

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Misc. Appln:No.S-875 of 2024

Applicants: Shahmeer Ali & another through Mr. Farhad Ali Abro, Advocate.

Respondent No.5: Through Mr. Dilbar Ali Unar, Advocate

The State: Through Ms. Rameshan Oad, A.P.G.

Date of hearing: **20.01.2025**

Date of Order: **20.01.2025**

O R D E R

AMJAD ALI SAHITO, J:- Through this Criminal Misc. Application filed under Section 561-A Cr.P.C, the applicant has impugned the order dated 13.12.2024, passed by the learned IInd Additional Sessions Judge/Ex-officio Justice of Peace, Hyderabad in Criminal Miscellaneous Application No.6243 of 2024 Re: Mst. Shano vs SSP Hyderabad & others wherein the application under Section 22-A-6(i) Cr.P.C was allowed and SHO concerned was directed to record the statement of applicant, if cognizable offence is made out then the same be incorporated in the book under Section 154 Cr.P.C and then act in accordance with law.

2. Per learned counsel for applicants no incident has been committed by the accused persons infact due to diminution of white cells the deceased Mst. Azeema lost her life but subsequently implicated the present applicants/accused by mother in this case; that the dead body was brought at the village and after four days the post mortem was conducted whereas no violation has been shown under body of deceased; that infact Mst. Azeema is wife of accused

Shahmeer as he has contracted un-ceremonial marriage with her. He lastly prayed that impugned order may be set-aside.

3. On the other hand, learned counsel appearing on behalf of respondent No.5 supported the impugned order and stated that the medical evidence is supported with the contention of complainant/respondent No.5; that the accused persons have committed the offence and subsequently by making Drama declared that she has lost her life due to diminution of white cells.

4. While, learned A.P.G for the State has supported the impugned order

5. Heard & perused.

6. Whereas, as alleged by the applicant Shahmeer Ali on 04.10.2024 at about 8:45 hours the deceased was suffering from fever, vomiting, diarrhea and gastric pain and due to said illness she fell/slipped down in the bathroom and thereafter applicant No.1 took away her to emergency of Civil Hospital Karachi for treatment and during treatment she could not survive and died on 05.10.2024. After four days the medical examination was conducted and finally medical certificate was obtained wherein the Woman Medical Officer MLC LUH Hyderabad has opined as under:-

OPINION.

“From the findings of provisional post mortem report C.T Scan report histopathology report, chemical report & DNA report of deceased Mst. Azeema w/o Shahmeer I am of opinion that the cause of death is due to sub-arachnoid hemorrhage consequently resulted into death, secondary to trauma on head.”

7. Since, in this case one lady Mst. Azeema has lost her life and it is settled principal of law that no offence remain unchecked but it

should be investigated. In such view of the matter, instant Cr. Miscellaneous Application is dismissed. However, the SHO concerned is directed to record the statement of the respondent No.5, if cognizable offence is made out the same be incorporated in the book under Section 154 Cr.P.C and then act in accordance with law. It is made clear that no arrest shall be made un-till and unless tangible evidence is collected by the I.O of the case. This application stands disposed of accordingly.

JUDGE

Ahmed/Pa,