

ORDER SHEET

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

*Criminal Revision Application No. S-53 of 2025
(Ghulam Sajjad and others v. The State & another).*

Date	Orders with signature of Judge
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1. For orders on office objections 'A'.
2. For hearing of main case.
3. For hearing of M.A No.5685/26 (S/A).

17-08-2026

Mr. Habibullah G.Ghouri, Advocate for applicants.

Mr. Sardar Ali Solangi, Deputy Prosecutor General.

Ali Haider 'Ada' J:- Through this Criminal Revision Application, the applicants, who were nominated as accused in FIR No.21/2017, registered at Police Station Bakapur, for offences punishable under Sections 302, 148, 149, 337-H(ii) and 34, P.P.C., are aggrieved by the order passed by the learned Additional Sessions Judge-III, Larkana, whereby their application under Section 540, Cr.P.C. for summoning DSP Liaquat Ali Abbasi as a witness was dismissed.

2. Learned counsel for the applicants submits that, during the earlier round of litigation before the learned trial Court, DSP Liaquat Ali Abbasi was examined as a witness on 27.08.2019. Subsequently, the applicants were convicted and sentenced to death and, being aggrieved, they preferred an appeal before this Court. The said appeal was disposed of by this Court, whereby the matter was remanded to the learned trial Court for a de novo trial. After such remand, the learned trial Court proceeded with the trial; however, it was reluctant to summon DSP Liaquat Ali Abbasi. Consequently, an application under Section 540, Cr.P.C. was moved, which was dismissed by the learned trial Court through the impugned order. Learned counsel submits that, for a just and proper determination of the case, the evidence of the said witness is

essential, particularly as he had already been examined during the earlier round of litigation. He, therefore, prays that the learned trial Court be directed to examine the said witness.

3. On the other hand, an ASI of Police Station Bakapur submitted an endorsement regarding service upon Respondent No.2/complainant, wherein it was disclosed that Respondent No.2 had died. The said endorsement was taken on record. Learned Deputy Prosecutor General submits that the learned trial Court passed a proper and justified order on the ground that the name of the said witness was not mentioned in the challan. He, therefore, supports the impugned order.

4. Heard and perused the record.

5. Firstly, to determine whether there is any necessity to summon DSP Liaquat Ali Abbasi, the record reflects that his statement had already been recorded during the earlier round of litigation. Once this Court ordered a de novo trial, it became necessary to reconsider the evidence required for a just and proper adjudication of the case. The role of the said police functionary, as reflected from the record, was that, under the directions of his Superior officers, he conducted an inquiry and prepared an inquiry report, which was produced during the earlier round of litigation. In such circumstances, it was incumbent upon the Investigating Officer, who subsequently investigated the matter, to disclose the role of the person who had conducted the inquiry/investigation under the directions of his Superior officers and, if necessary, to cite him as a witness for a just and proper conclusion of the proceedings.

6. Nonetheless, if such exercise has not been undertaken by the prosecution, the learned trial Court, to arrive at a just decision of the case, is not powerless and may exercise its jurisdiction under Section 540, Cr.P.C. to summon and examine such a witness. The paramount consideration under Section 540, Cr.P.C. is the just decision of the case, and the Court is empowered to summon any person as a witness, or recall and re-examine a person already

examined, if his evidence appears to it essential to the just decision of the case. For ready reference, Section 540, Cr.P.C. is reproduced hereunder:-

540. Power to summon material witness or examine persons present. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

7. Thus, the judicial approach under Section 540, Cr.P.C. must remain guided by the paramount objective of securing the ends of justice, thereby enabling the Court to summon or recall any witness whose evidence is essential for the effective and just adjudication of the matter. Further reliance is placed upon the judgment rendered by the Hon'ble Supreme Court in **Nawabzada Shah Zain Bugti and others v. The State (PLD 2013 SC 160)**.

8. In the present case, upon perusal of the record, it appears that the evidence of the said witness is essential for the just and proper conclusion of the matter and for its decision on merits. Accordingly, this Criminal Revision Application is allowed. The impugned order dated 25.10.2025, passed by the learned trial Court is hereby set aside, with a direction to the learned trial Court to summon the said police functionary, as mentioned in the application under Section 540, Cr.P.C., as a witness and examine him in accordance with law and the prescribed procedure.

JUDGE