

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Misc. Application No.S-185 of 2024

{Mushtaque Ali & 3 others v The SHO P.S. Naudero & 12 others}

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1. For orders on office objection.
2. For orders on MA No.2541/2024.
3. For hearing of main case.

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Mr. Mazhar Ali Bhutto, Advocate a/w applicants.

Mr. Ghulam Akbar Lashari, Advocate for Respondents 4 to 6.

Mr. Sardar Ali Solangi, DPG a/w SIP Allah Warrayo Noonari, I.O. of P.S. Naudero.

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Date of hearing **02-10-2025**

Date of order **09-10-2025**

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ORDER

Shamsuddin Abbasi, J:- Mushtaque Ali son of Ali Nawaz Khokhar, Zulfiqar Ali son of Ali Nawaz Khokhar, Ayaz Ali son of Muhammad Panah Khokhar and Ali Asghar son of Muhammad Idrees Khokhar, applicants, are nominated accused in Crime No.21 of 2024 registered at Police Station Naudero, District Larkana, for offences under Section 302, 311, 120-B, 201, 148 and 149, PPC, by respondent No.4/complainant Mst. Arbab Khatoon against applicants and others for commission of murder of her sister-in-law Mst. Kiran, aged about 28 years, and her daughter Mst. Naseem, aged about 24 years, in the background of murderous enmity. The incident alleged to have taken place on 08.03.2024 at 2:00 am (night) and the FIR has been registered on the same day at 10:00 pm.

2. Pursuant to the registration of FIR, the investigation was followed and in due course a report under Section 173, Cr.P.C. was submitted stating therein that the applicants have been falsely implicated and both ladies Mst. Kiran and Mst. Naseem and a man namely, Naseem Ahmed son of Abdullah Khorro were killed by complainant party in the name of "Siyah Kari" as reported in FIR No.25 of 2024 registered at P.S. Naudero, District Larkana, for offences under Sections 302, 364, 201, 148 and 149, PPC, lodged by Mst. Tasleeman, sister of deceased Naseem Ahmed and the

Investigating Officer in the final report, submitted on 10.05.2024, recommended for release of nominated accused in FIR No.21 of 2024 and charge sheeted the accused nominated in FIR No.25 of 2024.

3. The learned Civil Judge/Judicial Magistrate-I, Rato Dero, after going through the record, declined the report of the investigating officer and took cognizance against applicants as nominated accused in FIR No.21 of 2024 vide order dated 22.05.2024 and feeling aggrieved by such order, the applicants have filed the instant application.

4. It is contended on behalf of the applicants that the investigating officer has submitted final report after a thorough investigating, fairly and transparently. It is next submitted that complainant party killed two innocent ladies in the name of "Kari" with one Naseem Khuhro, who too was killed in the same background, and falsely implicated the applicants in the background of previous murderous enmity. It is also submitted that sister of Naseem Khuhro lodged FIR No.25 of 2024 against respondents 7 to 12 and directly nominated them in the commission of her brother and two innocent ladies in the name of "Karo Kari". Per learned counsel, the investigating officer has conducted fair and transparent investigation and submitted final report placing the names of applicants in column No.2 of the challan and rightly charge sheeted the respondents 7 to 12 showing them as absconders. The impugned order is, thus, bad in law and facts and liable to be set-aside.

5. On the other hand, the learned counsel for the respondents 4 to 6 has supported the impugned order and submitted that the applicants are nominated in FIR No.21 of 2024 with specific role and the learned Magistrate has rightly took cognizance against them.

6. The learned DPG has supported the arguments advanced by the learned counsel for the applicants and prayed for setting aside the impugned order.

7. I have given my anxious consideration to the submissions of the respective parties and perused the entire material available before me with their able assistance.

8. It is a settled proposition of law that status of FIR is to set the machinery into motion. It is also an undeniable fact that in each criminal case the Investigating Officer is an important character, who is under obligation to investigate the matter, honestly, fairly and justly, so as to bring on surface the truth. It is the bounden duty of the Investigation Officer not only to build-up the case with such evidence enabling the Court to record conviction by all means, but also to dig out the truth to light to reach at a just and fair decision. Meaning thereby that the purpose of investigation is to collect all relevant evidence pertaining to allegation of crime and to dig out the truth enabling and facilitating the Court to administer justice and to bring the real culprits to book.

9. In the case in hand, the parties are claiming murderous enmity against each other. The complainant party has lodged FIR against applicants for commission of murder of their two innocent young ladies and after a thorough investigation, the police submitted a final report in Court. A bare perusal of the report reveals that it was the complainant party, who committed murder of their own ladies declaring them as “Kari” with one Naseem Khuhro, who too was murdered in the name of “Karo”. It is noteworthy that a case has been registered by Mst. Tasleeman, sister of deceased Naseem Khuhro, vide FIR No.25 of 2024 at same P.S. against the complainant party that her brother Naseem Khuhro was declared as “Karo” by Ali Sher {respondent No.7} and he with the help of his others companions committed murder of her brother. During investigation, I.O of present case formed his opinion and came into the conclusion that respondent No.7 along with his companions killed two innocent ladies and Naseem Ahmed Khuhro. On one hand complainant party is trying to save the real culprits and to implead innocent person in order to settle score with their enemies. It is also to be noted that offences in the name or on the pretext of “*siah kari*”, “*karo kari*”, “*honour killings*” or similar other customs or practices in a shocking and brutal manner are increasing and in like cases it could be so easy

for the actual culprits to implicate their rivals falsely and this fact cannot be ignored lightly.

10. For what has been discussed above, I am of the view that the impugned order in the background of murderous enmity between the parties and involvement of the complainant party by an independent lady, who has no enmity or ill-will against complainant party, in commission of murder of her brother and two innocent ladies, is not in accordance with law. The same is, therefore, set-aside, however, looking to the gravity of offence, the DIGP Larkana is directed to assign and entrust the investigation to an honest and competent officer, not below the rank of S.P. (PSP), who shall conduct fair and transparent investigation from all corners and furnish report under Section 173, Cr.P.C. through learned Sessions Judge Larkana, who may assign report to any other competent Judge other than Civil Judge and Judicial Magistrate-I, Ratodero, who shall pass appropriate order on the final report U/S 173 Cr.P.C in accordance with law.

11. This Criminal Misc. Application No. S-185 of 2024 stands disposed of in the foregoing terms.

JUDGE

NAK/PA