

ORDER SHEET  
**HIGH COURT OF SINDH CIRCUIT COURT,  
HYDERABAD**

**C.P No.5-532 of 2022**

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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<u>Date of hearing and Order:</u>	23.09.2022
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Mr. Ayaz Hussain Tunio, advocate for petitioner

Mr. Allah Bachayo Soomro Additional A.G Sindh a/w DIG  
Syed Pir Muhammad Shah, DSP Qamaruddin, DSPs (Legal)  
Shoukat Ali and Bashir Ahmed

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**ORDER**

Through this petition, the petitioner seeks protection against alleged harassment of police officials at the behest of private respondent. Learned counsel for the petitioner submits that certain false FIRs have been lodged against the petitioner at the behest of private respondents.

2. At the outset I asked learned Additional Advocate General to apprise this court as to why so many F.I.Rs have been registered against the petitioner; he referred to different provisions of Code of Criminal Procedure, 1898 and the Police Rules, 1934 and has maintained that the statutory scheme of criminal law in vogue in the country envisages registration of FIR regarding an incident involving commission of a cognizable offense; and police is duty bound to record every fresh version of the incident brought to its notice. He submitted that the investigating officer is legally obliged to investigate the case from every possible angle and to probe into every version of the incident brought to his notice and then he is to submit his final report on the matter in terms of the facts found by him and not in terms of any particular version of the incident advanced by any person.

3. After hearing the counsel for petitioner, learned AAG, and the police officers present in court, attending to all the statutory provisions relevant to the legal issue involved, and perusing the precedent cases available on the subject I find that for proper resolution of controversy at hand it is imperative to correctly understand the scheme of the Code of Criminal Procedure, 1898 and the Police Rules, 1934 regarding registration of criminal case through an FIR and its investigation by the police.

4. In principle the primary purpose of F.I.R. is to inform about the commission of a cognizable offense that a police officer is empowered to investigate under

Section 156 Cr.P.C. The Police Officer receiving that information may question the informant to find out his source of information about the names of offenders and the witnesses and whether the informant himself was an eye-witness as laid down in Police rule 21.1(4). However, where the FIRs are regarding independent and distinct offenses, registration of subsequent FIR cannot be prohibited on the ground that some other FIR had been filed against the petitioner in respect of other allegations made against him. Besides in cases where the same group of people similarly commit offences in different localities falling under different jurisdictions. Even if these incidents are committed close to time, there can be separate FIRs. Section 154 Cr.P.C. places an unequivocal duty upon and gives discretion to the police officer in charge of a police station to register FIR on receipt of information that a cognizable offence has been committed. Non- registration of crime is a violation of law and the Constitution. However, the Constitution, of 1973 ensures the right to the procedure established by law and inunct that a person shall not be deprived of his dignity, life, and liberty except under the fair procedure established by law.

5. The statutory rights and duties of police officers to 'register' information relating to the commission of a cognizable offense, to investigate a case where the commission of a cognizable offense is suspected, and to submit the report of such investigation to the Magistrate having jurisdiction to take cognizance of the offense upon a police report, are not circumscribed by any power of superintendence or interference by the Magistrate. Neither any sanction is required from a Magistrate to empower the Police to investigate a cognizable offense nor should judicial authorities interfere in matters which are within the province of police officers and into which the law imposes upon them the duty to inquire. The functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with the due observance of law and order is only to be obtained by leaving each to exercise its function always, of course, subject to the right of Court to intervene in an appropriate case.

6. The concept of "sameness" has been given a restricted meaning. To examine the impact of one or more FIRs, the Court has to rationalize the facts and circumstances of each case and then apply the test of 'sameness' to find out whether both FIRs relate to the same incident and the same occurrence; and whether they are about incidents which are two or more parts of the same transaction or relate completely to two distinct occurrences. It is only if the second FIR relates to the same cause of action, the same incident, there is the sameness of occurrence and an attempt has been made to improvise the case, would the second FIR be liable to be quashed. In cases where every FIR has a different spectrum, and the allegations made are distinct and separate, it may be regarded as a counter-complaint, but it cannot be stated that an effort has been made to

improve the allegations that find a place in the first FIR or that the principle of "sameness" is attracted.

7. It is no doubt true that this Court should exercise due circumspection and caution, and not unnecessarily interfere when a complaint into a cognizable offense is still under investigation, as the possibility of another incident, giving rise to a similar or a different set of offenses, coming to light during such an investigation cannot be ruled out. It cannot, however, be lost sight of that in cases where multiple investigations into the very same offense may result in the possibility of fundamental right of an accused, under the Constitution, being violated non-interference may well fail in this Court to discharge its constitutional obligations of safeguarding the fundamental rights of citizens. The right to life and liberty of a citizen imposes a corresponding duty on the rest of the society, including the State, to observe that right, that is to say, not to act or do anything which would amount to infringement of that right except under the procedure prescribed by law. In other words, conferring the right on a citizen involves the compulsion on the rest of society, including the State, not to infringe that right. It would be wholly inappropriate for the Court, in cases where multiple complaints are registered in different police stations concerning the very same incident, to exercise restraint, await completion of the investigation, and permit violation of the fundamental rights of a citizen under the Constitution of Pakistan.

8. Bearing in mind the aforesaid rule position and precedents, the contentions urged by learned AAG, regarding statutory rights of complainants, victims, and aggrieved persons to have their respective complaints registered and investigated, needs to be looked into/addressed.

9. Before going ahead on the subject issue, learned AAG referred to the order dated 23.09.2022 passed by this court and submitted that Inspector General of Police Sindh has placed on record a compliance report, annexing therewith report dated 03.03.2022 of inquiry Committee consisting of SSP Larkana and SSP Jacobabad, proposed certain disciplinary action against the delinquent police officials, who were/are indulged in state of affairs.

10. I have perused the said report, which reveals that there is a civil property dispute between the petitioner and private respondents. The report further reveals that serious FIRs were lodged against the petitioner in districts Larkana & Jacobabad, particularly in the area where Peer Ahsan Shah @ Junaid Shah Rashidi has influence (who is private respondent No.12 in the matter). The report also reveals that said Peer Ahsan Shah/respondent No.12 was also allotted unauthorized guards from districts Larkana and Jacobabad.

11. A bare reading of report of inquiry Committee, referred to above, reveals that private respondents influenced the Police Department of the Government of

Sindh; as such time and again certain FIRs are being lodged against the petitioner and his family in various districts of Sindh. Prima facie, it appears that certain police officers / officials are acting in aid of influential persons rather than acting strictly under the law, which acts on their part are against the law. In such circumstances as discussed above, I do feel persuaded to direct IGP Sindh to carry out probe faithfully of such state of affairs through Mr. Ali Sher Jakhri AIGP, as multiple F.I.Rs have been lodged by the police against the petitioner at the behest of private parties and fix responsibility upon the delinquent officers/officials after hearing them; and ensure no further F.I.Rs against the petitioner is to be registered without permission of concerned Judicial Magistrate of the area.

12. Petition stands disposed of in the above terms. Office to send a copy of this order to the IGP compliance.

JUDGE

Sajjad Ali Jessar