

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Cr. Misc. Appln. No. S-313 of 2025

| Date | Order with signature of Judge |
|------|-------------------------------|
|------|-------------------------------|

- 1. For orders on office objection at flag `A`
- 2. For hearing of main case
- 3. For hearing of MA No.2719/2025

16.10.2025

Mr. Muhammad Iqbal Joyo, Advocate for the Applicant
Mr. Mansoor Ahmed Shaikh, Deputy Prosecutor General

.....

O R D E R

KHALID HUSSAIN SHAHANI, J.— Through the instant application, the applicant has invoked the inherent jurisdiction of this Court under Section 561-A, Cr.P.C., calling in question the order dated 10.05.2024, passed by the learned Civil Judge and Judicial Magistrate-I, Khairpur, upon submission of the final report (challan) in Crime No. 349 of 2023, registered at Police Station B-Section, Khairpur, for offences punishable under Sections 302, 114, 337-A(i), 337-F(i), 147, 148, 149 and 504, PPC. By the impugned order, the learned Magistrate took cognizance of the case and directed that the names of the applicant Fayaz Ahmed and co-accused Imran and Akhtiar Ahmed, who were previously placed in Column-II of the report under Section 173, Cr.P.C., be joined as accused.

2. Notice of this application was issued to the complainant, which was duly served; however, despite service, he chose to remain absent. On the previous date of hearing, it was observed that if he failed to appear, the matter would be decided after hearing the parties present before the Court.

3. Heard learned counsel for the applicant and learned Deputy Prosecutor General for the State.

4. Learned counsel for the applicant has drawn attention to the impugned order, which merely states:

“Charge-sheet accepted. Include the names of accused persons who are placed in Column-II.”

5. It is argued that the Investigating Officer, after usual investigation, submitted the report under Section 173, Cr.P.C., wherein on the basis of deficient material, the names of the applicant and two other co-accused were placed in Column-II. Learned counsel submits that the learned Magistrate, without evaluating or discussing the material collected during the investigation, mechanically took cognizance and joined them as accused. He, therefore, prays that the impugned order be set aside and the matter remanded to the learned Magistrate to pass a reasoned and speaking order after due consideration of the record and evidence collected by the Investigating Officer.

6. Conversely, learned Deputy Prosecutor General submits that the order passed by the learned Magistrate is indeed not a speaking order and does not reflect judicial application of mind; therefore, he raises no objection if the case is remanded for passing a fresh order in accordance with law.

7. I have considered the submissions and examined the record. It appears that while taking cognizance against the applicant and co-accused, whose names were earlier placed in Column-II due to insufficient evidence, the learned Magistrate did not record any reasoning or indicate consideration of the material collected during investigation. The impugned order, therefore, lacks the attributes of a judicial order and fails to reflect a conscious application of mind, which is a mandatory requirement of law.

8. Accordingly, and in view of the no-objection expressed by the learned Deputy Prosecutor General, the impugned order dated 10.05.2024 is set aside. The matter is remanded to the learned Civil Judge and Judicial Magistrate-I, Khairpur, with direction to reconsider the challan submitted under Section 173, Cr.P.C., and to pass an appropriate and reasoned order after affording an opportunity of hearing to the applicant and examining the material relied upon by the Investigating Officer while placing the names of the applicant and co-accused in Column-II.

9. The instant Criminal Miscellaneous Application, along with all pending application(s), stands disposed of in the above terms.

J U D G E