

## IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

### ***Criminal Miscellaneous Application No. S-04 of 2026. (Malhar Changar vs. The State and others)***

1. For orders on office objections.
2. For orders on MA No.26/2026.
3. For the hearing of the main case.

**06.03.2026.**

Mr. Nazeer Hussain Ujjan, Advocate a/w Applicant.

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### **ORDER**

**Ali Haider 'Ada' J.;** Through the instant Criminal Miscellaneous Application, the applicant has assailed the order dated 08.12.2025 passed by the learned Judicial Magistrate-I, Khairpur, in connection with FIR No.170 of 2025 registered for offences punishable under Sections 302, 148 and 149 PPC at Police Station Tando Masti Khan. The applicant was nominated as an accused in the said FIR; however, during the course of investigation, the Investigating Officer, after collecting the Call Detail Record (CDR) and examining the plea of alibi raised by the applicant, placed his name in Column No.II of the final report and declared him innocent.

2. It is the case of the applicant that, despite such opinion of the Investigating Officer, when the matter was placed before the learned Magistrate, he did not concur with the findings of the Investigating Officer and, by passing the impugned order, took cognizance against the applicant. Being aggrieved by the said order, the applicant has approached this Court through the present application.

3. Learned counsel for the applicant submits that the Investigating Officer conducted a thorough investigation of the case and also examined the defence material produced by the applicant, particularly the CDR location, which,

according to the learned counsel, clearly reflects that at the relevant time the applicant was not present at the place of occurrence as alleged in the FIR. He contended that the plea of alibi raised by the applicant was supported by the said material and was found credible by the Investigating Officer; therefore, the applicant was rightly declared innocent. He further argued that the learned Magistrate, without properly appreciating the said aspect and without assigning sufficient reasons, passed the impugned order, which is liable to be set aside.

4. Heard. Record perused.

5. First and foremost, it is a well-settled and recognized principle of law that the opinion of the Investigating Officer or the police is merely *ipse dixit* and the same is not binding upon the Courts. The Courts are under a legal obligation to independently evaluate the material available on record and are not bound to accept the conclusions drawn by the investigating agency without judicial scrutiny.

6. Latin maxims have historically been employed in the common law system owing to their deep-rooted origins in the development of legal jurisprudence. For centuries, Latin served as the language of formal court records and legal scholarship. Although the **Pleading in English Act of 1362** introduced the use of English in court proceedings, many foundational legal principles continued to be expressed in Latin, and such usage has continued in legal discourse to this day. One such maxim is *ipse dixit*, a Latin term which literally translates to **“he himself said it.”** In legal idiom, the expression is used to describe a statement or assertion that rests solely upon the authority of the person making it, without being supported by independent evidence or cogent reasoning. Thus, when it is observed that the opinion of the Investigating Officer is merely *ipse dixit*, it implies that such opinion, by itself, does not carry binding force upon the Court.

7. Nonetheless, in the present case, the Investigating Officer has taken the stance that after collecting certain material available on record, the applicants/accused have been declared innocent and their names were accordingly placed in Column No. II. It may be observed that such an opinion of the Investigating Officer, by itself, does not carry any binding force upon the Court.

8. It is a settled principle of law that the determination of guilt or innocence of an accused person lies exclusively within the domain of the Courts of law, and such sovereign function cannot be exercised by the police or any other authority. The duty of the Investigating Officer is limited to the collection of evidence and placing the same before the competent Court. In this regard, the provisions contained under Sections 155, 156, 157, and 174 Cr.P.C. empower a police officer only to investigate within the parameters defined under Section 4(1)(e) Cr.P.C. The Investigating Officer cannot assume the role of an adjudicator or expert to determine the guilt or innocence of the accused. Any opinion expressed by him in this regard is merely his personal assessment and does not constitute admissible evidence. Under the provisions of the Qanun-e-Shahadat Order, 1984, particularly Article 59, a police officer investigating a case cannot be treated as an "expert," and therefore his opinion regarding the innocence or guilt of an accused is not a relevant fact. In this context, reliance may be placed upon the judgment of the Honourable Supreme Court of Pakistan in **Muhammad Ahmad (Mahmood Ahmed) and another v. The State (2010 SCMR 660)**. Further reliance may also be placed on **Muhammad Idrees and another v. The State and others (2021 SCMR 612)**, wherein the said principle has been reiterated.

9. Additionally, in the case of **Sughran Bibi v. State(PLD 2018 SC 595) (Rel. P-628)**, as it was held that:-

*"(3) It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be*

*to discover the actual facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person."*

*In the same case, it was further held that (Rel. 641) as:-*

*"vii). Upon conclusion of the investigation the report to be submitted under section 173 Cr.PC is to be based upon the actual facts discovered during the investigation, irrespective of the version of the incident advanced by the first informant or any other version brought to the notice of the investigating officer by any other person.*

10. It is well-settled that a plea of alibi cannot, by itself, entitle an accused to acquittal, even at the trial stage, as it constitutes a specific plea which the accused is required to establish in accordance with Article 121 of the Qanun-e-Shahadat, 1984. An accused cannot claim acquittal or discharge merely based on a plea of alibi during investigation or at the initial stages of trial. At best, such a plea can be treated as a circumstance to be further investigated; it is never sufficient on its own to justify acquittal. This principle has been fortified by the judgment of the Division Bench of this Court in **Pervaiz Ahmed v. The State and 2 others, 2022 YLR Note 42.**

11. Keeping in view the above facts and circumstances, and in the absence of any material warranting interference with the order passed by the learned Magistrate, the instant Criminal Miscellaneous Application is hereby dismissed.

**JUDGE**