HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-1953 of 2026
[Mujahid Ali vs. Province of Sindh and others]

Before:
JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE MUHAMMAD JAFFER RAZA

Petitioner:	Through Mr. Ghulam Murtaza Soomro
Respondents No.1to5	Through Mr. Rafique Ahmed Dahri, Additional A.G Sindh, and Mr. Siraj Ahmed Bijarani, Assistant P.G Sindh a/w ASI Wazir Ahmed
Respondent 6:	In person
Date of hearing & Decision:	03.11.2026

O R D E R

ADNAN-UL-KARIM MEMON, J. - The petitioner has filed this Constitutional Petition seeking quashment of FIR No.50/2026, registered under Section 379 PPC at Police Station Phulji Station, District Dadu, at the instance of private respondent No.6, alleging theft of one she-goat worth Rs.50,000/-.

2. Learned counsel for the petitioner contends that the FIR was lodged after an unexplained delay of 14 days due to longstanding enmity and falsely nominates the accused as “Abban S/o Ameer Bux Panhwar”, whereas his actual name is Mujahid Ali. He further asserts that the occurrence was unwitnessed, no specific role or identification was attributed to him, and no recovery of the alleged stolen animal was effected; that his subsequent arrest at the instance of complainant is mala fide and amounts to abuse of the process of law. Accordingly, he seeks quashment of FIR and direction restraining the private respondent from initiating further proceedings against him and his family on account of previous enmity.

3. The private respondent, who appears in person has opposed the petition, contending that the FIR discloses a cognizable offence and that disputed questions regarding identity, enmity and delay cannot be adjudicated in constitutional jurisdiction; that the petitioner is known as “Appan” among his family and villagers and was rightly nominated and arrested; that the alleged delay is stated to be explained by an earlier NC report lodged on 02.09.2026 and an attempt to resolve the matter through the accused's father; that absence of an eyewitness or recovery at this stage does not justify quashment of FIR, particularly when investigation is a statutory function of the police. The private respondent has, therefore, sought dismissal of the petition and vacation of any interim order.

4. Respondent No.5, ASI Wazir Ali Soomro, in his comments, stated that FIR No.50/2026 was registered on 07.09.2026 on the complaint of Haji Allah Dino regarding theft of a goat by accused Appan and two unknown persons. He visited the place of occurrence, prepared the relevant memo, arrested the accused, obtained police remand and recorded the statements of witnesses under Section 161 Cr.P.C. After completing investigation, challan was submitted before the competent Court on 05.10.2026.

5. We have heard learned counsel for the petitioner, private respondent appearing in person and the law officer, and have perused the available record.

6. It appears that the controversy primarily revolves around the identity of accused, the circumstances leading to registration of the FIR and the manner in which the investigation has been conducted. The petitioner specifically disputes his nomination in the FIR, asserting that he is known as Mujahid Ali, whereas the accused has been nominated as “Appan S/o Ameer Bux Panhwar”. On the other hand, the private respondent maintains that the petitioner is commonly known as Appan. This disputed question of identity requires proper verification through an impartial investigation.

7. We are also conscious of the fact that the alleged occurrence took place on 24.08.2026, whereas the FIR was registered on 07.09.2026, after a delay of approximately fourteen days. Although the private respondent has attempted to explain such delay by referring to an earlier NC report dated 02.09.2026 and his alleged efforts to resolve the matter through the petitioner's father, the circumstances surrounding the delay, previous enmity between the parties and the subsequent nomination and arrest of the petitioner require closer scrutiny. More importantly, the allegation concerns theft of a single she-goat allegedly worth Rs.50,000/-, yet the record, as presently placed before us, does not disclose any recovery of the alleged stolen animal either from the petitioner or at his instance. The investigating officer has also not satisfactorily explained what material, apart from the complainant's accusation, connected the petitioner with the alleged occurrence attracting section 379 PPC.

8. Nevertheless, where the alleged stolen property has not been recovered, the identity of the accused is disputed, the occurrence is unwitnessed, the parties admittedly have a history of hostility and the FIR was lodged after considerable delay, the investigating agency is under an obligation to examine all relevant circumstances objectively rather than mechanically proceed on the complainant's version. The submission of challan on 05.10.2026, without the material circumstances being satisfactorily addressed in the investigation report, further necessitates supervisory scrutiny by the SSP Dadu.

9. In these circumstances, instead of entering into disputed questions of fact or undertaking a mini-trial in constitutional jurisdiction, we deem it appropriate to direct Senior Superintendent of Police, Dadu, to personally undertake a fresh and impartial investigation of the matter, or entrust the same to a competent officer under his direct supervision, who shall examine, inter alia, the actual identity of the petitioner, the basis of his nomination as Appan, the explanation for the delay in registration of the FIR, the alleged previous enmity, the circumstances of the occurrence, the absence of recovery of the alleged stolen animal and the material relied upon by the investigating officer while submitting the challan. The SSP Dadu shall also examine whether the FIR was registered and the investigation conducted in accordance with law and whether any negligence, misconduct or dereliction of duty is attributable to the concerned police officials, including the duty officer and the investigating officer. If any such lapse or misconduct is established, appropriate departmental action shall be initiated against the responsible officials in accordance with law.

10. The exercise shall be completed expeditiously, preferably within thirty days, and a comprehensive report, together with the relevant record and recommendations, shall be furnished to the Magistrate concerned, who shall examine the report in accordance with law and, if considered necessary, call upon the investigating officer to explain the apparent deficiencies and circumstances surrounding the investigation, particularly the non-recovery of the alleged stolen property and the material forming basis of the prosecution. The Magistrate shall thereafter pass an appropriate order strictly in accordance with law, without being influenced by any observation made herein.

11. Needless to observe that the observations made above are tentative in nature and shall not be construed as an expression on the merits of the criminal case or the guilt or innocence of the petitioner. Until completion of the aforesaid exercise and consideration of the report by the Magistrate, no coercive or further consequential action shall be taken against the petitioner solely on the basis of existing investigation, subject to any lawful order. The proceedings before the Magistrate shall, however, remain subject to the outcome of the aforesaid exercise.

12. In view of the foregoing, the petition is disposed of in the above terms, along with pending applications.

JUDGE

JUDGE

Karar_Hussain/PS*