

Crl. Misc. No. 10180-M of 2022

M/s Digital World Pakistan (Pvt.) Ltd

Additional District & Sessions Judge, etc.

20.11.2025. Ms. Sheharzad Sheharyar, Advocate for the Petitioner.
Mr. Muhammad Akhlaq, DPG with Ijaz, S.I.
Mr. Muhammad Imran Malik, Advocate for respondent No.2.
Syed Tassadaq Mustafa Naqvi, Advocate for respondent No.3.

Through instant petition under section 561-A of Cr.P.C., the petitioner has prayed for setting aside the order dated 16.04.2021 passed by the learned Judicial Magistrate Section-30, Lahore, whereby the learned Judicial Magistrate Section-30, Lahore, sine die adjourned the proceedings of the private complaint filed by the petitioner, till the decision of the civil suits. The petitioner has also prayed for setting aside the order dated 22.12.2021, passed by the learned Additional Sessions Judge, Lahore, whereby the criminal revision petition filed by the petitioner challenging the said order of the Magistrate was dismissed. Hence, the instant petition.

2. I have carefully considered the arguments advanced by the learned counsel for the parties and thoroughly reviewed the record.

3. The petitioner filed a private complaint against respondents No.2 & 3, with the allegations that they caused wrongful damage and loss through “mischief” to the property of the petitioner, valued at Rs.27,626,109/-. Learned Magistrate, after recording the cursory evidence of the petitioner, summoned respondents No.2 & 3 vide order dated 03.01.2019. The trial was in progress when respondents No. 2 & 3 filed an application under Section 249-A of the Cr.P.C.

for their acquittal. The learned Judicial Magistrate, Section 30, Lahore, observed that the civil court shall determine whether the accused/respondents committed any act which caused damage or loss to the complainant party in the civil suit titled “M/S Digital World Pakistan vs. Sohaib Ilyas Sheikh etc.” and “Shahjahan Bano Vs. Sohaib Ilyas, etc.” Therefore, the case was adjourned sine die until a decision is made on the civil suits. Learned counsel for the petitioner admitted that civil suits for damages are pending adjudication before the Civil Court and are at the stage of recording evidence. Although civil liability is independent of criminal liability and no invariable rule exists to the effect that the pending decision of a civil suit criminal proceedings must stay as it is purely a matter of discretion, yet, while exercising discretion, the guiding principle should be to see whether the accused is likely to be prejudiced if the criminal proceedings have not stayed. The petitioner mentioned in the suit titled “M/S Digital World Pakistan vs. Sohaib Ilyas Sheikh etc.” that Ms. Shah Jahan Bano is the owner of Plot No. 39-A, Sector C, Bahria Town, Lahore, where she constructed a commercial Plaza, and the petitioner took the first floor of the said plaza on rent. Respondent No. 1 initiated excavation of the foundation at a vacant plot owned by him (Respondent No. 1) adjacent to the right side of the plaza, which led to the building's collapse. The petitioner filed suit for damages amounting to Rs. 27,417,630/- on 12-06-2018 against the respondents and others before the civil courts at Lahore.

On court query, the learned counsel for the petitioner and learned DPG admitted that the petitioner filed a private complaint against the respondents under Section 200 Cr.P.C. for offences falling under Sections 425 and 427 of the PPC

before the Judicial Magistrate 1st Class, Lahore, on 24.05.2018. The learned counsel for the respondent No. 2 submitted that in the instant case, criminal liability depends on the outcome of the civil liability proceedings, as it has yet to be established that the plaza's collapse was due to deep excavation, which may also result in criminal liability. However, when it is clear that criminal liability depends on the outcome of civil litigation, criminal proceedings were rightly stayed. Learned counsel for the petitioner admitted that the suits for recovery of damages are pending adjudication before the learned Civil Courts.

4. Although both sides argued the case on its merits of the case. Section 249 of the Code of Criminal Procedure 1898 does not apply to complaints under Section 200 of the Code of Criminal Procedure 1898. There was no dispute that respondent No. 3 filed an application under Section 249-A, CrPC, for acquittal, and the trial court, sine die, adjourned the proceedings of the complaint filed by the petitioner till the decision of the civil suits vide order dated 16.04.2021. The trial court has no power to stay the proceedings of the complaint case under Section 249 of Cr.P.C., and same is hereby reproduced for ready reference:

“Power to stop proceedings when no complaint. In any case instituted **otherwise than upon complaint** a Magistrate of the first class, or with the previous sanction of the Sessions Judge, may for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused”. (emphasis added).

However, both courts below had overlooked this vital aspect of the case. Accordingly, impugned orders are set aside and

application under Section 249-A Cr.P.C., (mentioned above) would be deemed as pending and, the same would be decided by the learned Judicial Magistrate Section 30, Lahore after affording opportunity of hearing to the parties in accordance with law. The parties are directed to appear before the learned Judicial Magistrate, Section 30, Lahore, on 01.12.2025.

(Aalia Neelum)
Chief Justice

*This order has been
dictated, pronounced,
prepared, and signed on
20.11.2025*

*Ikram**

Approved for reporting

(Chief Justice)