

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No. 536 of 2025

Applicant : Darpan Lal S/o. Gurdatt Lal
Through Mr. Zafar Ahmed Khan,
Advocate

Respondent-2 : Manooj Kumar Ahoja
S/o. Sadamo Ahoja
Through Mr. Muhammad Asad
Ashfaq Tola advocate.

Official Respondents : The State, through
Mr. Sharafuddin Kanhar, A. P. G.
Sindh.

Date of hearing : 02.09.2026.

Date of Order : 02.09.2026.

ORDER

Jan Ali Junejo, J:-- Through this Criminal Misc. Application under Sections 561-A Cr.P.C., the applicant Darpan Lal S/o. Gurdatt Lal seeks modification in the order dated 15.05.2025 (hereinafter referred to as the "*Impugned Order*") passed by the learned Judicial Magistrate-XXX, Karachi East, on the report under Section 173 Cr.PC filed by the Investigation Officer under 'A' class in FIR No.335/2023 under Section 379/34 PPC registered at PS KIA, whereby the learned Magistrate accepted the report under 'C' class instead of 'B'.

2. The facts, as reflected from the record, are that the Respondent No.2 Manooj Kumar Ahoja, lodged FIR No. 335 of 2023 at Police Station KIA, Karachi, for an offence punishable under Section 379/34 P.P.C. against unknown person, stating therein that he resides at the address mentioned in Column No.2 and is the Financial Head of Sindh T.V. He stated that on 17.10.2021, at about 1300 hours, he parked his car bearing Registration No. BJS-799, Toyota Corolla, in the parking area of Sindh T.V. (Mehran Town) and left for his office. At about 1530 hours, when he returned from his office, he found that the rear glass of his car had been broken and that someone had taken away his bags containing some necessary

office documents, as well as cheque books/cheques belonging to himself, his family members and relatives, pertaining to the following banks: (1) Bank Alfalah, (2) NBP, (3) UBL Bank, (4) Faysal Bank, (5) Samba Bank, (6) Citibank, (7) MCB Bank, (8) HSBC Bank, (9) Meezan Bank, (10) Arif Habib Bank, and (11) Summit Bank. He stated that the relevant account numbers would be produced subsequently. He further stated that the said cheques were in the names of his family members, namely: (1) Mst. Rita, (2) himself, (3) Mst. Rani, (4) Mukesh, (5) Mst. Kavita, (6) Ajee Kumar, (7) Mst. Rovita, and (8) Mst. Jonti Ahoja. He further stated that, as he resides abroad, he had returned today and therefore requested that his report be lodged against the unknown person(s) for theft and that legal action be taken accordingly.

3. Pursuant to the registration of FIR, the investigation was followed and in due course the police submitted a report under Section 173 Cr.P.C. under 'A' class. The learned Judicial Magistrate-XXX, Karachi (East) accepted the said report under 'B' Class vide order dated 04.12.2023. It would be conducive to refer relevant para which reads as under:-

"In these circumstances, I am of opinion that reasons given by investigating officer are not valid for disposal of case summarily as "A" Class. I am of the opinion that investigating officer could not collect any evidence which would show that any offence has taken place as mentioned in F.I.R., therefore, It is ordered that final report under Section 173 Cr.P.C. is approved for summary disposal of case as "B" False Class, I hereby dispose this FIR as "B" Class. S.H.O. P.S. KIA is directed to initiate proceedings against complainant under Section 182 P.P.C. for registration of false F.I.R."

3. Aggrieved by the aforesaid order, the Respondent No.2 has preferred Crl. Misc. Application No.1019/2023 before this court which was disposed of vide order dated 17.05.2024 by setting aside the order dated 04.12.2023 and the remand the same with direction to learned Magistrate to pass afresh order by providing chance of hearing to all the concerned.

4. Thereafter vide impugned order, learned Judicial Magistrate-XXX, Karachi (East) accepted the said report under 'C' Class.

5. Learned counsel for the applicant submits that complainant/respondent No.2 lodged FIR No.335/2023 under Section 379/34 PPC, Police Station Korangi Industrial Area, after an unexplained delay of about one year and five months, whereas the complainant's travel history allegedly establishes that he was in Canada on the date of the alleged occurrence, i.e. 17.10.2021; that the prosecution subsequently relied upon an unauthenticated computer print/photocopy of a purported statement under Section 161 Cr.P.C., which has no legal evidentiary value and was placed before the learned Trial Court belatedly; that the learned Trial Court itself observed that the email relied upon contained no date, was in the name of Zubair/Amjad Ali, bore a CNIC number other than that of the complainant and mentioned the address of Sindh T.V., and further noticed material improvements subsequently made by the complainant and the Investigating Officer, including alteration of the date of occurrence, rendering the subsequent version an afterthought; that the alleged statement under Section 161 Cr.P.C. was neither properly verified nor produced in accordance with law, while the complainant, who admittedly remained abroad, did not appear before the Investigating Officer or the learned Trial Court and the circumstances surrounding receipt of his alleged statement are highly questionable; that the learned Trial Court had earlier, vide order dated 04.12.2023, approved the final report under Section 173 Cr.P.C. in "B" class and directed initiation of proceedings under Section 182 PPC against the complainant for lodging a false FIR, but subsequently, without sufficient lawful justification and without properly considering the earlier order and the directions of this Court, approved the case in "C" class; that the impugned order fails to assign cogent reasons for such departure and amounts to recording inconsistent opinions in the same matter; that the mala fide of the complainant is further evident from the fact that he had issued a cheque to the applicant's wife which was dishonoured, whereafter she lodged FIR No.104/2022 under Section 489-F PPC at

Police Station Tipu Sultan, providing a motive for the present false implication; that the conduct of the complainant and the material contradictions in the prosecution case demonstrate that he has not approached the Court with clean hands, while the impugned order suffers from non-application of judicial mind; hence, the impugned order is liable to be set aside and the earlier "B" class recommendation/order be restored, or the matter be dealt with in accordance with law.

6. The learned Assistant Prosecutor General assisted by learned counsel for Respondent No.2 has supported the impugned order and submitted that the impugned order is based on fair evaluation of record and no illegality, infirmity of material irregularity has been pointed out by the learned counsel for the applicant and prayed for dismissal of the instant Cr. Misc. application.

7. I have heard the learned counsel for the parties and perused the material available on record. The contention that the learned Magistrate was not justified in accepting the final report under "C" Class after earlier approving "B" Class is misconceived, as the order dated 04.12.2023 had already been set aside by this Court vide order dated 17.05.2024, with a direction to pass a fresh order after hearing all concerned. Thus, the earlier order ceased to hold the field.

8. Perusal of the impugned order shows that the learned Magistrate duly considered the FIR, which was lodged against unknown persons and did not nominate or attribute any specific role to the present applicant, along with the complainant's travel history, subsequent material produced by the Investigating Officer, alleged Section 161 Cr.P.C. statement, email and TCS receipt. The Magistrate also noted the absence of material particulars and corroborative evidence regarding the alleged stolen cheque books and other articles, as well as subsequent improvements, particularly regarding the date of occurrence. Therefore, the impugned order cannot be termed mechanical or without application of mind.

9. The objections regarding the complainant's travel history and the authenticity/evidentiary value of the alleged Section 161 Cr.P.C. statement, email and TCS receipt are factual matters which were duly considered by the learned Magistrate while assessing the final report under Section 173 Cr.P.C. No jurisdictional defect or patent illegality is shown.

10. The impugned order merely determines the appropriate classification of the final report and does not amount to an adjudication of criminal liability. The allegations of mala fide and the alleged previous dispute relating to FIR No.104/2022 under Section 489-F PPC also involve factual matters and do not warrant interference under Section 561-A Cr.P.C.

11. The inherent jurisdiction under Section 561-A Cr.P.C. is to be exercised sparingly where interference is necessary to secure the ends of justice or prevent abuse of process. Learned counsel for the applicant has failed to identify any patent illegality, perversity, jurisdictional defect or material irregularity in the impugned order. The learned Magistrate, after remand and hearing the concerned parties, recorded reasons for accepting the final report under "C" Class.

12. Consequently, I find no justification to interfere with the impugned order dated 15.05.2025. The instant Criminal Miscellaneous Application, being devoid of merit, is accordingly dismissed.

JUDGE