

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR.  
Criminal Miscellaneous Application No.S-607 of 2024.

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| DATE OF HEARING | ORDER WITH SIGNATURE OF JUDGE |
|-----------------|-------------------------------|

Applicants: 1. Allahdino S/O Ali Muhammad  
2. Illahi Bux S/O Ali Muhammad  
3. Muhammad Umar S/O Dilijan  
**Through Syed Zaffar Ali Shah Advocate.**

The State: **Through Mr.Khalil Ahmed Maitlo, D.PG.**

Date of hearing & order: 13.10.2026.

**Suresh Kumar J:-** Through instant Criminal Application U/S 561-A Cr.P.C, the applicants/accused have impugned the order dated 29.08.2024, passed on Charge-sheet by learned 2<sup>nd</sup> Judicial Magistrate, Sukkur in Crime No.31/2023 for offences U/Ss 506/2,504, 337H(ii),337-A(i), 337-F(i), 114,148,149 PPC registered at PS Qadirpur.

2. The facts of the prosecution case as depicted in the FIR are as under:  
"On 12.12.2023, the complainant, along with his son, was standing near village Dibri Dharejo at about 09:00 AM when the accused persons, namely: 1) Dilijan son of Ali Muhammad Jatoi; 2) Illahi Bux, son of Ali Muhammad; 3) Allah Bux, son of Ali Muhammad; 4) Yaseen, son of Dilijan; 5) Pervaiz, son of Dilijan; 6) Umar, son of Dilijan; and 7) Samiullah, son of Dilijan, armed with lethal weapons, attacked the complainant party over an old land dispute, causing injuries. After obtaining a letter, the complainant lodged the present FIR on 19.12.2023 at 21:00 hours. Thereafter, the investigation of the matter was assigned to the Investigating Officer (I/O) of PS Qadirpur, who conducted the usual investigation and subsequently submitted a final report on 29.08.2024 before the learned 2nd Judicial Magistrate, Sukkur. In the challan sheet, the I/O declared the applicants as innocent and placed their names in Column No. 2. One of the accused, Yaseen, son of Dilijan, was on bail, while four persons were declared

absconders in the challan sheet. The challan was presented before the learned Magistrate, who, without applying his judicious mind, proceeded with the matter passed order on challan-sheet as “Admit. Register, issue NBWs against absconding accused.” which has been impugned by the applicants.

3. I have heard learned counsel for applicants/accused learned DPG for the State.

4. Learned counsel for the applicants/accused has contended that the applicants were found innocent during the investigation by the Investigating Officer (I/O) and, therefore, they were placed in Column No. 2 of the challan. However, the learned Magistrate did not pass any order regarding the present applicants. He has also contended that the trial court issued Non-Bailable Warrants (NBWs) against the present accused. Lastly, he has contended that the application may be allowed and the case may be remanded back with directions to the learned Magistrate to pass an appropriate order on the charge-sheet.

5. Learned DPG for State, concedes the arguments of learned counsel for applicants/accused.

6. Having given due consideration to the arguments advanced by the respective parties counsel and perused the relevant record. From the perusal of impugned order on the charge sheet the learned 2<sup>nd</sup>. Judicial Magistrate Sukkur only states as under:

“Admit. Register, issue NBWs against  
absconding accused.”

7. From a bare reading of the order dated 29.08.2024, it appears that the learned Magistrate did not properly apply his judicial mind while passing the impugned order. The said order is silent regarding the accused listed in Column No. 2 of the challan. The learned Magistrate is required to either agree or disagree with the opinion of the Investigating Officer (I/O) concerning the accused shown in Column No. 2 of the challan. The learned

Deputy Public Prosecutor (DPG) concedes the argument that an illegality has been committed by the learned Magistrate while accepting the aforementioned challan.

8. By consent, the Criminal Miscellaneous Application is allowed. The impugned order dated 29.08.2024, passed on the charge sheet by the learned 2nd Judicial Magistrate, Sukkur, is set aside. Consequently, the learned Magistrate is directed to pass a speaking order within a period of two weeks, after hearing the respective parties and reviewing the material available on record concerning the accused shown in Column No. 2 of the challan. The Non-Bailable Warrants (NBWs) issued against the applicants/accused shall remain suspended till passing of order on charge-sheet.

9. In view of above terms instant Criminal miscellaneous Application is disposed-of accordingly.

**J U D G E**