

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)



PRESENT:

Mr. Justice Irfan Saadat Khan
Mr. Justice Aqeel Ahmed Abbasi

Cr.P.L.A. No.147-K/2025

(Against order dated 29.5.2025, in Criminal Misc. Application.No.655/2024, passed by Single Judge High Court of Sindh, Karachi)

Ali Adnan Sheikha

... Petitioner

Versus

I.G. Police Sindh and others

... Respondents

For the Petitioner(s): Mr. Abbad-ul-Hasnain, ASC

For the Respondent(s): Mushtaq Abbasi, AIG Legal
Liaquat Ali, SHO, Boat Basin, Karachi,
Waseem Ahmed, IO

Assisted by: Ms. Zainab Bashir, Judicial Law Clerk,
Supreme Court of Pakistan.

Date of Hearing: 05.09.2025

JUDGMENT

AQEEL AHMED ABBASI, J.- The instant Petition for Leave to Appeal has been filed against the order dated 29.5.2025, passed by Single Judge, High Court of Sindh, Karachi, in Cr. Misc. Application No.655/2024, whereby Cr. Misc. Application, filed against the order dated 13.5.2024, passed by Vth Additional Sessions Judge, Karachi (South) has been dismissed.

2. Briefly, the facts, as stated in the impugned order, passed by the Sindh High Court, Karachi, are that on 18.11.2005 one Mansoor Ali lodged FIR bearing No.410/2005 at Boat Basin Police Station, Karachi, for offences under Sections 506-B, 504, and 34 PPC against petitioner and his father (now deceased) in which they were tried and convicted by the Trial Court which was set-aside in appeal and they were acquitted of the charge by the learned Appellate Court. Per petitioner, the FIR was false and vexatious and during trial the proposed accused Muzzamil Ali Sheikha and Mustansar Ali Sheikha (respondents Nos.5 & 6) have recorded false statements against him and his father and

based on their evidence they were convicted but learned Appellate Court has acquitted them in appeal. The petitioner in the first instance approached the local police for taking action against the proposed accused (respondents Nos.5 & 6) under Section 182, PPC and having failed to receive a response has invoked the jurisdiction under Section 22-A, CrPC.

3. The learned Ex-Officio Justice of Peace after hearing the parties' respective counsel and going through the report of police declined to issue direction to the SHO to lodge FIR of the petitioner against the respondents Nos.5 & 6 and dismissed the application under Section 22-A, CrPC whereafter, the petitioner filed Cr. Misc. Application No.655/2024 before the Sindh High Court, Karachi, which too, vide impugned order, was dismissed and such order has been assailed through the instant Cr. Misc. Application.

4. Learned counsel for the petitioner has vehemently argued that both the Courts below were not justified to decline the relief sought by the petitioner against the accused persons who falsely implicated the petitioner in the aforesaid FIR, however, after trial, the petitioner and his father (now deceased) were acquitted from the charge. According to learned counsel, the petitioner and his father were made to face the criminal proceedings, which were based on mala fide and resulted in malicious prosecution, which caused damage and injury to their reputation. Learned counsel further argued that it was duty of the concerned Station House Officer ("**SHO**") to initiate proceedings under Section 182, PPC against respondents Nos.5 & 6 for having recorded their false statements with an intention to cause injury to the petitioner and his father, so that the accused persons would have been convicted under Section 182, PPC for recording false statements. It has been argued that after acquittal of the petitioner and his father in the aforesaid FIR by the Sindh High Court, the petitioner approached concerned police authorities for initiating criminal proceedings against the respondents Nos.5 & 6, however, no action whatsoever was taken and thereafter the petitioner was constrained to approach the Ex-Officio Justice of Peace under Section 22-A, CrPC with a request to issue direction to the SHO, Boat Basin, Karachi, for initiation of proceedings under Section 182, PPC, however, the Justice of Peace, while discussing the facts and the law has been pleased to observe that no harm or injury was caused to the petitioner and his deceased

father in view of the registration of the FIR and the proceedings conducted before the two Courts below pursuant to registration of said FIR. It has further been argued by the learned counsel that against the order passed by the Justice of Peace the petitioner filed Cr. Misc. Application before the High Court of Sindh, Karachi, who, vide impugned order, has been pleased to hold that there is no material illegality or infirmity committed by the learned Ex-Officio Justice of Peace while passing the order in the instant matter, in spite of the facts that the criminal proceedings initiated by the respondents Nos.5 & 6 against the petitioner and his father were declared to be illegal by the Vth Addl. Sessions Judge, Karachi (South) in Cr. Appeal No.05/2008, whereby the petitioner and his father were acquitted on merits. Learned counsel has further argued that initially the police was of the view that the allegations leveled by the respondents Nos.5 & 6 against the petitioner and his father were baseless and without any evidence, therefore, Investigation Officer (**"I.O"**) of the case submitted the final challan for disposal of the FIR in "C" Class, however, the concerned Magistrate did not concur with such report and took cognizance of the matter, and resultantly, the petitioner and his father faced the malicious prosecution. In support of his contention, learned counsel has referred to an unreported order dated 07.12.2017, passed by this Court in Criminal Petition No.42-K/2017 (Kh. Muhammad Waseem v. Syed Jalees Anjum, etc.).

5. On the other hand, Mushtaq Abbasi, AIG Legal, Liaquat Ali, SHO, Boat Basin, Karachi and Waseem Ahmed, I.O of the FIR, present in Court, have supported the impugned order and submitted that in view of the proceedings before the judicial forums, wherein, no such directions were issued to the I.O or the SHO for initiation of criminal proceedings under Section 182, PPC, therefore, petitioner cannot compel the I.O or the SHO to initiate such proceedings. It is prayed that instant Cr. Petition for Leave to Appeal is liable to be dismissed.

6. Heard learned counsel for the petitioner and the official respondents present in Court, and with their assistance have also gone through the record, specifically the impugned order, passed by the Sindh High Court, Karachi. The grievance expressed by the petitioner before this Court is against refusal of the concerned SHO to initiate proceedings under Section 182, PPC against two accused persons namely Muzzamil Ali Sheikha and Mustansar Ali Sheikha who according to the petitioner gave false evidence before the Trial Court

resulting in conviction of the petitioner and his father (now deceased) in FIR bearing No. 410/2005 at Boat Basin, PS Karachi for offences under Sections 506-B, 504 and 34, PPC vide judgment dated 03.03.2008 by the court of VIIth Civil Judge and Judicial Magistrate Karachi (South). The order of the Trial Court was assailed by the accused persons namely Abid Hussain and Ali Adnan Sheikha (petitioner in instant case) in Criminal Appeal No. 05/2008 in the court of VTH Additional District and Session Judge Karachi (South) who vide judgment dated 23.05.2009 set aside the judgment of the Trial Court and acquitted the petitioners with further directions to cancel the bail bonds and discharge the sureties. It is pertinent to mention that petitioner appears to have not assailed the aforesaid judgment passed by the Appellant Court as nothing has been placed on record to this effect. However, the petitioners after a lapse of 15 years from the date of aforesaid judgment approached the police authorities to initiate proceedings against the Respondent Nos. 5 & 6 who according to petitioner recorded false evidence before the Trial Court. On refusal by the police to exceed to the request of the petitioner, the petitioner approached the Ex Officio Justice of Peace i.e. VTH Additional District and Session Judge Karachi (South) by filing an application under Section 22-A, CrPC for issuance of direction to the concerned SHO to initiate proceedings under Section 182, PPC against the aforesaid respondents, however, such application was dismissed after hearing the parties in detail vide judgment dated 13.05.2024 in the following terms:

“7. Perusal of above section and the case of applicant to my view that every action has two remedies i.e. Civil and Criminal and the applicant has availed the Civil remedy against the PWS (Muzamil and Mustansir) and now the applicant has approached to this court to issue direction to the SHO concerned for taking action under section 182 PPC wherein they (both witnesses) given false statement before Public servant so also before I.O and also given false FIR, for which I may say that at the first instance the said statements of PWs were taken into consideration and the applicant and his deceased father were convicted. It is also on record that against the Order of learned Judicial Magistrate whereby he took cognizance against the report submitted by the I.O under C class has not been challenged at any forum, thus once the applicant has admitted the stance at the stage of Cognizance. Moreover, the Criminal Appeal No.05/2008 nowhere suggests that ever the said plea has been raised or any prayer with regard to prosecute the said witnesses under 182 PPC was raised. In view of above discussion I do not find that. any hurt or harm was caused to the applicant

and his deceased father in view of the proceedings conducted before the two Courts viz. learned Judicial Magistrate Karachi and learned VTH Additional District and Sessions Judge Karachi South, hence the prayer to perform their statutory obligation stand declined.”

7. The petitioner feeling aggrieved and dissatisfied filed Criminal Misc. Application No. 655/2024 under Section 561, CrPC before the High Court of Sindh, Karachi who after hearing the parties and having examined the entire facts and the relevant law in detail has been pleased to dismiss the same. It will be advantageous to reproduce the reasoning of the learned Single judge of High Court of Sindh, Karachi as recorded in para 11 and 12 of the impugned judgment which reads as follows:

“11. Under the scheme of law a person who lays information to police is entitled to have his case judicially determined before he is called upon to answer the charge of giving false information. Had there been a false FIR, there was no need to submit report under "C" Class by the Investigating Officer. In this backdrop, issuance of direction for initiation of proceedings under Section 182, P.P.C against the complainant or his witnesses would amount to abuse of process of law more particularly when applicant has approached the Ex-Officio Justice of Peace after lapse of about 15 years of his acquittal by the learned Appellate Court. Even otherwise, the proceedings under Section 182 Cr.P.C. can only be initiated by a civil servant and no one can interfere and even a judicial direction for initiation of such proceedings cannot be issued just because of the bar imposed by Section 195, Cr.P.C, which provides that in all offences punishable under Sections 172 to 188, PPC, no Court call take cognizance except on a written complaint of the concerned public servant or some other public servant to whom he is subordinate. I am, thus, of the view that issuance of a direction to the SHO for initiation of criminal proceedings under Section 182 PPC, would be contrary to statutory provision of Section 195, Cr.P.C.

12. Considering the factual and legal position, as discussed above, I am of the view that the refusal by the learned Ex-Officio Justice of Peace to issue direction to the Station House Officer for registration of FIR does not suffer from any jurisdictional error or flaw. The impugned order, on the face of it, is just, proper and speaking one. The learned counsel for the applicant has failed to point out any material illegality or serious infirmity committed by the learned Ex-Officio Justice of Peace while passing the impugned order, which in my humble view is based on fair evaluation of record, hence calls for no interference by this Court in exercise of its jurisdiction under Section 561-A, Cr.P.C.. In view thereof, this Criminal Misc. Application No.232 of 2025 is bereft of any merit stands dismissed.”

8. Though the learned Single Judge in the aforesaid paras has correctly interpreted the relevant provisions of law which do not require any interference by this Court however, in order to further elaborate the scope of the relevant provisions of law attracted in instant case i.e. Sections 173, 190 and 195, CrPC and Section 182, PPC we may examine the same in detail. It will be advantageous to reproduce the aforesaid sections which reads as follows:

“173. Report of police-officer. (1) *Every investigation under this Chapter shall be completed without unnecessary delay, and as soon as it is completed, the officer incharge of the police station shall, [through the Public Prosecutor].*

(a) *forward to a Magistrate empowered to take cognizance of the offence on a police-report a report in the form prescribed by the Provincial Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody or has been released on his bond, and, if so, whether with or without sureties, and”*

“190. Cognizance of offences by Magistrates. (1) *All Magistrates of the first class or any other Magistrate specially empowered by the Provincial Government on the recommendation of High Court may take cognizance of any offence:*

(a) *upon receiving a complaint of facts which constitute such offence;*

(b) *upon a report in writing of such facts made by any police-officer;*

(c) *upon information received from any person other than a police-officer, or upon his knowledge or suspicion;*

that such offence has been committed which he may try or send to the Court of Sessions for trial.

(2) *A Magistrate taking cognizance under sub-section (1) of an offence triable exclusively by a Court of Session shall, without recording any evidence send the case to the Court of Session for trial.”*

“...195. Prosecution for contempt of lawful authority of public servants. Prosecution for certain offence against public justice. Prosecution for certain offences relating to documents given in evidence. (1) *No Court shall take cognizance: --*

(a) *of any offence punishable under Sections 172 to [187] of the Pakistan Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate;...”*

“182. False information with intent to cause public servant to use his lawful power to the injury of another person:

Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant:-

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to [three thousand rupees], or with both.

9. Section 173, CrPC mandates that every investigation pursuant to FIR shall be completed within 14 days however, if the investigation is not completed within a period of 14 days, the officer In Charge of the police station shall within 3 days of the expiration of such period forward to the Magistrate through the public prosecutor, an interim report in the form prescribed by the provincial government. I.O after completing investigation as per Rule 24.7 of the Police Rules, 1934 can recommend disposal of an FIR in Class "A" if the case is true but accused is untraceable, or in Class "B" if the information given to the police is maliciously false, or in Class "C", if matter is non-cognizable or for a civil suit or the case was filed owing to mistake of fact. Reliance in this regard can be placed on the case of Syed Qamber Ali Shah vs. Province of Sindh and others (2024 SCMR 1123). Once such report is submitted before the concerned Magistrate of First Class or any other Magistrate specially empowered by the provincial government on the recommendation of High Court, such Magistrate has the power to either accept the same or take cognizance of the offence reported or to direct the I.O to reinvestigate the matter and submit a fresh report within the prescribed period. However, the Magistrate has no authority to direct the I.O for disposal of the FIR under A, B or C class as referred to herein above. In case the I.O after completion of the investigation forms an opinion that the information laid before the police by the complainant is false, he can recommend the disposal of the FIR in "B" Class (maliciously false) after recording reasons and submit the same before the concerned Magistrate, who after perusal of the same can accept such recommendation and dispose of the FIR in "B" class or issue directions for disposal of the case in any other class and can take cognizance of the matter and proceed further in accordance with law. However, said Magistrate has no authority to issue directions to initiate proceedings under Section 182, PPC against the complainant in view of the bar laid under Section

195, CrPC which provides that no Court shall take cognizance of any offence punishable under Sections 172 to 187 of the Pakistan Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate;” It may be clarified that in case of registration of an FIR the information is laid before the SHO of the concerned police station, then only the said SHO is competent to initiate proceedings under Section 182, PPC in case of false information in appropriate cases, whereas, if such SHO is not available or prevented by sufficient cause to initiate proceedings under Section 182, PPC then such proceedings can be initiated by a superior police officer.

10. Having examined the aforesaid provisions of law we may now explain the scope of Section 182, PPC which provides that if a complaint is laid before any public servant giving any information which he/she knows or believes to be false with an intention to cause or likely to cause, such public servant, to do or omit anything which such public servant ought not to do or omit if the true state of facts were known by him, or to use the lawful power of such public servant to the injury or annoyance of such person then such person shall be punished with imprisonment of either description for a term which may extend to six months or with fine too which may extend to three thousand rupees or with both. It may be observed here that incase the information laid before the public servant with Bonafide belief and knowledge of it being true, the same cannot be termed as false unless it is proved in accordance with law through judicial proceedings. Such information can be termed as ‘not proved’ and not ‘false’ and, therefore, the same cannot attract the penal provision of Section 182, PPC. Suffice is to state that provision of Section 182, PPC can only be initiated by the public servant before whom the false information was laid, which resulted in initiation of criminal proceedings and found to be false through judicial process, whereas, such penal provisions cannot be invoked in cases where the complainant could not prove the allegations by producing sufficient evidence or material in support of such allegation before the judicial forum.

11. To sum up the above discussion in view of hereinabove provisions of law it has emerged that no court can take cognizance of any offence punishable under Section 182, PPC for having given false information to a public servant in order to cause him to use his lawful

power, except on a written complaint of the concerned public servant or his higher authority. Reliance in this regard can be placed on the judgment of this Court in the case of Abdur Rahman vs. The State (1968 P Cr. L J 215). Further reference can also be placed on the Supreme Court judgments of the Indian jurisdiction in the case of Saloni Arora Vs. State of NCT of Delhi (AIR 2017 SC 391), and also in the case of Daulat Ram vs. State of Punjab (1962 AIR 28). The cognizance by a Magistrate could have been taken in the given case on a written complaint of the concerned police officer, whereas, the Magistrate or Ex-Officio Justice of Peace had no locus standi or the authority to order or issue directions for filing of a complaint in respect of an offence under Section 182, PPC.

12. In the case in hand it has transpired that neither the I.O formed an opinion that the information given by the complainant is false nor submitted the report under Section 173, CrPC before the concerned Magistrate for disposal of the case in “B” Class, instead the report was submitted for disposal of the case in “C” Class however, the Magistrate took cognizance of the matter and convicted the accused persons nominated therein through judicial process. Such judgment of the Trial Court was assailed before the appellate forum who acquitted the accused persons in view of the contradiction in the judgment of the Trial Court. However, there was no finding of the Appellate Court to the effect that the information laid before the police by the complainant was false. Since there was no opinion of the I.O and finding by any judicial forum holding the information laid before the police by the complainant as false, therefore, the provisions of Section 182, PPC are otherwise not attracted in the instant case. Any other interpretation to hereinabove provisions of law would result in multiplying the criminal litigation out of same criminal proceedings and would open a floodgate of filing frivolous proceedings in every criminal case where the complainant could not succeed due to any other reason i.e. jurisdictional defect, limitation, insufficient evidence, or benefit of doubt etc.

13. In view of hereinabove facts and circumstances of the case, we do not find any substance in the instant Criminal Petition for Leave to Appeal whereas, the learned Single Judge of Sindh High Court, Karachi has ably dealt with all the factual and legal issues as per spirit of law, therefore, the impugned judgment does not suffer from any

factual error or legal infirmity. Accordingly, above Criminal Petition for Leave to Appeal was dismissed vide our short order in the following terms:

“Heard learned counsel for petitioner. For reasons to follow, the petition is dismissed by imposing costs of Rs.25,000/- upon the petitioner.”

14. Above are the reasons for such short order.

Judge

Judge

Karachi
05.09.2025
APPROVED FOR REPORTING
Tanveer Ahmed