

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Date	Order with signature of Judge
	1. For orders on office objection-A. 2. For orders on M.A No. 2779/20265. (E/A) 3. For order on maintainability of main case.

Mr. Naseer Ahmed Wagan, Advocate for the applicant.

Ali Haider "Ada' J:- The applicant is nominated in FIR No.14 of 2023, registered at Police Station Dari, Larkana, for offences punishable under Sections 302/34 PPC. He moved an application under Section 265-K Cr.P.C. before the learned trial Court; however, the same was dismissed by the learned V-Additional Sessions Judge, Larkana, vide order dated 01.12.2025.

2. The crux of the prosecution case, in brief, is that on 03.02.2023, the complainant's brother, namely Arif Hussain, standing in the street. In the meantime, three persons riding on a motorcycle, whose faces were uncovered and who could be identified upon seeing them again, arrived at the spot, took out pistols and fired upon Arif Hussain. As a result of the firearm injuries sustained by him, he subsequently succumbed to his injuries and died.

3. On 05.02.2023, the complainant's further statement was recorded, wherein the present applicant was nominated as one of the accused and was alleged to have participated in the commission of the offence.

4. Learned counsel for the applicant contends that the applicant was not nominated in the FIR and was subsequently implicated through a further statement of the complainant with mala fide intention. He has placed on record the relevant case diaries and submits that the trial has not yet concluded despite the applicant having remained involved in the proceedings. It is further contended that the applicant moved an application under Section 265-K Cr.P.C. before the learned trial Court seeking his acquittal, but the same was dismissed vide the impugned order; hence, he has approached this Court.

5. Heard and perused the material available on record.

6. It is pertinent to note that the order of the learned trial Court has been challenged through the instant Criminal Revision under Sections 435 and 439-A Cr.P.C. However, insofar as the relief of acquittal is concerned, this Court also possesses inherent jurisdiction under Section 561-A Cr.P.C. The remedies available under Sections 249-A and 265-K Cr.P.C. and the inherent jurisdiction of the High Court under Section 561-A Cr.P.C. are co-extensive in nature, inasmuch as the powers of the trial Court under Sections 249-A and 265-K Cr.P.C. are co-extensive with the powers exercisable by the High Court under Section 561-A Cr.P.C. Reliance in this regard may be placed upon **Mian Munir Ahmad versus The State (1985 SCMR 257) and Nawaizish Ali and another versus The State and others (2010 SCMR 1785).**

7. So far as the perusal of the record is concerned, it transpires that the applicant was nominated through the subsequent statement of the complainant. Such ground, by itself, cannot be considered a sufficient ground for acquittal under Section 265-K Cr.P.C. It is settled that the concept of a false charge has altogether a different connotation from that

of a charge which is groundless. In the case of a false charge, the Court can reach such a conclusion and acquit the accused only after recording and appreciating the evidence. Reliance in this regard is placed upon **SIP, Adam Abro and 13 others versus Syed Muhammad Amin Shah and 2 others (2016 P Cr. L J 883)**.

8. No doubt, the right to a fair trial is one of the fundamental guarantees enshrined in Article 10-A of the Constitution of the Islamic Republic of Pakistan. However, mere delay in conclusion of the trial does not, by itself, entitle an accused to acquittal, particularly where such delay may be attributable to the official functionaries. At the same time, the failure of the prosecution to produce even the official witnesses reflects a lack of due diligence in the discharge of its obligations and cannot be lightly disregarded. Nevertheless, such delay, without more, does not constitute a sufficient ground for acquittal under Section 265-K Cr.P.C. unless some cogent and compelling circumstances emerge from the record warranting such exercise of jurisdiction.

9. It is also settled that the provisions of Sections 249-A, 265-K and 561-A Cr.P.C. are not ordinarily intended to be invoked for finally determining the fate of a criminal case at a premature stage. Ordinarily, a criminal case should be allowed to proceed to its logical conclusion on merits after recording the prosecution evidence, recording the statement of the accused under Section 342 Cr.P.C. and, where so desired, recording his statement under Section 340(2) Cr.P.C, followed by hearing the arguments of both sides. The extraordinary jurisdiction under Sections 249-A, 265-K and 561-A Cr.P.C. should, therefore, not normally be invoked for terminating a criminal trial unless the case falls within the settled parameters for exercise of such jurisdiction. Guidance in this regard may be drawn from **The State through Advocate-General, Sindh**

High Court of Karachi versus Raja Abdul Rehman (2005 SCMR 1544).

10. In view of the foregoing discussion, the instant Criminal Revision is hereby dismissed, along with the pending application(s).

11. Nevertheless, the learned trial Court is directed to conclude the trial within a period of six months, without fail. The SSP, Larkana, is further directed to issue appropriate directions to the concerned official functionaries, including the Investigating Officer of Crime No.14 of 2023, Police Station Dari, to ensure the attendance and production of all prosecution witnesses, including the official witnesses, so that the trial may be concluded within the stipulated period.

JUDGE