

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Revision Application No.D-04 of 2024

Before:

Mr. Justice Shamsuddin Abbasi.

Mr. Justice Ali Haider 'Ada'.

Applicant: The State *through* Mr. Ali Anwar Kandhro, Additional Prosecutor General Sindh, assisted by Mr. Riaz Hussain Khoso Deputy Attorney General for Pakistan along with Mehboob Ahmed Deputy Superintendent of Rangers/ Legal Officer.

Respondents: 1. Asghar *through* Mr. Azhar Hussain Abbasi, Advocate,
2. Sikandar, *Nemo*

Date of Hearing: 26.08.2025.

Date of Decision: 26.08.2025.

ORDER

Ali Haider 'Ada' J.-Through this criminal revision, the State has assailed the order dated 23.01.2024, passed by the learned Special Judge, Anti-Terrorism Court, Shikarpur, whereby the learned trial court allowed the application filed by the Investigating Officer for interrogation the respondents, who are accused in the instant crime. However, the said interrogation was allowed within the premises of the jail, and not for physical custody. The State, being aggrieved by the limitation imposed by the trial court, has preferred the present revision petition, seeking setting aside of the impugned order to the extent it denies physical remand of the respondents to the police.

2. The case arises from FIR No. 76 of 2015, lodged on 30.06.2015 at Police Station Garhi Yaseen, on the complaint of Manzoor Ahmed, Deputy Superintendent of Pakistan Rangers. The complainant reported that he, along with his team members, proceeded from the Rangers Headquarters to a specified location in pursuit of certain notorious individuals. Upon reaching the main highway near village Gahi, a group of armed accused persons appeared and opened indiscriminate fire on the Rangers personnel. An encounter ensued, lasting approximately ten minutes, during which DSR Abdul Jabbar, Sepoy Mushtaq, and a civilian passerby, Abdul Qadir, were fatally shot. Additionally, Sepoy Asmat sustained serious injuries. From the accused side, one Shahban alias Koro Marfani, was also killed. The complainant further stated that the

present respondents were accompanying the main accused party and were actively involved in the encounter, thereby participating in the commission of the crime. Accordingly, FIR was registered for offences punishable under Sections 302, 324, 353, 427, 148, 149 of the Pakistan Penal Code, read with Sections 6 and 7 of the Anti-Terrorism Act, 1997.

3. After registration of the FIR, the investigation was initiated and the initial challan was submitted before the learned trial court. In that report, both the present respondents were shown as absconders, and the learned trial court, after due process, declared them as proclaimed offenders in accordance with law.

4. Subsequently, after a lapse of nearly seven years, the respondents were shown to have been arrested on 11.03.2023. On the very same day, i.e., 11.03.2023, a supplementary challan was submitted by the Investigating Officer before the learned trial court, showing the respondents in custody. It is significant to note that the respondents were already confined in District Jail Shikarpur in connection with another criminal case. Their arrest in the present case was therefore shown through the preparation of an imaginary memo of arrest, reflecting their custody as if it had occurred on that same date, while they were in fact already under judicial custody in another matter.

5. Following the arrest of the respondents on 11.03.2023, the complainant moved an application on 16.11.2023 before the Deputy Inspector General of Police, Larkana, seeking re-investigation of the case in light of the respondents' arrest and their alleged involvement in the crime. Acting upon the said request, the Deputy Inspector General of Police, Larkana Range, vide order dated 19.12.2023, directed that the matter be re-investigated by an officers not below the rank of Inspector. In furtherance of the re-investigation, on 03.02.2024, the Investigating Officer submitted an application before the learned trial court seeking physical remand of the respondents for the purpose of custodial interrogation, to effectively probe their role in the offence. However, the learned Special Judge, Anti-Terrorism Court, Shikarpur, allowed the application only to the extent that the respondents may be interrogated within the premises of the jail, and declined to hand over their physical custody to the Investigating Officer.

6. Being aggrieved by this condition imposed by the trial court, the State has filed the present criminal revision, challenging the legality and propriety of the impugned order to the extent that it restricts the investigating agency from obtaining physical custody of the respondents for the purpose of interrogation.

7. Learned Additional Prosecutor General, assisted by the learned Deputy Attorney General and the learned counsel for the complainant, vehemently argued that the learned trial court failed to appreciate the facts and gravity of the case. It is contended that although the trial court allowed the application for interrogation, it unjustifiably restricted the same to within the jail premises, without granting physical remand of the respondents to the Investigating Officer. Learned counsel submitted that effective and meaningful interrogation within jail custody is practically difficult, particularly in a case involving serious charges of terrorism. It was further submitted that the respondents were arrested after the lapse of more than seven to eight years, and therefore, custodial interrogation is necessary to properly unearth their role and involvement. Denial of physical custody at this stage, it was argued, prevents fair investigation and defeats the purpose of re-investigation ordered by the competent authority. Hence, a prayer is made to allow the revision and direct physical remand of the respondents to the Investigating Officer. In support of their contentions, reliance was placed on the judgments of *Muhammad Yousaf vs. The State and others* (2000 SCMR 453), *The State vs. Additional Sessions Judge and 2 others* (2023 PCrLJ 83), *Raja Khursheed Ahmed vs. Muhammad Bilal and others* (2014 SCMR 474), *Razi Khan Almani vs. Judge, Anti-Terrorism Court, Hyderabad* (2014 PCrLJ 1673).

8. Conversely, learned counsel for Respondent No. 1 opposed the revision petition and contended that the application for physical custody was filed after an unexplained delay of over 10 months following the arrest of the respondents. It was submitted that the trial court has already allowed the Investigating Officer to interrogate the respondents inside jail, and therefore the opportunity for investigation has not been denied in any manner. He argued that reopening the chapter of physical remand at such a belated stage would amount to misuse of authority and violate the settled rights of the accused. The learned defence counsel placed reliance on the judgments of *Muhammad Nasir Cheema vs. Mazhar Javaid and others* (PLD 2007 SC 31), *Bahadur Khan vs. Muhammad Azam and others* (2006 SCMR 373).

9. Heard the arguments of the learned counsel for the parties and perused the material available on record with due judicial scrutiny.

10. It is crucial to note at the outset that this is not a case where the State has sought re-investigation of the matter in its entirety. The record clearly reflects that the application dated 03.02.2024, filed by the Investigating Officer before the

learned trial court, merely sought permission to shift the custody of the respondents from jail to police lock-up for the purpose of further interrogation. In the said application, the Investigating Officer expressly requested that the respondents be remanded to police custody, claiming that custodial interrogation was necessary to extract further facts from them. The learned trial court, upon consideration, allowed the application only to the extent of permitting interrogation inside the jail premises, declining to hand over physical custody to the police. It is pertinent to mention that the Investigating Officer himself acknowledged in the application that interrogation had already been conducted within jail custody, during which the respondents allegedly replied that the case had already been challaned and that they had no further disclosures to make. This leads to a significant legal and procedural question: what investigative objective remains, and what measures the Investigating Officer intends to employ in police custody that cannot be accomplished within the bounds of jail interrogation? The assertion that facts would be disclosed only if the respondents are shifted to police custody raises a legitimate concern as to whether the Investigating Officer seeks to exercise undue pressure or extract a statement in a manner inconsistent with procedural safeguards.

11. The purpose of police interrogation is to uncover the truth not to obtain statements tailored to the investigator's expectations. The law does not permit an officer to impose statement upon an accused, nor does it authorize the use of police custody as a tool for coercive tactics disguised as procedural necessity. This concern is meaningful in Rule 25.2 of the Police Rules, 1934, which lays down the ethical and procedural limits of police investigation, and is worth quoting for ready reference:

25-2 Power of investigating officers.- (1) The powers and privileges of a police officer making an investigation are details in sections 160 to 175, Criminal Procedure Code. An officer so making an investigation shall invariably issue an order in writing in Form 25. (1) to any person summoned to attend such investigation and shall endorse on the copy of the order retained by the person so summoned the date and time of his arrival at, and the date and time of his departure from the place to which he is summoned. The duplicate of the order shall be attached to the case diary.

(2) No avoidable trouble shall be given to any person from whom enquiries are made and no person shall be unnecessarily detained.

(3) It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be to discover the actual facts of the case and to arrest the real offender or offenders. He

shall not commit himself prematurely to any view of the facts for or against any person.

12. Therefore, the conduct of the Investigating Officer, in seeking police remand after already having interrogated the respondents inside jail, appears to be more uneven than investigative. The concern regarding custodial interrogation is not merely theoretical; it has long been acknowledged in international jurisprudence that interrogation in police custody, without proper safeguards, carries an inherent risk of coercion. In the judgment of the United States Supreme Court in *Miranda v. Arizona*, 384 U.S. 436 (1966), accordingly, the Court ruled that a defendant must be warned prior to any custodial interrogation that he has the right to remain silent; anything he says may be used against him in a court of law; he has the right to the presence of an attorney; and if he cannot afford an attorney, one will be appointed to him prior to any questioning, if he so desires.

13. Further, the record reflects that the respondents were shown to have been arrested on 11.03.2023, and, notably, on the same day, the supplementary challan was submitted by the Investigating Officer in the prescribed format under Section 173 of the Code of Criminal Procedure (CrPC). The submission of the challan in such manner signifies that the prosecution itself considered the respondents to be in judicial custody, as there was no simultaneous or prior application moved by the Investigating Officer under Section 344 CrPC seeking adjournment or requesting reasonable time for further investigation or custodial remand. In such circumstances, it appears that no intention was shown by the prosecution at that stage to seek physical custody of the respondents for interrogation. For ready reference, Section 344 CrPC is reproduced below:

344. Power to postpone or adjourn proceedings: If, from the absence of a witness, or any other reasonable cause, it becomes necessary-or advisable to postpone the commencement of, or adjourn any inquiry or trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefore, from time to time, postpone or adjourn the same on such terms as it thinks-fit, for such time as it considers reasonable and may by a warrant remand the accused if in custody :

Remand: Provided no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

(2) Every order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

Explanation Reasonable cause for remand: If sufficient evidence has been obtained to raise a suspicion that the accused may have

committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

14. This conduct further reinforces the conclusion that the later request for physical remand, made after a significant lapse of time and without any fresh material, appears to be without substantial legal basis, and seems to avoid procedural safeguards provided under the law.

15. Moreover, the record reflects that the application filed by the complainant to the Deputy Inspector General of Police, Larkana Range, dated 16.11.2023, alleged that the Investigating Officer had submitted the supplementary challan without conducting proper interrogation of the respondents. However, this application itself was moved after an unexplained delay of approximately eight months from both the date of the respondents' arrest and the date of submission of the supplementary challan. The belated filing of the application and the absence of any steps taken under Section 344 CrPC to defer the submission of the challan or seek further remand, indicates that the prosecution did not treat the matter of interrogation with the level of procedural care. Therefore, at this belated stage, it becomes difficult to accept the argument that the request for physical remand is being pursued out of investigative necessity. Rather, the sequence of events suggests that the prosecution is attempting to revive a lapsed opportunity, without showing any compelling justification or new material that would warrant custodial interrogation after such a substantial delay.

16. Furthermore, the matter was directed to be re-investigated by the competent authority, whereby, vide order dated 19.12.2023, the investigation was entrusted to two police officers not below the rank of Inspector, acting under the supervision of an SDPO/ASP-level officer. Despite this clear directive, the record reveals that the application seeking physical remand of the respondents was moved on 03.02.2024, i.e., after a lapse of approximately one and a half months from the date of the re-investigation order. More critically, this application was also filed more than 10 months after the arrest and submission of the supplementary challan, a delay for which no satisfactory explanation has been furnished by the prosecution or the Investigating Officer. It is also worth reiterating that the trial court had already permitted interrogation of the respondents within the jail premises, and the prosecution availed that opportunity. Therefore, at this stage, the belated request for physical remand appears to be without legal merit, and does not withstand judicial scrutiny.

17. For the foregoing reasons and the discussion detailed above, it is held that the instant criminal revision petition lacks any legal merit and force. Consequently, there is no justification to interfere with the order passed by the learned trial court. Accordingly, the instant criminal revision petition is hereby dismissed.

JUDGE

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