

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Justice Jamal Khan Mandokhail
Justice Salahuddin Panhwar

Criminal Petitions No.1033 & 1036 of 2024,
Crl. Misc. Application No.1207/2024 in Crl.P.L.A.1033/2024
*(Against order dated 01.03.2024 passed by High Court of Sindh, Circuit Court,
Hyderabad, in Criminal Revision Application No.S-08 of 2024)*

Mst. Nayab *(in both cases)* Petitioner(s)

VERSUS

The State thr. P.G. Sindh and others *(in both cases)* Respondent(s)

For the Petitioner(s) : Mr. Saeed Khurshid Ahmad, ASC
(in both cases)
a/w Petitioner in person

For the State : Mr. Siraj Ali Khan Chandio, Addl. PG Sindh
(in both cases)

For Respondent No.2 : Rana Abid Nazir, ASC
(in both cases)

For Respondents No.3-4 : N.R. (in both cases)

Date of Hearing : 23.06.2026

ORDER

Jamal Khan Mandokhail, J. – For the reasons to be recorded

later, these petitions are disposed of.

Judge

Judge

Islamabad,
23.06.2026
Abdul Wasay/-

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REASONS FOR SHORT ORDER

Jamal Khan Mandokhail, J. -

Crl.M.A.1207/2024: Through this application, the applicant requests for condonation of delay in filing the Criminal Petition No. 1033 of 2024. The grounds mentioned in the application are plausible to allow the application. Consequently, the delay in filing the criminal petition is condoned.

Criminal Petitions No.1033 & 1036 of 2024:

2. The petitioner is a prosecution witness in case FIR No. 33 of 2018, registered at Police Station District Jacobabad under Sections 302, 109 and 449 read with Section 34 of the Pakistan Penal Code ('PPC'). The trial of the case is pending before the First Additional Sessions Judge, Hyderabad, ('**Trial Court**'). With the permission of the Trial Court, the petitioner recorded her statement through a video link from Islamabad in the presence of a coordinate Judge, while the Trial Court reduced her statement into writing at Hyderabad. After recording her statement, the petitioner obtained its certified copy, wherein she noticed that her statement had not been recorded *verbatim*, as it contained certain inaccuracies, errors and mistakes

on different pages of her statement and the cross-examination portion, particularly with regard to the date of the incident, which was incorrectly recorded as 30.05.2018 instead of 31.05.2018. Consequently, she filed an application under Section 360 of the Code of Criminal Procedure (**Cr.P.C.**) before the Trial Court, but the same was dismissed. Feeling aggrieved, she filed a criminal revision petition before the High Court of Sindh, Circuit Court, Hyderabad, which also met the same fate by means of the impugned judgment dated 01.03.2024, hence, these petitions for leave to appeal.

3. During the course of hearing, we have been informed that the video statement of petitioner is available before the Trial Court, therefore, on our direction, the Trial Court transmitted a USB device containing the video recording of the statement of the petitioner. We have carefully examined the recording in the presence of learned counsel for the parties and the learned Additional Prosecutor General, Sindh, and have observed that the petitioner while recording her statement before the Trial Court, stated that the incident had occurred on 31.05.2018. However, in the statement reduced into writing by the Trial Court, the date was inadvertently recorded as 30.05.2018. Likewise, certain other discrepancies and inaccuracies in the written statement of the petitioner were also noticed. When confronted with the petitioner's video statement, the learned counsel for the respondent frankly conceded that there are material discrepancies and mistakes in the petitioner's written statement recorded by the Trial Court. The learned counsel for the respondent showed no objection for rectification of such errors. The learned counsel for the petitioner suggested that the Trial Court be directed to re-examine the video recording of the petitioner's statement and compare it with the statement reduced into writing and thereafter make the necessary corrections and rectifications in order to redress the grievance of the petitioner to serve the ends of justice.

4. We have heard the learned counsel for the parties and have perused the statement of the petitioner reduced into writing by the Trial Court, along with its video recording. The procedure for recording evidence by the Trial Court is prescribed under Chapter XXV of the Cr.P.C. Its section 360(1) mandates that where a witness completes his testimony, it shall be read over to him in presence of the accused or his counsel, and shall, if necessary, be corrected. The object of this provision is to ensure that the statement of the witness is recorded word by word and that, before obtaining the witness's

signature on each page of the statement, the Trial Court rectifies any mistake or error that may have occurred while recording it. Section 360(2), on the other hand, enables a witness to object to the correctness of his/her statement, if his/her exact narrative is not recorded by the Trial Court. The Magistrate or the Sessions Judge, as the case may be, after hearing the parties, may make a memorandum of the objection raised by the witness and shall add such remarks as he thinks necessary. The said provision of the Cr.P.C. provides the procedure when a witness challenges the written record of his statement, mandating the Judge to append a "memorandum" of the objection, setting out Judge's own remarks regarding the objection, and recording the correct version of the statement of the witness. The procedure prescribed under the Cr.P.C. is intended to enable the Trial Court to effectively exercise the jurisdiction vested in it. It serves a vital role in ensuring fairness in criminal trials and maintaining transparency in recording of statements of witnesses/accused persons. Principally, the procedural framework under the Cr.P.C. facilitates the observance of due process and the right to a fair trial, thereby securing the fundamental rights guaranteed under Article 10-A of the Constitution. A Judge must not adopt a purely technical approach that frustrates the ends of justice; rather, the procedure must be employed as an instrument to promote justice, as intended by the Legislature. Thus, the ultimate purpose of procedural law is to give voice to human suffering, not to silence it. In matters concerning rectification of a witness's statement, particularly where the witness specifically asserts that the statement has not been recorded *verbatim*, the principle of justice requires that the Trial Court shall exercise its jurisdiction as the non-exercise of such jurisdiction may seriously impair the evidentiary value of the witness's statement, which may prejudice the merits of the case.

5. Admittedly, the petitioner objected to certain portions of her statement and requested the Trial Court for its comparison with her video recording for the purpose of making her written statement in line with the video recording, but her request was declined. The Trial Court and the High Court were required to have considered the request of the petitioner, keeping in view the principle of justice, but the needful was not done. Had the *fora* below exercised their jurisdiction under section 360(2) of the Cr.P.C. and addressed the grievance of the petitioner at the appropriate stages, the petitioner would not have been compelled to invoke the jurisdiction of this

Court. Admittedly, the petitioner's statement has not been recorded *verbatim* by the Trial Court, whereas, the Trial Court is mandated with the power by section 360(2) of the Cr.P.C. to consider the objection of the witness and make a memorandum accordingly, in order to meet the ends of justice. The Trial Court and the High Court were required to exercise their jurisdiction granted to them by section 360(2) and section 435 of the Cr.P.C., respectively, for rectification of any irregularity in the proceedings, but the needful was not done, which is an illegality.

Thus, in view of the above, the impugned order of the High Court and that of the Trial Court are set aside. The Trial Court is directed to carefully re-examine the video recording of the petitioner's statement and compare the same with her written statement available on the record, in presence of the accused, and learned counsel for the parties as well as the learned Prosecutor. Upon such comparison, if any discrepancy, omission or inaccuracy is found in the petitioner's written statement and cross examination, the Trial Court shall make its remarks by incorporating correct version of witness's statement in a memorandum, as provided by section 360(2) of the Cr.P.C. and make it part of the record. Such exercise shall be completed within a period of fifteen working days from the date of receipt of a certified copy of this order. Thereafter, the Trial Court shall, after providing opportunity of re-arguments to the parties, decide the case within a period of thirty working days, strictly in accordance with law and on its own merits.

Judge

Judge

Islamabad,
23.06.2026
APPROVED FOR REPORTING
Abdul Wasay/-