

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-5135 / 2026

(Muneeb Qamar Bhatti Vs. Province of Sindh & Others)

Present:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and order:- 04.09.2026.

Mr. Ibad Javed, Advocate for Petitioner.
Mr. Ali Safdar Deepar, Assistant Advocate General Sindh.
Ms. Anam Kausar, Advocate/Respondent No. 9 in person.
Mr. Mahar SSP Investigation South, DSP Yamin,
PI Maqbool P.S. Darakhshan.
PI Iftikhar Ahmed P.S. Shahrah-e-Faisal.

Adnan-ul-Karim Memon, J. Petitioner has filed this Petition under Article 199 of the Constitution of Islamic Republic of Pakistan seeking the following reliefs: -

- “a) declare that the impugned order directing re-investigation/change of investigation of FIR No.188/2026, Police Station Gizri, Karachi, in the facts and circumstances of the present case, is illegal, arbitrary, without lawful authority and of no legal effect;
- b) set aside the impugned re-investigation/change-of-investigation letter vide dated 13.07.2026 and consequential proceedings/action taken pursuant thereto;
- c) suspend the impugned order passed by the competent police authority;
- d) direct that the report already submitted under section 173, Cr.P.C., including the recommendation for disposal in C-Class, be placed before and independently considered and decided by the learned Magistrate in accordance with law, without being influenced by the impugned administrative intervention;
- e) restrain the official Respondents from subjecting the Petitioner to successive/repeated investigation or taking coercive action against him pursuant to the impugned re-investigation order, except strictly in accordance with law;
- f) in the alternative, if upon examination of the record this Hon'ble Court finds that continuation of FIR No.188/2026 and the proceedings arising therefrom amounts to an abuse of the process of law, quash/set aside the said FIR and consequential proceedings;”

2. The Petitioner has filed this Constitutional Petition under Article 199 of the Constitution challenging the order dated 13.07.2026 whereby the investigation of FIR No.188/2026, registered at P.S. Gizri under Sections 506-B and 337-A(i), PPC, was transferred/reassigned for further investigation.

3. The Petitioner's counsel states that the Petitioner married Respondent No.9, Anum Kausar, on 04.02.2026, after which matrimonial differences arose between them. According to him, the FIR was lodged by Respondent No.9 alleging assault and threats to her life, but the allegations are false, exaggerated, and motivated by the matrimonial dispute. He submits that the earlier Investigating Officer completed the investigation and, finding insufficient material against the petitioner, submitted a report under Section 173, Cr.P.C.

recommending disposal of the case in C-Class. The said report is still pending before the learned Magistrate and has neither been accepted nor rejected. The Petitioner's counsel contends that, during pendency of the said report, Respondent No.9 approached the higher police authorities and obtained an order for change/further investigation. He argues that no fresh or credible material was disclosed to justify reopening the investigation and that the administrative intervention has effectively frustrated the pending judicial process. The Petitioner's counsel further relies upon the petitioner's bail in the FIR and submits that proceedings concerning cancellation of bail and CRO formalities are also pending. He alleges that the repeated criminal and domestic-violence proceedings, viewed against the matrimonial background, amount to harassment and abuse of process. Petitioner's principal grievance is that investigation cannot be repeatedly reopened merely because the complainant is dissatisfied with the earlier police opinion. Relying, inter alia, upon the case of *Bahadur Khan v. Muhammad Azam* (2006 SCMR 373), he submits that although further investigation may be permissible in law, successive investigations intended to obtain a favorable result are impermissible. He therefore seeks setting aside of the change-of-investigation order, protection against repeated investigation/coercive action and, alternatively, quashing of the FIR.

4. Respondent No.9, Anum Kausar, appears in person, contests the petition and alleges that the Petitioner has approached this Court with unclean hands by suppressing material facts, particularly his repeated failure to join investigation and complete the requisite CRO formalities. She submits that the Petitioner had been aware of the CRO requirement since May/June 2026 and had repeatedly been directed by the learned Additional Sessions Judge, Karachi South, as well as the investigating authorities, to cooperate with the investigation. According to her, despite notices and an undertaking furnished on his behalf, the Petitioner failed to complete the CRO process and did not properly join the investigation. She therefore alleges that the interim protection obtained from this Court was/is secured from this court by misrepresentation of facts. On merits, Respondent No.9 admits that the earlier Investigating Officer submitted a C-Class report under Section 173, Cr.P.C., but maintains that the report is merely a police opinion and is not binding upon the Magistrate. She points out that the complete report was not placed before this Court by the Petitioner. She further contends that the earlier investigation was materially deficient because relevant evidence, including the medico-legal material, photographs, videos and other documents relating to the alleged occurrence, was either not incorporated or was not properly considered. She also points out alleged inconsistencies in the earlier investigation regarding the existence and consideration of the medico-legal evidence. According to Respondent No.9, she approached the competent police authorities through the lawful mechanism for change/further investigation, and the decision was

ultimately taken by the competent police hierarchy after consideration of the deficiencies in the earlier investigation. She relies upon Section 18(4) of the Sindh Police Act and submits that there is no absolute legal bar against further investigation merely because a report under Section 173, Cr.P.C. has already been submitted. She distinguishes *Bahadur Khan case*, by submitting that, in the present case, the C-Class report has not yet been accepted by the Magistrate and no final judicial determination has been made. Therefore, according to her, the matter has not attained finality. Respondent No.9 also disputes the Petitioner's description of the matrimonial dispute as mere "matrimonial discord" and states that serious allegations of abuse, threats, coercive conduct and domestic violence are pending before the competent forums. She accordingly seeks dismissal of the Constitutional Petition, vacation of the interim protection and directions requiring the Petitioner to comply with the CRO and investigation requirements.

5. Learned AAG submitted that FIR No.188/2026 under Sections 506-B and 337-A(i), PPC, was registered at P.S. Gizri on the complaint of Respondent No.9 against the Petitioner. He adds that the initial investigation was conducted by Inspector Aijaz Ahmed Jatui. After completion of investigation, a final report under Section 173, Cr.P.C. recommending C-Class disposal was submitted before the competent Court. Subsequently, Respondent No.9 approached the higher police authorities seeking change of investigation. The Addl. IGP Karachi, on the recommendation of the competent Board, ordered change of investigation, which was approved by the DG Crime & Investigation, Sindh, vide letter dated 07.07.2026. Consequently, the investigation was assigned to the SIO, P.S. Darakhshan, for further investigation strictly on merits and in accordance with law. He submitted that the subsequent Investigating Officer reports that the record disclosed a matrimonial/family dispute between the parties. He further states that although the Petitioner had obtained pre-arrest bail and had initially joined the investigation, his CRO record had not been completed. Notices under Section 160, Cr.P.C. were issued to both parties. Respondent No.9 appeared and had her statement recorded, whereas the Petitioner failed to appear despite receiving notice.

6. The Investigating Officer present in court states that the learned ADJ also directed the Petitioner to appear for recording of his interrogation statement and completion of CRO formalities. He emphasized that despite such directions and notices, the Petitioner failed to comply. The police therefore requested the competent Court to direct him to join the investigation and complete his CRO record. The police also maintain that the change of investigation was made pursuant to orders of the competent police authorities and that the subsequent investigation is to be conducted strictly in accordance with law.

7. We have heard the learned counsel for the petitioner, respondent No. 9, who appears in person, and learned AAG, assisted by the investigating officer, and perused the record with their assistance.

8. The principal question requiring determination is whether, after submission of a report under Section 173, Cr.P.C. recommending disposal of FIR No.188/2026 in C-Class, the competent police authorities were legally competent to order change/further investigation while such report was still pending consideration before the learned Magistrate.

9. At the outset, it is necessary to distinguish between a police report recommending cancellation/disposal of an FIR and a judicial order accepting such report. A report under Section 173, Cr.P.C. is the opinion of the investigating agency and does not, by itself, terminate the criminal case. The learned Magistrate is required to independently examine the report and the material collected during investigation. The Magistrate is not bound to mechanically accept the police opinion and may, depending upon the material before him, accept the report, disagree with it and proceed in accordance with Section 190, Cr.P.C., or require further investigation where the circumstances so warrant. The power of cancellation/disposal of an FIR is understood in conjunction with Sections 173 and 190, Cr.P.C., and the relevant procedural rules.

10. Consequently, the submission of a C-Class report cannot be equated with its acceptance by the Magistrate. Until the Magistrate applies his judicial mind and passes an order upon the report, the case has not attained judicial finality. This distinction is material in the present matter. Admittedly, the C-Class report submitted by the previous Investigating Officer has neither been accepted nor rejected by the learned Magistrate. Therefore, the Petitioner's contention that the submission of the report itself created an absolute bar against any further investigation is not legally sustainable.

11. Section 173, Cr.P.C. itself contemplates continued investigative supervision. In particular, sub-section (2) recognizes that where a superior police officer has been appointed under Section 158 Cr.P.C., he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation. The statutory scheme therefore does not treat submission of the first police report as an absolute and irrevocable termination of the investigative function. The Supreme Court in *Bahadur Khan supra* expressly held that there is no legal bar to further/re-investigation even after submission of a final report under Section 173, Cr.P.C. however at the same time, the principle emerging from *Bahadur Khan* cannot be read as conferring an unrestricted or arbitrary power upon the police to conduct endless successive investigations. The Supreme Court also disapproved the practice of successive investigations undertaken merely for obtaining favourable reports, observing that such a practice creates complications

and retards the administration of justice. Thus, the correct legal position is that further investigation is permissible, but it must be justified by the circumstances of the case, undertaken for discovering the truth and correcting genuine deficiencies, and not for replacing an inconvenient police opinion with a desired one. The same principle has subsequently been recognized by the superior Courts: where the first investigation suffers from visible defects, material evidence has not been collected or considered, the final report contains material flaws, or the fairness and impartiality of the investigation require correction, further investigation may be undertaken. Conversely, mere dissatisfaction with the result of an investigation cannot by itself justify an endless succession of investigations.

12. In the present case, Respondent No.9 has not relied merely upon her dissatisfaction with the C-Class recommendation. She has specifically alleged that relevant medico-legal material, photographs, videos and other material connected with the occurrence were not properly incorporated or considered during the earlier investigation and has also pointed out an alleged inconsistency concerning the medico-legal examination. The subsequent police record placed before the Court *prima facie* indicates that the change of investigation was considered by the competent police hierarchy upon the complainant's request and was recommended by the competent Board. These circumstances, at least *prima facie*, provide investigative basis for examining whether the earlier investigation was complete and fair.

13. It is equally significant that the police authorities have not represented before this Court that the C-Class report has been judicially accepted. Rather, their position is that the report was submitted and thereafter, on the request of the complainant, the competent police hierarchy ordered change of investigation. The subsequent investigation was entrusted to the SIO, P.S. Darakhshan, with a direction to proceed strictly on merits and in accordance with law. Thus, the present case is materially different from a situation where a cancellation report has already been accepted by the Magistrate and the criminal case has thereby reached its judicial conclusion. Once a cancellation report has been endorsed/accepted by the Magistrate, the legal position becomes materially different and the police cannot simply treat a concluded case as if it were still pending.

14. The Petitioner's reliance upon *Bahadur Khan* therefore does not advance his case to the extent claimed. That authority does not lay down an absolute prohibition against further investigation after submission of a report under Section 173, Cr.P.C.; rather, it recognizes the permissibility of further investigation while simultaneously condemning successive investigations undertaken for obtaining favourable results. In *Bahadur Khan*, the difficulty arose in the context of a case which had already travelled through the judicial process and attained finality,

whereas in the present matter no judicial order accepting the C-Class report has yet been passed.

15. The Petitioner's contention that the administrative authorities have usurped the jurisdiction of the learned Magistrate is also not fully sustainable. The police authority is not being called upon to decide whether the FIR should ultimately be cancelled. That question remains within the judicial domain of the competent Magistrate. The administrative action merely concerns the manner in which the investigation is to be conducted. The police may collect and evaluate evidence and submit its report; it is for the Magistrate thereafter to independently determine what legal consequence is to be attached to such material. A police opinion, whether favorable or adverse to the accused, does not bind the Magistrate. This distinction preserves the respective spheres of investigation and judicial adjudication.

16. However, the power to change the course of investigation is not unstructured. Under the statutory framework, investigation cannot be changed as a matter of routine. Article 18(4), as reflected by the Sindh Police Act itself, requires due deliberation and recommendation by the prescribed Board, while the order of change is to be issued by the competent head of investigation. The official Sindh Police material further records that the second change requires approval of the IGP. Thus, where the statutory procedure has been followed, the mere fact that the complainant initiated the request does not render the subsequent decision mala fide or without lawful authority.

17. Nevertheless, the competent authority must demonstrate that the statutory safeguards have actually been observed. The jurisprudence concerning Article 18-A of the Police Order, though arising in another provincial context, is instructive in this regard: the competent police authority must consider the Board's recommendation, examine the relevant record and record reasons for changing the investigation; the Board's opinion cannot be treated as an automatic or blind basis for transfer. The same principle of reasoned administrative action is consistent with the requirement that public authorities exercise statutory discretion fairly, rationally and for the purpose for which the power has been conferred.

18. There is, however, an apparent discrepancy in the record requiring clarification. The Petition refers to an order dated 13.07.2026, whereas the police report states that the change of investigation was approved by the DG Crime & Investigation, Sindh, vide letter dated 07.07.2026, and thereafter the investigation was assigned to the SIO Darakhshan. Before finally determining the legality of the impugned action, the exact impugned order/letter and the complete proceedings of the competent Board should therefore be placed on record. The Court must ascertain which authority actually passed the operative order, under

which statutory provision, whether the prescribed Board considered the matter, and whether reasons were recorded.

19. The argument concerning the matrimonial dispute also does not, by itself, warrant quashing of the FIR or the investigation. The existence of matrimonial litigation may provide background and may require the investigating agency to exercise greater caution and impartiality, but it does not establish that a criminal allegation is necessarily false. Conversely, the mere existence of an FIR cannot be treated as proof of guilt. The truth of the allegations, evidentiary value of the medico-legal material and the competing versions are matters to be determined through the lawful criminal process.

20. The Petitioner's alleged failure to complete CRO formalities and to join the investigation also requires consideration. The record placed by Respondent No.9 and the subsequent police report indicate that notices under Section 160, Cr.P.C. were issued and that the Petitioner was repeatedly required to cooperate with the investigation and complete his CRO record. The Investigating Officer further states that Respondent No.9 appeared pursuant to notice, whereas the Petitioner did not comply. If these assertions are borne out from the judicial record, the Petitioner cannot seek constitutional protection against a lawful investigative requirement while simultaneously declining to cooperate with that very investigation. His constitutional right to a fair investigation is reciprocal with the obligation to submit to lawful investigative procedures. At the same time, non-compliance with CRO requirements cannot itself be treated as proof of guilt of the offences alleged in the FIR.

21. The allegation that the Petitioner obtained interim protection by stating that no notice had been issued to him is also a matter which should be examined from the original judicial record rather than determined merely on competing assertions. If the record establishes that the Petitioner had already received notice or had himself acknowledged the CRO requirement before approaching this Court, such concealment would materially affect his entitlement to discretionary constitutional relief. A person invoking the extraordinary jurisdiction under Article 199 of the Constitution must approach the Court with complete candour and cannot suppress material facts which have a direct bearing upon the relief sought.

22. As regards the prayer for quashing the FIR, no exceptional ground has presently been demonstrated which would justify exercise of constitutional jurisdiction to terminate the criminal proceedings at the investigation stage. The allegations in the FIR disclose cognizable offences, and disputed questions concerning the truthfulness of the allegations, injuries, medico-legal evidence, photographs, videos and conduct of the parties cannot appropriately be adjudicated upon in constitutional jurisdiction on the basis of disputed factual

assertions. The ordinary criminal process should ordinarily be allowed to take its course.

23. The Petitioner's apprehension of harassment, however, cannot be ignored altogether. Constitutional jurisdiction remains available to prevent investigation from becoming arbitrary, mala fide or oppressive. Therefore, while declining to prohibit further investigation altogether, the Court can and should ensure that the subsequent investigation is confined to the FIR, conducted by the officer to whom it has lawfully been entrusted, based upon the available material, without harassment or unnecessary coercive measures and strictly in accordance with law.

24. The pending C-Class report also requires an important clarification. Its pendency before the Magistrate does not mean that the Magistrate has lost jurisdiction merely because the police authorities have undertaken further investigation. Nor does the change of investigation authorize the police to bypass the Magistrate. Any further/supplementary report resulting from the subsequent investigation must ultimately be placed before the competent Magistrate, who shall independently consider the original report as well as any subsequent material in accordance with Sections 173 and 190, Cr.P.C. The Magistrate's judicial determination cannot be replaced by an administrative police opinion.

25. In these circumstances, the Petitioner's prayer to declare the change of investigation wholly without lawful authority cannot be accepted merely because the C-Class report was already pending. The statutory scheme and the law declared in *Bahadur Khan* establish that submission of a Section 173 report does not, by itself, create an absolute prohibition against further investigation. At the same time, the police must not conduct successive investigations merely to obtain a report favourable to either side. The subsequent investigation must therefore be regarded as permissible only within the limits of law and subject to judicial scrutiny at the stage of consideration of the report.

26. Consequently, the Constitutional Petition, to the extent it seeks an absolute prohibition upon further investigation or quashing of FIR No.188/2026, is liable to be dismissed. However, in order to safeguard the Petitioner's right to a fair and impartial investigation, the official respondents should be directed to ensure that the investigation is conducted strictly in accordance with the applicable statutory procedure, without harassment, coercion or repeated investigative exercises unrelated to the allegations contained in the FIR. The Investigating Officer shall complete the investigation expeditiously and submit the appropriate report before the competent Magistrate.

27. The learned Magistrate shall thereafter independently consider the original C-Class report, the material collected during the subsequent investigation and any objections/protest of the complainant, and shall pass an appropriate speaking order in accordance with law. The Magistrate shall not be bound either by the

original C-Class recommendation or by any subsequent police opinion. The ultimate determination as to whether the FIR is to be cancelled, proceeded with, or otherwise dealt with lies within the jurisdiction vested in the Magistrate under the Cr.P.C.

28. Accordingly, in our considered view, the better course is to decline the prayer for quashing/set-aside of the change-of-investigation order, subject to verification that the competent authority followed the mandatory procedure under the applicable Sindh law and that the decision was supported by reasons. The prayer for quashing FIR No.188/2026 is also declined at this stage. The interim protection, insofar as it prevents lawful completion of investigation/CRO formalities, should not continue indefinitely, and the Petitioner shall cooperate with the investigation and comply with lawful notices and directions. Nothing contained herein shall prejudice the Petitioner's right to challenge any subsequent unlawful action or the final report/order before the competent forum.

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