

ORDER SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Misc. Application No. S-259 of 2026
[Sht. Kavita v. SSP Umerkot & others]

Applicant By : Mr. Akash Kumar Malhi, Advocate.
Date of Hearing : 25.08.2026
Date of Order : 25.08.2026

ORDER

Muhammad Humayon Khan, J.: The applicant, through the instant Criminal Miscellaneous Application under section 561-A, Cr.P.C., has called in question the order dated 17.07.2026 passed by the learned Civil Judge & Judicial Magistrate-I, Umerkot, whereby the final report submitted by the Investigating Officer in Crime No.13 of 2026 of Police Station Women, Umerkot, for offences under sections 506(ii), 354, 337-A(i), 337-F(i) and 509, P.P.C., was accepted and the case was disposed of under the cancelled class. The applicant/complainant seeks setting aside of the said order and a direction that respondent No.4 be sent up for trial through a report/c1hallan under section 173, Cr.P.C.

2. Briefly stated, the applicant lodged the aforesaid FIR on 20.02.2026 against her husband, respondent No.4 Amrat Lal, alleging that on 18.02.2026, in the presence of her brother Ghanshamdas and cousin Lono Mal, respondent No.4 abused and assaulted her, caught her by the hair, threw her to the ground, tore her clothes and subsequently left while extending threats. During investigation, however, the Investigating Officer examined the available material and recorded statements of relevant persons and concluded that the accusation was not substantiated and that the controversy had arisen in the backdrop of a matrimonial dispute. A cancellation report was accordingly submitted and was accepted by the learned Magistrate on 17.07.2026.

3. Mr. Aakash Kumar Malhi, learned counsel for the applicant, contended that respondent No.4 was specifically nominated in the FIR with an assigned role; that the Investigating Officer had improperly treated the occurrence as a mere matrimonial dispute; that relevant witnesses and material were not given due weight; and that section 354, P.P.C. had not been properly considered. He, therefore, prayed that the cancellation order be set aside and respondent No.4 be proceeded against in accordance with law.

4. I have heard learned counsel for the applicant and have examined the material placed on record. At the very outset, the legal character of an order passed by a Magistrate while concurring with a police report under section 173, Cr.P.C. must be kept in view. In *Bahadur and another v. The State and another* (PLD 1985 SC 62), the Hon'ble Supreme Court authoritatively held that, while concurring with a cancellation report, a Magistrate does not function as a Criminal Court in the strict judicial sense; such an order is administrative in character and is not amenable to revisional jurisdiction. The same principle was followed in *Arif Ali Khan and another v. The State and 6 others* (1993 SCMR 187), *Muhammad Sharif and 8 others v. The State and another* (1997 SCMR 304), *Hussain Ahmad v. Mst. Irshad Bibi and others* (1997 SCMR 1503), and has also been applied by this Court in *Nooruddin v. Bhooro alias Bhooral and another* (PLD 2004 Karachi 130).

5. It is equally settled that the existence of inherent jurisdiction under section 561-A, Cr.P.C. does not convert the High Court into a forum for re-investigation or for substitution of its own factual opinion for that of the investigating agency merely because the complainant is dissatisfied with the conclusion reached. *Arif Ali Khan* (1993 SCMR 187) itself recognises interference where the impugned action demonstrably amounts to abuse of the process of Court, as in that case where mala fide manipulation of the challan and a mechanical discharge order were affirmatively established. The jurisdiction is thus exceptional and corrective; it is not an appellate reassessment of every cancellation report.

6. The governing duty of an Investigating Officer has been comprehensively explained by the Hon'ble Supreme Court in *Mst. Sughran Bibi v. The State (PLD 2018 SC 595)*. Investigation is not to be controlled by the version contained in the FIR; the Investigating Officer is required to examine all versions and discover the actual facts, and the final report under section 173, Cr.P.C. must reflect the facts discovered during investigation. Consequently, nomination of a person in the FIR, even with a specific allegation, does not by itself create an indefeasible right in the complainant to have that person sent up for trial. *Habib v. The State (1983 SCMR 370)* also recognises that, whether the police conclusion falls under section 169 or section 170, Cr.P.C., the Investigating Officer must submit the prescribed final report under section 173, whereafter the competent Magistrate deals with it in accordance with law.

7. The record before this Court does not disclose the exceptional features which would justify exercise of inherent jurisdiction. The applicant's own son, Naraindar Kumar, stated during investigation that no such quarrel had taken place between his parents and that his father had gone to work. The material also reflects a pre-existing matrimonial background: the parties were connected through a 'Mata Sata' arrangement in which the applicant's brother was married to the sister of respondent No.4, Baby Bai, and that marriage had already become the subject of Family Court proceedings. These circumstances were relevant investigative material and could not be ignored merely because they did not support the complainant's version.

8. More importantly, the medical material does not provide the corroboration suggested by the allegations in the FIR. The alleged occurrence is dated 18.02.2026, whereas the applicant's recorded arrival for medico-legal examination was on 26.02.2026 and the provisional medico-legal certificate was issued on 28.02.2026. The provisional certificate records that no visible injury and no mark of violence were seen. The final medico-legal certificate dated 12.03.2026, issued by the same Woman Medico-Legal Officer, likewise does not establish an injury attributable to

the alleged occurrence. The considerable interval between the alleged occurrence and medical examination, read with the absence of visible injury or mark of violence, constituted material which the Investigating Officer and the learned Magistrate were entitled to consider.

9. The contention that the Investigating Officer was bound to accept the FIR version because respondent No.4 had been nominated is contrary to the law declared in *Mst. Sughran Bibi (PLD 2018 SC 595)*. Nor has any material been identified showing mala fide interpolation, suppression of decisive evidence, want of jurisdiction, or a mechanical order of the nature considered in *Arif Ali Khan (1993 SCMR 187)*. The applicant essentially seeks a fresh appreciation of disputed factual material and a direction that the police must challan respondent No.4. Such a direction would amount to compelling the investigating agency to adopt a particular conclusion despite the result of investigation, which is not the function of this Court in the exercise of inherent jurisdiction. The superior Courts have consistently cautioned against judicial supervision or control of investigation except in legally recognised exceptional circumstances; reference may be made to *Shahnaz Begum v. The Honourable Judges of the High Court of Sindh and Balochistan and another (PLD 1971 SC 677)*, *Malik Shaukat Ali Dogar and 12 others v. Ghulam Qasim Khan Khakwani and others (PLD 1994 SC 281)*, and *Brig. (Retd.) Imtiaz Ahmad v. Government of Pakistan through Secretary, Interior Division, Islamabad and 2 others (1994 SCMR 2142)*.

10. It may further be observed that acceptance of a cancellation report does not amount to an acquittal after trial and does not finally extinguish every remedy available to an aggrieved complainant. *Bahadur (PLD 1985 SC 62)* makes clear that the complainant remains free to institute a complaint on the same facts in accordance with law. Likewise, the investigative opinion as to innocence is not equivalent to a judicial verdict after trial; see *Sher Muhammad Unar and others v. The State (PLD 2012 SC 179)*. Thus, refusal to exercise the extraordinary inherent

jurisdiction in the present proceedings does not create a legal bar against such other remedy as may otherwise be available to the applicant under the Code.

11. For the foregoing reasons, I find no jurisdictional defect, patent illegality, mala fide manipulation or abuse of the process of Court in the impugned order dated 17.07.2026 warranting interference under section 561-A, Cr.P.C. The learned Magistrate had before him the police report and the material collected during investigation, including the statement of the applicant's son and the medico-legal record, and his concurrence with the recommendation for cancellation cannot, on the material presently shown, be termed arbitrary or perverse

12. Consequently, the instant Criminal Miscellaneous Application, being devoid of merit and not disclosing any ground for exercise of the inherent jurisdiction of this Court, is dismissed in limine, along with all pending applications, if any. The applicant shall, however, remain at liberty to avail any other remedy available to her under the law, including a direct complaint, if so advised. The observations made herein are confined to disposal of the present application and shall not prejudice any proceeding lawfully instituted before a competent forum.

JUDGE

APPROVED FOR REPORTING

FAISAL