

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.
Cr. Misc. Appl. No.741 of 2024**

16.10.2024

Mr. Muhammad Ashraf Samo, Advocate for applicant.
Mr. Nasir Raza Rind, advocate for proposed accused No.1 & 2.
Shaikh Jawaid Mir, a/w Ms. Samreen Eshtesham, Agha Atta Muhammad,
advocate for proposed accused No.5.
Ms. Amna Ansari, Addl. P.G.

ORDER

MUHAMMAD IQBAL KALHORO J: This Cr. Misc. Application questions an order dated 20.07.2024 passed on an application filed for registration of FIR u/s 22-A & B Cr.P.C against proposed accused, who are mainly police officials.

2. The version on the basis of which the application was filed discloses that applicant was travelling in a white Alto Car on 04.07.2024 alongwith his mother Sara, sister Ghanwa and driver Abdul Wahid from Thatta to Dow Hospital, Karachi for treatment of his sister Ghanwa. When they reached Attock Petrol pump, Gulshan-e-Hadeed, a police mobile of P.S Steel Town in which proposed accused were travelling, started indiscriminating direct firing upon the car in which his mother and sister were injured. His mother however, died of the firearm injury. Police officials travelling in the police mobile immediately made their escape good from the spot. The complainant thereafter managed an Ambulance and brought dead body of his mother and injured sister to Jinnah Hospital for postmortem and treatment. Thereafter he tried to get the FIR of the incident registered but in vain. Finally, he filed an application u/s 22-A & B Cr.P.C which has been dismissed by the impugned order mainly on the ratio set out by the Supreme Court in Sughra Bibi case reported as PLD 2018 SC 595 i.e. that if an FIR of the same incident has already been registered, second FIR could not be allowed and in the investigation, the version of other party should be recorded and investigated.

3. I have heard learned counsel for applicant and proposed accused. Former has stated that in this case, the ratio laid down in Sugra Bibi case is not attracted whereas the latter has supported the impugned order. The record shows that police of P.S Steel Town have registered an FIR No.456/2024 against some unknown accused alleging that when the proposed accused were on patrol duty and were present in front of Shera Hotel, Gulshan-e-Hadeed, a person by name Dilshad approached them and disclosed that 15/20 days before he was robbed by 4/5 armed persons, who were available in a car near Meezan Bank for the purpose of commission of some offence. When on such information, the police reached the

spot, the said persons started firing upon them and after taking a U turn fled away towards national highway. Police chased them but in vain as the accused travelling in a car disappeared after Toll Plaza on the link road. Thereafter the police came to know that the people travelling in a white Alto Car had been injured from the firing of the accused and one of them Mst. Sara had died.

4. During arguments learned counsel appearing for proposed accused has submitted that those unknown accused have been arrested and the Challan has been submitted before the Magistrate, which is likely to be admitted within a day or so as the judicial Magistrate today is on leave.

5. I have considered submissions of the parties and perused material available on record. In my view the ratio laid down in *Sughra Bibi (supra)* is not attracted in the present case. The first FIR contains a different story which has been registered by the police itself against some unknown accused by transmitting entire liability of killing mother of the applicant to them. It is also an admitted position that in the investigation ensuing FIR No.456/2024 the version of the applicant has neither been recorded nor incorporated, nor it finds place in the Challan. Applicant here has leveled direct allegations against the proposed accused, who are the police officials of making indiscriminate firing on his car, killing his mother and injuring his sister. Whereas the version set out in FIR No.456/2024 is quite different and does not appear to co-relate with the story narrated by the applicant. The FIR No.456/2024 prima facie appears to be a crude attempt to take care of the action of the police of making indiscriminating firing and killing one person and injuring the other. I, therefore, find impugned order not sustainable in law.

6. Learned Judge while appreciating the facts has not taken into consideration the direct allegations leveled by the applicant against the police officials, which under the scheme of section 154 Cr.P.C were required to be registered and investigated. This being the position, I allow this application and direct the SHO P.S. Steel Town to record version of the applicant and register FIR against proposed accused. After the FIR, investigation shall be entrusted to a senior police officer not below the rank of DSP.

The Cr. Misc. Application stands disposed of alongwith pending applications.

J U D G E