HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-1635 of 2026

[Engineer Zulfiqar Ali Jalbani and others vs.Mst. Ghanwa Jalbani and others]

Before:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE MUHAMMAD JAFFER RAZA

Petitioner:	Through Mr. Blosch Ahmed Junejo, Advocate
Respondent No.1	Through Raja Jawad Ali Saahar, Advocate
Respondents 3to6:	Through Mr. Wali Muhammad Jamari, Assistant A.G Sindh, and Mr. Siraj Ahmed Bijarani, Assistant P.G Sindh
Respondents 2&7:	None present
Date of hearing	06.11.2026
Date of Decision	06.11.2026

O R D E R

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ADNAN-UL-KARIM MEMON J The Petitioners have filed the instant Constitutional Petition under Article 199 of the Constitution, seeking quashment of FIR No. 07/2026, registered at Police Station B-Section, Jamshoro, under Sections 324/34 PPC, along with all consequential proceedings, including coercive process under Sections 87/88 Cr.P.C.

2. Learned counsel for the Petitioners contends that the impugned FIR is false, fabricated, and maliciously lodged by Respondent No.1, Mst. Ghanwa Jalbani, owing to an existing land dispute and as a counterblast to murder FIR No.243/2024, registered at Police Station Bhiria City, concerning the murder of Prof. Ali Murtaza Jalbani, brother of Petitioner No.1 and son of Petitioner No.3, wherein Ghulam Mustafa Jalbani, brother of Respondent No.1, is nominated as the principal accused. He submitted that the impugned FIR was lodged to pressurize the Petitioners and their family into compromising the murder case. It is further contended that the investigation, subsequently entrusted to DSP Sirajuddin Lashari through a Joint Investigation Team (JIT), established through Call Detail Records, geo-fencing, statements of 19 independent witnesses, vehicle tracker data, ATM slips and video recordings that the Petitioners were present in their native village, Bhiria, District Naushahro Feroze, more than 200 kilometres away from the alleged place of occurrence at Jamshoro. Learned counsel submits that, on the basis of the aforementioned evidence, the Investigating Officer and SSP Jamshoro declared the

Petitioners innocent vide order dated 23.01.2026, under Section 169 Cr.P.C., and recommended disposal of the case under B-Class. However, he added that the police authorities also recommended criminal proceedings against Respondent No.1 and her accomplices for lodging a false case. It is further pointed out that several other FIRs were also lodged against the Petitioners in connection with the same rivalry have also been declared false or disposed of under C-Class. It is argued that despite the conclusive findings of the JIT and the discharge order, the Deputy District Public Prosecutor, Jamshoro, through scrutiny memos dated 27.01.2026, 09.07.2026, 27.07.2026 and 29.07.2026, raised objections to the investigation and directed further proceedings, including initiation of coercive process under Sections 87/88 Cr.P.C. He submitted that the prosecution reports themselves allegedly pointed out serious procedural irregularities, non-production of the injured before the Special Medical Board, disappearance of material evidence and contradictory investigation reports. Learned counsel further relies upon an inquiry conducted by DSP Admin, Jamshoro, dated 21.07.2026, pursuant to Petition No. S-405/2026, wherein the impugned FIR was found to have been lodged as a counterblast to the murder case and as a means of blackmailing and pressurizing the Petitioners. Reliance is also placed upon the order dated 12.03.2026 passed by this Court in C.P. No. D-136/2026, whereby investigation was transferred to DSP Sirajuddin Lashari, and the disposal of connected FIR No.216/2025 under C-Class. It is, therefore, contended that continuation of criminal proceedings despite the exonerating forensic and investigative material amounts to abuse of the process of law and violates the Petitioners' fundamental rights guaranteed under Articles 4, 9, 10-A and 14 of the Constitution. Hence, the instant petition. The Petitioners seek quashment of FIR No.07/2026 and all consequential proceedings, including proceedings under Sections 87/88 Cr.P.C.; directions to give effect to the JIT report and discharge order dated 23.01.2026 and approve B-Class disposal; and initiation of criminal proceedings against Respondent No.1 and her accomplices under the relevant provisions of the PPC for lodging a false and fabricated FIR, along with any other appropriate relief.

3. Learned counsel for the Respondents, while controverting the contentions raised by learned counsel for the Petitioners, submits that the impugned FIR has been registered based on a specific complaint disclosing commission of cognizable offences under Sections 324/34 PPC, and that the allegations require proper examination through trial. He contends that the mere submission of an interim challan under Section 169 Cr.P.C. or recommendation for B-Class disposal does not amount to an acquittal of the Petitioners nor does it conclusively determine their innocence, as the final decision regarding acceptance of the cancellation report rests with the competent Court. He further submits that the JIT report and other material relied upon by the Petitioners are not conclusive or binding upon the prosecution

or the trial Court, particularly when serious discrepancies and procedural deficiencies were identified by the prosecution branch during scrutiny of the investigation. Learned counsel maintains that the Deputy District Public Prosecutor was legally competent to examine the police report and point out deficiencies therein, and that the impugned scrutiny memos cannot be termed unlawful merely because they are contrary to the Petitioners' interests. He further contends that the allegations of mala fide, previous enmity and counterblast are disputed questions of fact, which cannot appropriately be determined in constitutional jurisdiction without recording evidence. The earlier inquiry proceedings and disposal of other FIRs under B-Class or C-Class have no conclusive bearing upon the merits of the present case. It is, therefore, argued that no exceptional circumstances warranting quashment of the FIR have been made out, and the Petitioners may raise all available pleas before the learned trial Court in accordance with law. Consequently, the petition is liable to be dismissed.

4. Both learned counsel submitted that the question of approval or otherwise of the summary report submitted by the Investigating Officer is pending consideration before the learned Magistrate concerned.

5. Learned AAG and learned APG submit that the matter essentially relates to the approval or otherwise of the cancellation summary submitted by the Investigating Officer under Section 169 Cr.P.C., which is presently pending consideration before the learned Magistrate concerned. They contend that the competent Magistrate is required to independently examine the investigation report, the material collected during investigation and the objections raised by the prosecution before passing an appropriate order in accordance with law. They further submit that neither the police recommendation nor the scrutiny objections of the prosecution are binding upon the learned Magistrate, who is competent to take an independent decision on the basis of the available record.

6. We have heard learned counsel for the parties, learned AAG and learned APG, and have examined the available record with their assistance.

7. The controversy involved in the instant petition primarily revolves around the genuineness of FIR No.07/2026 and the legality of the subsequent investigation, particularly in view of the JIT report and the cancellation summary submitted under Section 169 Cr.P.C. The record reflects that the Investigating Officer, after conducting an investigation, including examination of CDRs, geo-fencing data and statements of independent witnesses, declared the Petitioners innocent and recommended disposal of the case under B-Class. However, such recommendation, by itself, does not amount to an acquittal nor does it confer any vested right upon the Petitioners to claim automatic termination of the criminal proceedings. Equally,

the objections raised by the prosecution through scrutiny memos cannot, by themselves, be treated as a final determination of the Petitioners' guilt or innocence.

8. It is an established principle of criminal jurisprudence that the power to accept or reject a police cancellation report rests with the competent Magistrate, who is required to independently apply judicial mind to the investigation report, the supporting material and the objections, if any, raised by the prosecution or the complainant. The Magistrate is neither bound by the recommendation of the Investigating Officer nor by the opinion expressed by the prosecution. The material relied upon by the Petitioners, including the JIT findings, digital forensic evidence, statements of independent witnesses and the inquiry report dated 21.07.2026, undoubtedly requires due consideration by the competent Court; however, its evidentiary value and effect must be assessed by the forum legally empowered to examine the cancellation report. Similarly, the allegations of mala fide, counterblast and fabrication, insofar as they involve disputed questions of fact, cannot be conclusively determined in the present proceedings merely based on rival assertions.

9. We are, therefore, of the considered view that, since the question of approval or otherwise of the cancellation summary is already pending before the learned Magistrate concerned, it would be premature for this Court to express any opinion on the merits of the allegations or to direct acceptance of the summary report, as such an exercise would amount to pre-empting the judicial discretion of the competent forum.

10. The constitutional jurisdiction of this Court cannot ordinarily be invoked to substitute the statutory process where an appropriate remedy is already available and is being pursued before the competent Court. At the same time, the Petitioners cannot be deprived of their right to have the material collected during investigation, particularly the JIT report and forensic evidence, duly considered in accordance with law.

11. In view of the foregoing, we dispose of the instant Constitution Petition, without expressing any opinion on the merits of the allegations, with the direction to the learned Magistrate concerned to independently examine and decide the cancellation summary report submitted along with the objections raised by the prosecution and all material available on record, including the JIT report and forensic evidence, through a reasoned and speaking order, strictly in accordance with law. Needless to observe that the learned Magistrate shall not be influenced by any observations made herein. Till such decision, the coercive proceedings, if any, initiated against the Petitioners under Sections 87/88 Cr.P.C. shall remain

subject to the decision of the learned Magistrate, who shall also examine their legality and necessity in accordance with law.

12. The petition stands disposed of in the above terms.

JUDGE

JUDGE

Sajjad Ali Jessar