

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No. 1726 / 2024

M Mst Shamim W/o Alam Khan,
 Muslim, adult, presently residing at
 House No. A-7/20, Mohalla, Pathan Colony,
 Mongopir road, Karachi.
 Site Town, Karachi.....Applicant/Petitioner

Versus

1. D.I.G. West
Office situated at Gulberg, Karachi.
2. Sr. Superintendent of Police
Complaint Cell, District West Karachi.
3. The S.H.O. of P.S. Peerabad,
Posting in P.S. Peerabad Site Town, West.
Karachi.
4. The State.....Respondents
 1. SHO P.S. PEERABAD
 2. RAO HAIDER
 3. PC WAJID
 4. PC. SHERAZ
 5. P.C. AZIZ.
 6. P.C ASIF.
 7. UMER ZADA
 All posted at P.S. Peerabad Karachi west.
8. Asghar S/o Unknown
9. 3 / 4 Unknown Persons to be
Served through SSP.West,.....Proposed
accused

APPLICATION UNDER SECTION 561-A CR. P. C.

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Misc. Application No.1236 of 2024
[Mst. Shamim vs. D.I.G. West & Others]

For Applicant: Mr. Haji Akbar, advocate
along with applicant

For State: Syed Mumtaz Ali Shah,
A.P.G. Sindh a/w SIP Javed Akhtar
P.S. Peerabad, SHO/PI Imtiaz Mirjat
P.S. Peerabad and S.I. Rao Hamid

Date of hearing: 11.03.2025

Date of judgment: 11.03.2025

JUDGMENT

Jan Ali Junejo, J:- Through this Criminal Miscellaneous Application No. 1236 of 2024, the Applicant, Mst. Shamim W/o Alam Khan, seeks relief against the alleged illegal raid conducted at her residence by the police officials of P.S. Peerabad, their purported harassment, unlawful arrest, and the failure of the police to register an FIR in relation to the incident. The Applicant has prayed for directions to register an FIR under Section 154 Cr.P.C., to return allegedly seized valuables, and for an inquiry into the alleged police misconduct.



2. The Applicant claims that police officials of P.S. Peerabad conducted illegal raids on her residence without any search warrant and harassed her and her family. She alleges that she was unlawfully arrested on 08.10.2024 and subsequently implicated in FIR No. 541/2024 under Section 6/9-C of the Control of Narcotic Substances Act, 1997. She further contends that certain valuables were taken from her house by the police, and that she was subjected to custodial harassment. Earlier, the Applicant had filed Criminal Petition No. 4265/2024 before the

learned Ist Additional Sessions Judge, Karachi-West, which was disposed of on 05.11.2024 with directions for an impartial inquiry by a DSP-level officer of District West. The present application has been filed primarily on the ground that the police inquiry report submitted before the learned Sessions Judge was biased and failed to reflect the statements of her neighbors, who were allegedly witnesses to the unlawful raid. The learned Ist Additional Sessions Judge, Karachi-West, after hearing the arguments of the Applicant and considering the report submitted by the SHO of P.S. Peerabad, observed that the Applicant had raised serious allegations against the police officials, including illegal raids, harassment, and wrongful implication in a narcotics case. The order emphasized the need for an impartial inquiry and, therefore, directed the SSP Investigation, District West, to assign a DSP-level officer to conduct a fair and impartial inquiry and submit a report within three days. However, the Applicant, dissatisfied with the inquiry conducted by the DSP, has contended that:

1. The statements of her neighbors, who allegedly witnessed the police raid, were either not recorded or were manipulated to support the police version.
2. The DSP's report favored the police officials and did not address key aspects of her grievances.
3. The learned Sessions Judge, while ordering an inquiry, did not direct the police to register an FIR, which the Applicant believes was warranted given the nature of the allegations.
3. The learned counsel for the Applicant argued that the police inquiry ordered by the learned Sessions Judge was



biased and did not provide the Applicant with a fair opportunity to present her case. It is further argued that the raid conducted on 08.10.2024 was illegal, as there was no search warrant and no female police officers were present during her arrest, in violation of legal safeguards provided to female citizens. It is further contended that the failure of the police to return the allegedly seized valuables, including gold ornaments, CCTV cameras, and mobile phones, constitutes misappropriation and abuse of power by the police. It is further argued that the wrongful implication of the Applicant in FIR No. 541/2024 was an act of revenge and harassment, as the Applicant's family had a prior history of conflict with the police, particularly due to the alleged extrajudicial killing of her brother in 2013. The learned counsel further emphasized that the police officials had acted beyond their authority and violated Article 4 of the Constitution of Pakistan, which guarantees that no person shall be compelled to act in a manner not required by law. It is further contended that the Applicant's fundamental rights under the Constitution were violated, and she has no other effective remedy except approaching this Court. Lastly, the learned counsel has prayed for allowing the Criminal Misc. Application.



4. Per contra, the learned APG opposed the application and argued that the Applicant was lawfully arrested in connection with FIR No. 541/2024, and there was sufficient material available to justify the case registered against her. It is further contended that the raid was conducted pursuant to credible intelligence regarding narcotics possession, and under Section 21 of the Control of Narcotic Substances Act, 1997, the police are empowered to conduct searches without a warrant in exigent circumstances. It is further argued that the inquiry conducted on the directions of the learned Sessions Judge was

fair and impartial, and the Applicant has failed to bring forth any concrete evidence to prove that the report was manipulated. It is further asserted that the police report does not support the Applicant's claims of valuables being taken from her house, and no proof of ownership of the alleged stolen items was provided. It is further contended that the Applicant's reliance on past grievances does not establish police mala fide in the current case. It is further contended that the Applicant has the alternative remedy of filing a private complaint under Section 200 Cr.P.C. before the competent Magistrate if she believes that a cognizable offense has been committed. Lastly, the learned APG prayed for dismissal of Criminal Misc. Application.

5. After carefully considering the arguments presented by the learned counsel for the Applicant and the learned Assistant Prosecutor General (APG) for the State, and after thoroughly examining the material on record with due diligence and caution, the following conclusions have been reached: The review of the record indicates that the police had reasonable grounds to act under the provisions of the Control of Narcotic Substances Act, which permits search and seizure without a warrant in specific circumstances. While the absence of a female police officer during the operation is a matter of concern, this omission is yet to be decided by the competent Court where the case is pending. It is documented that FIR No. 541 of 2024 has been registered against the Applicant for possession of contraband narcotics. The merits of this FIR, along with the associated investigation and trial, are yet to be adjudicated by the competent court, and any premature discussion on these matters could potentially disrupt the legal process. The decision to conduct a DSP-level inquiry was justified, particularly in light of the Applicant's allegations against the police. The



Applicant, however, failed to provide substantial evidence to support claims of manipulation or bias in the inquiry report. Mere dissatisfaction with the findings of the report does not provide sufficient grounds to set it aside. It is important to recognize that the inherent jurisdiction granted under Section 561-A of the Criminal Procedure Code (Cr.P.C.) is not intended to serve as an alternative or additional jurisdiction. Its purpose is not to disrupt procedural law based on presumptive findings or hyper-technicalities but to safeguard the interests of justice and address grievances for which no other remedy is available under the Cr.P.C. Justice, in this context, refers to the administration and dispensation of justice by the courts, not as an abstract or intangible concept. Reference is made to the case of *Syed Qamber Ali Shah v. Province of Sindh and others* (2024 SCMR 1123) in support of this principle. Consequently, the present Criminal Miscellaneous Application lacks substantive merit.

6. In light of the above analysis, this Court finds that the Applicant has not established a prima facie case to justify the relief sought. The inquiry ordered by the learned Sessions Judge was appropriate, and the Applicant's dissatisfaction with the report does not invalidate its findings. Therefore, the instant Criminal Miscellaneous Application is dismissed.




JUDGE