

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Appln. No. S-753 of 2025

Applicant : Mst. Islam Bibi w/o Late Ghaneer Khan, Chandio
Through Mr. Ali Akbar Shar, Advocate

Respondents No.5,6,7 : Sardar Ahmed Chandio, DSP City Naushahro Feroze
Raja Naveed Sarfaraz, SHO P.S Naushahro Feroze
Asad Nabi Khachi, SHO P.S Kandiaro
Through M/s Muhammad Ayaz Mari and
Javed Ali Soomro, Advocates

The State : *Through* Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 27.02.2026
Date of order : 12.03.2026

ORDER

KHALID HUSSAIN SHAHANI, J.— Applicant, Mst. Islam Bibi, invokes the inherent and residuary jurisdiction of this Court under Section 561-A of the Code of Criminal Procedure, 1898 (*hereinafter* "Cr.P.C"), seeking setting aside of the impugned order dated 28.11.2025 passed by the learned Sessions Judge/Ex-Officio Justice of Peace, Naushahro Feroze, whereby her application filed under Sections 22-A and 22-B Cr.P.C for issuance of directions to the Station House Officer, Police Station Naushahro Feroze, to register an FIR against the respondent police officials, was summarily dismissed. Through the said application, the applicant had specifically sought registration of a case against Sardar Ahmed Chandio, DSP; Raja Naveed Sarfaraz, SHO; Asad Nabi Khachi, SHO; and sundry other armed police personnel, imputing to them the heinous acts of unlawful abduction and extra-judicial killing of her son, Shah Muhammad.

2. According to the version of the applicant, on 13.10.2025 at about 04:15 p.m, the afore-named police officials, accompanied by several other armed personnel, descended upon her residential premises, effected a forcible and unlawful entry therein, and abducted her son Shah Muhammad in the presence of members of her household and neighboring villagers. She

has further averred that on the same night at about 11:00 p.m, she received information through social media platforms regarding the killing of her son in what was portrayed as a police encounter. Upon proceeding to the Civil Hospital, Naushahro Feroze, she allegedly found the lifeless body of her son under police custody, the officials having refused to release the body to the family and having issued dire threats of adverse consequences to the applicant and her kin should they dare to pursue any legal course.

3. The respondent police officials have traversed the allegations in their entirety and have maintained that Shah Muhammad met his end during a lawful and bona fide police encounter that transpired on 13.10.2025 at about 10:00 p.m in the vicinity of Abbasi Nursery Farm on the Naushahro Feroze–Tharushah Link Road. In relation to the said incident, FIR No.448/2025 under Sections 324, 353, 402, 399, 149 and 427 of the Pakistan Penal Code, 1860 (*hereinafter* "PPC") has already been formally registered at Police Station Naushahro Feroze. The respondents contended that inasmuch as the occurrence stood reported through the medium of the said FIR, registration of a second FIR predicated upon the same occurrence could not be countenanced under the law, and any divergent or alternate version advanced by the applicant could only be lawfully preserved through recording of her statement under Section 161 Cr.P.C during the course of investigation in the selfsame case.

4. Learned counsel for the applicant, in assailing the impugned order, contended with considerable force and vehemence that the said order is illegal, arbitrary, the product of capricious exercise of jurisdiction, and stands passed in palpable disregard of the material available on record. He submitted that the factual matrix disclosed in the application, on its face, unequivocally discloses commission of cognizable offences, inasmuch as it has been specifically and categorically alleged that the proposed accused,

acting in their official capacity as police officials, forcibly entered the dwelling of the applicant, abducted her son Shah Muhammad, and thereafter caused his death in what is alleged to be a fabricated and staged encounter. Learned counsel argued with considerable legal erudition that the learned Justice of Peace grossly transgressed the boundaries of his limited jurisdiction by descending into the merits and demerits of the case, whereas at that interlocutory and pre-investigative stage, the sole and exclusive function vested in him was to ascertain whether the narrated facts, taken at their face value, disclosed the commission of a cognizable offence necessitating registration of an FIR. He further urged that the police report submitted by the self-same officers against whom the allegations were directed could not be accorded blind deference, the principle of *nemo iudex in causa sua* dictating that no man may be the arbiter of his own cause.

5. Learned counsel appearing on behalf of the respondent officials, on the other hand, stoutly defended the impugned order and submitted that it has been passed in strict conformity with the law as declared by the Honorable Supreme Court of Pakistan. He urged that the incident in question stands fully reported to the police and that FIR No.448/2025 under Sections 324, 353, 402, 399, 149 and 427 PPC stands registered at Police Station Naushahro Feroze in relation to the alleged encounter that resulted in the death of Shah Muhammad. He further submitted that once an FIR has been registered with respect to an occurrence, registration of a second FIR founded upon a competing version of the very same occurrence is impermissible and contrary to the settled law of the land. In support of his propositions, learned counsel placed reliance upon the judgment of the Honorable Supreme Court of Pakistan in *Mst. Sughran Bibi v. The State* (PLD 2018 SC 595), wherein a Full Bench of seven learned Judges, speaking through His Lordship Mr. Justice Asif Saeed Khan Khosa (as His

Lordship then was, later elevated as Chief Justice of Pakistan), categorically and authoritatively declared that no second FIR shall be registered in respect of the same occurrence, and that every subsequent version is mandatorily to be recorded under Section 161 Cr.P.C by the Investigating Officer in the course of the investigation of the first FIR.

6. Learned Deputy Prosecutor General, representing the State, adopted and reinforced the arguments advanced by learned counsel for the proposed accused, urging that the registration of a second FIR being precluded by law, the applicant's proper remedy is to approach the Investigating Officer and have her version recorded under Section 161 Cr.P.C, and that the Investigating Officer is legally bound, under pain of dereliction of duty, to investigate the matter from every possible angle and to place an objective report before the competent court under Section 173 Cr.P.C reflecting the true state of facts as discovered during investigation.

7. Before proceeding to adjudicate upon the controversy at hand, it is considered necessary and appropriate to set out the law as authoritatively pronounced by the Honorable Supreme Court. In *Mst. Sughran Bibi v. The State* (PLD 2018 SC 595), the Honorable Apex Court enunciated the governing principle in terms which leave no room for ambiguity:

"If the first information to the police reporting commission of a cognizable offence under section 154 of the Code of Criminal Procedure, 1898 is called an FIR (First Information Report) then through the same logic the second information to the police in respect of commission of the same offence ought to be called an SIR and the third information regarding commission of the same offence may be called a TIR but there is no provision in the Code of Criminal Procedure for an SIR or a TIR."

The Honorable Court further held, speaking through the medium of settled precedent which it approvingly reproduced, that:

"Once the investigating machinery is set in motion after registration of FIR, there is no room for filing of second FIR but the investigation can continue without hindrance even if in the result of the investigation culprits are found to be different persons who are not mentioned in FIR." (Yousif v. The State, NLR 1990 U.C. 149, approved in PLD 2018 SC 595)

And again:

"All other information's with regard to that occurrence coming out later in point of time have to be taken down as statements of those persons before the police under section 161, Cr.P.C. ... The order to register a second F.I.R. in that situation, was not justified in law, even if there was a concession made on the part of the State." (Kaura v. The State, NLR 1979 Criminal 3, approved in PLD 2018 SC 595)

The legal position thus crystallized by the Honorable Apex Court is that Section 154 Cr.P.C. contemplates the registration of one and only one FIR in respect of a single occurrence, and the proliferation of multiple FIRs pertaining to the selfsame incident is neither sanctioned by nor consistent with the scheme of the Code of Criminal Procedure, 1898. An FIR is the *first* information to the police regarding the commission of a cognizable offence, nothing more, nothing less, and its purpose is to set the investigative machinery in motion; it is not substantive evidence, nor does it conclusively determine the guilt or innocence of any person or the truth of the version recorded therein.

8. Tested against this authoritative judicial pronouncement, the position in the instant case becomes pellucid and free from doubt. FIR No.448/2025 was registered at Police Station Naushahro Feroze pertaining to the alleged police encounter of 13.10.2025, which is the same occurrence in relation to which the applicant seeks registration of a fresh FIR. The criminal case, once initiated through the said FIR, came into existence and the investigative machinery was thereby set in motion. Any subsequent or

divergent narration, including the version of Mst. Islam Bibi attributing the death of her son to a staged extra-judicial killing, constitutes nothing more than an alternate account of the very same occurrence and must, in terms of the law laid down in *Mst. Sughran Bibi v. The State* (PLD 2018 SC 595), be recorded by the Investigating Officer under Section 161 Cr.P.C. during the investigation of FIR No.448/2025. The learned Justice of Peace, in declining to direct registration of a second FIR, thus acted within the four corners of the law and the impugned order on this score calls for no interference.

9. However, the matter does not and cannot rest here. It is axiomatic that the law is not a sterile instrument of technical exclusion; it is a living instrument animated by the imperatives of justice, fairness, and constitutional fidelity. The allegations levelled by the applicant, if assumed to be true for the purposes of this order, are of the gravest character and strike at the very foundational compact between the State and the citizen. They pertain to alleged custodial abduction and a staged extra-judicial killing perpetrated by officers of the State, being the very guardians charged with the protection of the lives, liberty, and dignity of the citizenry. The Constitution of the Islamic Republic of Pakistan, 1973 guarantees the right to life under Article 9 and the right to dignity under Article 14, and these rights are not vacuous promises, they impose positive and enforceable obligations upon the State and its instrumentalities.

10. The Honorable Supreme Court, in *Mst. Sughran Bibi v. The State* (PLD 2018 SC 595), while settling the bar against multiple FIRs, simultaneously and with equal emphasis imposed a heightened and non-derogable obligation upon the Investigating Officer to act with neutrality, independence, and comprehensive diligence. The Honorable Court mandated that:

"The investigating officer must discover the actual truth ... and shall not commit himself prematurely to any view for or against any person."

And further that every version brought to the notice of the Investigating Officer during investigation is to be objectively probed, all relevant material evidence gathered, and the final report under Section 173 Cr.P.C. is to reflect the true and complete state of facts as discovered during investigation, unclouded by the version first recorded in the FIR, which, being merely the starting point of the investigative process, does not and cannot foreclose the discovery of truth.

11. These solemn obligations of the Investigating Officer acquire peculiar and enhanced significance in a case of the present character, where the allegations of unlawful abduction and extra-judicial killing are directed against the very police officials who registered FIR No.448/2025 and who are, or may be, in supervisory command over the investigating officer assigned to that case. It is an elementary and immutable principle of natural justice that no investigation conducted by an officer who is subordinate to, or otherwise connected with, the accused can command the confidence of the aggrieved party or the public at large. The constitutional mandate of fair investigation, being an integral facet of due process of law, would be rendered illusory if the investigation of allegations of custodial killing were entrusted to officers beholden to those implicated by those very allegations. Any such arrangement would, to a reasonable mind, give rise to a well-founded apprehension of bias, and apprehension of bias, in the domain of constitutional and criminal law, is as fatal to justice as actual bias. The applicant cannot be consigned to remedilessness.

12. This Court, in the exercise of its supervisory and constitutional jurisdiction, is not merely empowered but is under a positive duty to ensure that the investigation of FIR No.448/2025, particularly insofar as it

encompasses the circumstances of the death of Shah Muhammad, is conducted with such independence, transparency, and rigor as befits the gravity of the allegations and the constitutional rights at stake. Consistent with the principles laid down in *Mst. Sughran Bibi v. The State* (PLD 2018 SC 595) and the constitutional imperatives of Articles 9 and 14 of the Constitution, this Court considers it imperative to transfer the investigation to an independent, senior, and impartial officer.

13. In view of the foregoing discussion, this Criminal Miscellaneous Application is partly allowed to the following extent:

- (i) *The impugned order dated 28.11.2025 passed by the learned Sessions Judge/Ex-Officio Justice of Peace, Naushahro Feroze, is maintained to the extent that it declines to direct registration of a second FIR in respect of the same occurrence of 13.10.2025, which is already the subject matter of FIR No.448/2025 registered at Police Station Naushahro Feroze.*
- (ii) *The Inspector General of Police, Sindh, is hereby directed to forthwith transfer the investigation of FIR No.448/2025 from the local police of District Naushahro Feroze to a senior and independent officer not below the rank of Assistant Superintendent of Police or Deputy Superintendent of Police, preferably drawn from a specialized and autonomous wing such as the Special Investigation Unit (SIU), who shall not be subordinate to, connected with, or otherwise under the command of any of the police officials nominated as accused in the applicant's version of the occurrence.*
- (iii) *The newly designated Investigating Officer shall, forthwith and without delay, record the detailed statements of the applicant Mst. Islam Bibi and all witnesses cited by her under Section 161 Cr.P.C., shall collect and preserve all available forensic and medical evidence including the post-mortem report and medical examination records pertaining to the deceased Shah Muhammad, and shall conduct a comprehensive, impartial, transparent, and professionally rigorous investigation in strict accordance with law and consistent with the directions issued by the Honorable Supreme Court in *Mst. Sughran Bibi v. The State* (PLD 2018 SC 595).*
- (iv) *Upon conclusion of investigation, a comprehensive and objective final report under Section 173 Cr.P.C. shall be submitted before the court of competent jurisdiction, which report shall reflect the true state of facts as discovered during investigation and shall not be colored or influenced by the version first recorded in FIR No.448/2025.*

14. It is further clarified that should the applicant ultimately remain unsatisfied with the conduct or outcome of the investigation, she shall remain at liberty to avail herself of the remedy of filing a private complaint under Section 200 Cr.P.C before the competent court, who may thereupon proceed in accordance with the provisions of Sections 200 to 204 Cr.P.C as warranted by the facts and circumstances of the case.

15. The Inspector General of Police, Sindh, shall ensure strict and complete compliance with the directions contained in paragraph 13 above within a period of fifteen (15) days from the date of this order and shall submit a compliance report through the Additional Registrar of this Court within the said period.

16. With the foregoing observations, directions, and the clarifications recorded hereinabove, this Criminal Miscellaneous Application stands disposed of accordingly.

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