas the subsequent exhumation proceedings did not support those findings. It is in this backdrop that the material collected during preliminary inquiry has to be examined to see whether sufficient ground existed for proceeding against the proposed accused.

8. The complainant and the two witnesses examined during preliminary inquiry speak only about the proposed accused taking the deceased with them. None of them claims to have witnessed what transpired thereafter.

No specific act causing death is attributed to any respondent, nor does the record disclose any recovery, eyewitness account or other intervening circumstance connecting them with the death. The circumstance that the deceased was last seen in their company is relevant, but its value has to be assessed in the light of the surrounding material. The business dispute may explain the occasion for their meeting, but without some further connecting circumstance it does not provide sufficient ground for attributing the subsequent death to them. In *Hashim Qasim and another v. The State* (2017 SCMR 986), the Hon'ble Supreme Court emphasized the need for caution while dealing with circumstantial and last-seen evidence. Though the standard required for sustaining a conviction is not applicable at this preliminary stage, the material must nevertheless disclose some connection between the proposed accused and the offence complained of.

9. Considerable emphasis has also been placed upon the postmortem report issued by respondent No.1, Dr. Abdul Jabbar Lashari. The report recorded internal findings, including blockage of coronary arteries, and attributed the cause of death to myocardial infarction, whereas the subsequent exhumation disclosed that the skull, thoracic and abdominal cavities had not been opened during the original examination. The later medical material also shows that no histopathological or other scientific material had been preserved to substantiate the opinion regarding myocardial infarction. These discrepancies are undoubtedly serious and raise questions regarding the manner in which the original medico-legal examination was conducted. Even so, they do not by themselves establish that respondent No.1 caused the death of the deceased or deliberately prepared the report to conceal an offence. The subsequent medical examination did not determine the cause of death, while toxicological analysis did not detect poison.

10. It is settled that medical evidence is essentially confirmatory in nature and does not by itself identify the person responsible for the offence. In *Dildar Hussain v. Muhammad Afzaal* (PLD 2004 SC 663), the Hon'ble Supreme Court reiterated that medical evidence does not identify the accused involved in the commission of the offence. The same principle was reiterated in the case of Hashim Qasim and another (*supra*). Respondent No.1 is also alleged to have been one of the persons who took the deceased

along with them on the preceding night; however, no act causing death is attributed to him thereafter, nor is there any subsequent circumstance connecting him with the death. The material may raise suspicion, particularly when read with the discrepancies in the postmortem report, but suspicion alone does not furnish sufficient ground for proceeding against him for the offence of murder.

11. The learned trial Court, while dismissing the complaint, observed that the complainant and his witnesses had perhaps concealed the real story and that the occurrence had apparently not taken place in the manner stated by them. Such observations were not necessary at the preliminary stage, where the credibility of the witnesses was not to be finally determined. The impugned order, however, has to be examined with reference to its ultimate conclusion. On consideration of the complaint, the statements recorded under Sections 200 and 202, Cr.P.C., the medical material and the subsequent exhumation report, the record does raise suspicion, but it does not provide the necessary connection between respondents No.1 to 4 and the act causing death. The cause of death remained undetermined; toxicological examination did not detect poison; and no intervening circumstance has been brought on record beyond the allegation that the deceased had earlier been taken along by the proposed accused. The irregularities surrounding the original postmortem examination, serious though they are, cannot by themselves fill that gap.

12. In view of the above facts and circumstances, although some observations made by the learned trial Court were not necessary at the preliminary stage, its ultimate conclusion that sufficient ground was not available for proceeding against respondents No.1 to 4 for the offence under Section 302, P.P.C., does not call for interference in revisional jurisdiction. Consequently, the instant Criminal Revision Application is dismissed.

J U D G E