

**ORDER SHEET**

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

**CrI. Misc. Application No. S-918 of 2023**

*(Mumtaz Ali Panhwar Vs. The State & others)*

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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1. For Orders on CMA No. 7617/2023 (U/A)
2. For Orders on office objection.
3. For Orders on CMA No. 7618/2023 (Ex./A)
4. For hearing of main case.

**14-12-2023.**

Mr. Safdar Ali Jogi, advocate for applicant.

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1. Granted.
2. Over ruled.
3. Granted.
4. It is contended by learned counsel for the applicant that the applicant on having been involved in a murder case by the private respondent on investigation was declared innocent by the police by placing his name in column No.II of the charge sheet and he now has been joined in trial as an accused by learned Civil Judge & Judicial Magistrate Nara vide order dated 07-12-2023; such order being illegal is liable to be set aside, by this Court by way of instant CrI. Misc. Application under section 561-A Cr.P.C.

Heard arguments and perused the record.

The applicant is named in FIR with allegation that he with rest of the culprits in furtherance of their common intention committed murder of Abdul Rasheed by causing him fire shot injury in order to satisfy with him his dispute over property. The specific role of

causing fire shot injury to the deceased is attributed to the applicant. Whatever is stated in FIR by the complainant takes support for ancillary evidence; it has been disbelieved by the investigating officer by believing the version of the applicant with regard to his innocence. By doing so, the investigating officer obviously acquired the status of the Court; it is against the spirit of law. By joining the applicant in trial as an accused, on the basis of material brought on record, the learned trial Magistrate has committed no illegality, which could be examined by this Court by way of instant CrI. Misc. Application; it is dismissed in limine by directing the applicant to prove his innocence by joining the trial, if so is advised to him.

**J U D G E**

Nasim/P.A