

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Revision No. S-02 of 2026

Applicant : Smt. Rako w/o Punho, Hindu
Through Mr. Alam Sher Khan Bozdar, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 05.03.2026
Date of short order : 05.03.2026
Reasons recorded on : 06.03.2026

ORDER

KHALID HUSSAIN SHAHANI, J.— Applicant, Smt. Rako, invokes the revisional jurisdiction of this Court, impugning the legality and propriety of the order dated 07.01.2026 passed by the learned Additional Sessions Judge-II, Mirpur Mathelo, in Direct Complaint No.12 of 2025, whereby the learned trial Court declined to take cognizance of the alleged offence and consequently dismissed the direct complaint under Section 203 Cr.P.C upon a finding that no sufficient grounds existed to proceed against the proposed accused.

2. Shorn of unnecessary detail, the Applicant/Complainant instituted a direct complaint before the learned Additional Sessions Judge-II, Mirpur Mathelo, averring commission of offences punishable under Sections 302, 34 PPC against Respondents No.1 and 2. The gravamen of the complaint was that the complainant received intelligence regarding the demise of her daughter, Smt. Sakina, who stood united in matrimony with respondent No.1, Mithun. The Complainant alleged that upon proceeding with her husband to the residential premises of the accused, they were allegedly prevented from beholding the visage of the deceased, which circumstance, in her estimation, gave rise to a suspicion that the accused persons had perpetrated the murder of the said deceased.

3. It is germane to observe that antecedent to the filing of the instant direct complaint, the Complainant had registered F.I.R No.44/2024, for offences under Sections 302, 34 P.P.C, registered at Police Station Daharki, district Ghotki, pursuant to the directions issued by this Court under Section 22-A Cr.P.C. Subsequent to completion of police investigation, however, the said F.I.R was consigned under "C" Class.

4. It is further material to record that prior to the institution of the present direct complaint, the Applicant had approached this Court by way of Cr. Misc. Appl. No. S-481 of 2024 under Section 561-A Cr.P.C. in relation to F.I.R. No.44 of 2024 registered at Police Station Daharki against the self-same Respondents. During the course of hearing on 03.02.2025, the learned counsel for the Applicant voluntarily informed the Court of his intention to institute a criminal direct complaint before the court of competent jurisdiction and did not press the application, whereafter the same was dismissed as not pressed, with express liberty to institute a direct complaint. In pursuance thereof, the Applicant instituted the direct complaint.

5. The learned trial Court, having recorded the statement of the complainant under Section 200 Cr.P.C, transmitted the record to the learned Judicial Magistrate, Daharki, for the conduct of a preliminary inquiry under Section 202 Cr.P.C. The learned Judicial Magistrate recorded the statement of witness Punhoo, husband of the complainant, and thereafter submitted his report to the learned trial Court.

6. The learned Judicial Magistrate, upon evaluating the material placed before him, observed that the version propounded by the complainant appeared inherently doubtful and was predominantly grounded upon presumptions and surmises. It was further noted that neither the Complainant nor her witness had adduced any independent or medical evidence capable of *prima facie* establishing that the death of the deceased was the consequence of a homicidal act perpetrated by the proposed accused.

7. Upon receipt of the inquiry report under Section 202 Cr.P.C, the learned Additional Sessions Judge-II, Mirpur Mathelo, heard the submissions of learned counsel for the complainant and, after a meticulous examination of the record, passed the impugned order dated 07.01.2026, dismissing the direct complaint under Section 203 Cr.P.C upon the ground that no sufficient grounds subsisted for proceeding against the proposed accused.

8. Learned counsel for the applicant vehemently contended that the impugned order is vitiated by illegality and non-application of judicial mind, and that the learned trial Court failed to properly appreciate the material assembled during the preliminary inquiry, which, in his submission, lent credence to the Complainant's version. It was further urged that the learned trial Court erroneously placed reliance upon the outcome of the police investigation whilst disregarding the evidence produced by the Complainant during the preliminary inquiry, and that the contradictions between the police investigation and the medical record constituted a triable controversy that could only be resolved upon full-dressed trial; accordingly, the learned trial Court ought to have taken cognizance and proceeded with the complaint in accordance with law.

9. I have bestowed my anxious consideration upon the submissions advanced by the learned counsel for the applicant and have subjected the record of the proceedings, including the statements recorded during the preliminary inquiry and the impugned order, to meticulous scrutiny.

10. At the threshold, it is necessary to articulate that the scheme underlying Section 202 Cr.P.C is designed to arm the Court with a mechanism to determine, at the pre-cognizance stage, whether sufficient grounds exist for proceeding against the proposed accused. The Court, at this stage, is not called upon to embark upon a full-scale adjudication of the merits; rather, it is required to satisfy itself whether the complaint is undergirded by prima facie material of a nature and quality sufficient to warrant issuance of process. The

august Supreme Court of Pakistan, in *Zafar and others v. Umer Hayat and others* (PLJ 2010 SC 617), has authoritatively pronounced that the provisions of Sections 202 to 204 Cr.P.C, when construed in *pari materia*, demonstrate the legislative intent to ensure that "frivolous and vexatious complaints must be buried at their inception where no *prima facie* case is made out," it having been the deliberate design of the legislature to use the expressions "if any" and "sufficient grounds for any" in Section 203 Cr.P.C as safeguards against abuse of process.

11. In the matter sub-judice, a forensic examination of the statements recorded during the preliminary inquiry unmistakably reveals that neither the Complainant nor her witness possessed any direct or proximate knowledge of the alleged occurrence. Their entire version is founded upon suspicion arising from the singular circumstance that they were allegedly prevented from beholding the face of the deceased immediately following her demise. It is a trite and firmly settled principle of criminal jurisprudence that suspicion, however grave, intense or overpowering, cannot be elevated to or permitted to usurp the place of evidence sufficient to initiate criminal proceedings against an accused. The Supreme Court of Pakistan, in case of *Abdul Wahab Khan v. Muhammad Nawaz and 7 others* (2000 SCMR 1904), from which the ratio in (PLJ 2010 SC 617) is derived, has unequivocally settled this principle as a cornerstone of criminal law.

12. A more penetrating examination of the record reveals further that the Complainant has produced no independent witness, medical evidence, or circumstantial material capable of *prima facie* establishing that the death of the deceased was the result of any homicidal act attributable to the Respondents. The post-mortem report, which would ordinarily constitute the most cogent piece of medical evidence in allegations of this nature, does not attribute the cause of death to any act of violence; on the contrary, the said report indicates

that the cause of death could not be conclusively determined, a circumstance that militates fundamentally against the case of the Complainant.

13. The statement of witness Punhoo, husband of the Complainant, equally fails to disclose any direct knowledge of the alleged homicide; the allegations advanced therein rest, without exception, upon assumptions and inferences divorced from any supporting material of substance. The Supreme Court of Pakistan has consistently held in (PLJ 2010 SC 617) that it is the *"duty and obligation of the trial Court to scrutinize the contents of the complaint, nature of allegations made therein, supporting material in support of the accusation, the object intended to be achieved, the possibility of victimization and harassment, if any, to ensure itself that no innocent person against whom allegations are leveled should suffer the ordeal of the protracted, time-consuming and cumbersome process of law."*

14. It is also of considerable moment that the very same allegations had previously been subjected to police investigation in F.I.R No.44/2024, consequent whereof the case was disposed of under "C" Class. Whilst such police opinion is neither binding upon nor preclusive of the Court's independent judicial determination, it nonetheless constitutes a relevant and significant circumstance, particularly so in the present case where the Complainant has conspicuously failed to produce any fresh, independent, or substantive evidence through the direct complaint that may have materially distinguished the present onslaught from the earlier investigation.

15. The material produced by the Complainant during the preliminary inquiry does not represent any material or qualitative departure from what was examined and found wanting during the police investigation. In this context, the dictum of the apex Court in (PLJ 2010 SC 617) bears reiteration: *"the longer a complaint is delayed, the less becomes the chance of believing in its truth, more particularly when it is based upon entirely oral evidence."*

16. The learned trial Court additionally gave due consideration to the background of the matrimonial relationship between the deceased and Respondent No.1, the record disclosing that the deceased had contracted a love marriage with Respondent No.1 and had even previously instituted legal proceedings against her own parents. These contextual circumstances, though not independently decisive, assume material significance when examined in conjunction with the conspicuous absence of any credible evidence linking the Respondents with the alleged offence. The apex Court has repeatedly held that each case must be decided upon its own peculiar circumstances and facts, as held in the case of *Trustees of Port of Karachi v. Muhammad Saleem* (1994 SCMR 2213).

17. Viewed holistically, neither the Applicant nor her witness has brought on record any material of substance during the preliminary inquiry that could reasonably justify taking cognizance of the alleged offence against the proposed accused. The statements recorded under Sections 200 and 202 Cr.P.C, do not disclose, either by way of direct testimony or circumstantial evidence, any rational nexus between the Respondents and the alleged murder of the deceased. The learned trial Court was therefore amply justified in concluding that the complaint was bereft of sufficient grounds for proceeding and that the allegations were primarily founded upon conjectures, surmises, and presumptions.

18. It is a well-entrenched and inviolable principle of criminal jurisprudence that the power to issue process against an accused must be exercised with circumspection, and the Court must be fully satisfied that the complaint is supported by *prima facie* material disclosing commission of an offence. Where the material on record fails to disclose the existence of such grounds, dismissal of the complaint under Section 203 Cr.P.C is not merely permissible but is a legal imperative. The apex Court has authoritatively declared that "*everyone has a right to approach the Court for redress of*

grievances but the same is subject to the condition that sufficient grounds for issuance of process are made out", as held in above referred case (PLJ 2010 SC 617).

19. Upon a comprehensive evaluation of the record, this Court finds that the reasons recorded by the learned trial Court demonstrate that the impugned order was passed after due application of judicial mind to the entirety of the available material. The conclusions arrived at by the learned trial Court are neither arbitrary, capricious, perverse, nor do they suffer from any illegality or material irregularity warranting interference by this Court in the exercise of its revisional jurisdiction. It is also a settled principle of law, as pronounced by the apex Court in the case of *Gouranga Mohan Sikdar v. The Controller of Improt & Export and 2 others* (PLD 1970 SC 158), that it is the "duty and obligation of the Courts to decide the controversy between the parties after application of mind." The impugned order, on its face, satisfies this requirement.

20. Resultantly, this Court finds no illegality, jurisdictional error, or material irregularity in the impugned order dated 07.01.2026 passed by the learned Additional Sessions Judge-II, Mirpur Mathelo in Direct Complaint No.12 of 2025. The learned trial Court has exercised its judicial discretion lawfully and judiciously in dismissing the complaint under Section 203 Cr.P.C, there being no sufficient grounds for taking cognizance of the alleged offence.

21. In the result, the instant Criminal Revision Application No.S-02 of 2026, being devoid of merit and wholly unsustainable in law, stands dismissed along with the listed application(s).

J U D G E