

IN THE SPECIAL ANTI-TERRORISM COURT NO.III
AT KARACHI

PRIVATE COMPLAINT No. _____/2015

SALMAN ABRO
S/O GHULAM SARWAR ABRO,
Presently confined
In judicial custody at Juvenile prison
Karachi.....COMPLAINANT

Versus

1. Zeeshan Mustafa Lashari
S/o Sardar Ghulam Mustafa Lashari.
2. Rahimuddin
S/o Muhammad Salahuddin.
3. Riazat @joji
S/o Kalu Dilawar
4. Ali Ghulam Bugti
S/o Sajjan Bugti
5. Four Unknown, identifiable gunmen/ persons
All the accused persons are residents
of House no 30/1 Street no 30,
Khayaban-e-Shamsheer Phase 5, DHA, Karachi..... Accused

PRIVATE COMPLAINT UNDER SECTION 200 OF CRIMINAL
PROCEDURE CODE, 1898

The complainant above named respectfully submits in verbatim
before this Honorable Court as under.

"I am student of first year in CBM College Defense Karachi I
belong to a very respectable and educated family. I have got
excellent educational record which. I secured A-I GRADE and
obtained second position in SSC-Part II; at Hyderabad Board. I

was given shield by Cadet College Petaro in appreciation. I and Suleman Mustafa Lashari were fast friends since 2010. We had common friends namely Sheikh Muhammad Hamza , Shahnawaz Shah, Jam Hyder Unar, Jam Ali Korejo and Hamza Iqbal. Shahnawaz shah was joining force among us and he used to bring about conciliation among us whenever any dispute occurred. We were on regular visiting at Karachi Broast Restaurant and Delawala Food Corner Clifton. On 05-05-2014 at about 5.30 pm I was at café Clifton Karachi with Jam Ali, Zeeshan Rajput and Suleman Mustafa Lashari, meanwhile Suleman Mustafa Lashari told us a year old incident that one day he was stopped by DSP Clifton during car checking and he withhold his license, however when Suleman told the DSP that he was son of Sardar Ghulam Mustafa Lashari, DSP released him and sought apology too. Suleman Mustafa Lashari further told that soon after that incident, Shahid Heyat, the then SSP Clifton, came to his house and met with his father Sardar Ghulam Musatafa Lashari and apologized for DSP's misbehavior with him. I suspected such incident false and showed Sindh Police facebook page on internet to all friends at my mobile which transpired that said Shahid Heyat was never posted as SSP Clifton one year ago as told by Suleman Lashari. This made Suleman Mustafa Lashari a laughing stock, he got infuriated and expressing his anger against me said that police was nothing before his father. Suleman Lashari continued saying that even Iqbal Mehmood, the then IG Sindh, used to come to his house to see his father. We all the friends on same night again assembled at house of Shahnawaz Shah who attempted to bring about reconciliation between Suleman Lashari and me. Though we did

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not hug each other, yet showed smiling faces to one another and nothing left in my heart and on the same night we all proceeded towards *Delawal café* too, where we were happy and even I invited Suleman Lashari for some food on which he said, "thank you". On 06-05-2014 I along with all friends except Suleman Lashari meet at café Clifton, that meanwhile at about 8 pm Jam Haider Unar said in joking style that Suleman Lashari was behind me along with army of Baloachs in Toyota Corolla car to give me beatings. I did not take it seriously. On 07/8-05-2014 at about 11.30 pm to 12.15 am me and Jam Ali, Jam Haider Unar, Zeeshan Rajput, Shahnawaz Shah, Sheikh Hamza and Hamza Iqbal again sat at café Clifton where we were eating chicken rolls in happy mood. As we were about to leave for *Delawala Café* suddenly Suleman Mustafa Lashari approached there along with his four armed gunmen in Toyota Corolla car bearing registration no BBM 764. They all encircled VIGO and started beating me so also tearing my shirt. Suleman Lashari was forcing me to excuse for May 5 incident. Suleman Lashari snatched my Samsung mobile. I was rescued by Jam Haider Unar and then Suleman Lashari left café Clifton along with his gunmen. Jam Haider pushed me inside VIGO and then I asked Jam Haider to proceed to police station directly for lodging complaint, on which Jam Haider suggested me to change shirt first. I asked Jam Haider Unar to drive VIGO because of my depressing condition. I came to my flat, changed shirt and took 5 police guards of my father and left for police station *Darkshan* for lodging FIR of the incident. The guards were PC Maqbool Ahmed Brohi, PC Imran Ali Araen, PC Yaseen Jamali, PC Driver Muhammad Rashid Gujar and PC Zaheer Ahmed Rind. Only PC Zaheer Rind had his official SMG

with him since he was performing guard duty at the relevant time while rest were sleeping in tent, I sat at driving seat with Jam Haider and Driver PC Rashid Gujar at rear seat. I left for police station. All the 4 guards were in *Dala* of vehicle. Meanwhile Jam Haider told me that Shahnawaz Shah had called us to his house and Jam Haider also insisted to go to Shahnawaz Shah and I agreed after little resistance. I along with Jam Haider came to house of Shahnawaz Shah where Hamza Iqbal and Sheikh Hamza were also present as called by Shahnawaz Shah to resolve dispute. On inquiry, gate keeper told me that he was not available at his house. I realized that Shahnawaz shah was on talk with Hazma Iqbal on his mobile and I talked to Shahnawaz Shah. Shahnawaz Shah asked me to come to Suleman Lashari's house and promised to conciliate between me and Suleman Lashari and restore me mobile phone and further said that we would jointly complain to the father of Suleman Lashari regarding incident of café Clifton. The house of Suleman Lashari is hardly at a distance of 5 minutes drive from the house of Shahnawaz Shah. At this Jam Haider left for his house and I proceeded towards house of Suleman Mustafa Lashari. I reached the house of Suleman Lashari in about 5 minutes and I saw Suleman Lashari holding pistol and his brother Zeeshan Mustafa Lashari with repeater along with their 4 same Baloach armed guards in black Shalwar Qameez having rifles like weapons in their hands at their main gate. Shahnawaz Shah and Jam Ali were also there as I stopped my VIGO just at some feet from main gate of Lashari's house, Zeeshan Lashari, on noticing us cried and asked his armed men to kill all of us and he fired on VIGO and too Suleman Lashari and other armed men started firing on my

VIGO. I saw Jam Ali ran away on his car whereas Shahnawaz Shah ran inside the house of Suleman Lashari. I fell towards side seat of VIGO to protect myself. I noticed that there was firing on VIGO from roof of Lashari's house also. I then felt that bullet had hit me at my back and I cried for help. I was taken to Ziauddin Hospital by PC Driver Rashid Gujjar. I went semi unconscious for about two days in ICU and when regained consciousness was told by my uncle Tariq that Suleman Lashari and PC Zaheer Rind had been murdered. When I meet my police guards they told me that Zeeshan Mustafa Lashari made fire on Zaheer Rind and he died on spot and Suleman and his armed men made firing on VIGO and they fled from vehicle to save their lives. They also told me that Suleman Lashari also fled to his house. Shahnawaz Shah and jam Ali are not giving true account of facts due to fear and pressure of their parents even for and against either side. I can identify unknown armed persons who were making firing on my VIGO from outside the gate. I also came to know through statement of Zeeshan Mustafa Lashari before police and media that his brother-in-law Rahimuddin, servant Riazat were at roof of their house while guard Ali Ghulam Bugti was at main gate with weapons at the time of incident"

The relative of the complainant submitted application for registration of FIR with the police station on the same night but same was not registered. Application for registration of FIR was submitted to the learned Sessions Judge, Karachi South but same was dismissed. The order of learned Sessions judge was challenged before Honorable High Court of Sindh but same was maintained with observations that adequate and efficacious remedy of private complaint is available with the

complainant. The order of Honorable High Court of Sindh was challenged before Honorable Supreme Court of Pakistan and same was withdrawn as not pressed On 06-02-2015 on instructions of the complainant to file private complaint before this Honorable Court hence this complaint on consideration of following legal grounds

LEGAL GROUNDS ON MAINTAINBLITY

1. That the Honorable High Court of Sindh in Criminal Miscellaneous Application no 59/2014 filed by cousin of the complainant while declining request of the applicant for registration of counter FIR has clearly observed at para no 13 of the judgment "Moreover, at this stage, the lodgment of second FIR shall not serve any useful purpose but on the contrary it will be a deliberate divergence which would be fatal to meet the ends of justice. However, if the accused are not satisfied with the conclusion of the investigation conducted by the police by rejecting their version of the occurrence, they may avail the alternate and efficacious remedy of filing direct complaint".
2. That the complainant and his guards were attacked by the accused side with indiscriminate firing after forming unlawful assembly of more than five persons with common object of killing complainant and his guards. The Honorable Supreme court of Pakistan held in an identical case 1996 SCMR 1417 "S. 337/324/34- Constitution of Pakistan (1973), Art. 185 (3)- High Court in exercise of its Constitutional jurisdiction by means of the impugned order, had restored to the court of Magistrate the Criminal Complaint

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filed by an accused in the police case registered under section 302/324/34, PPC putting his cross-version about the occurrence --Said Criminal complaint had been dismissed by the courts below, but high court was of the view that complainant had made out a prima facie case for summoning the accused (petitioners)--FIR in the police case as well as the criminal complaint both revealed that both the sides had resorted to firing by lethal weapons in the occurrence and each party holding the opposite party as aggressor claimed to have fired in exercise of the right of self-defense—Complainant who had filed the criminal complaint had admittedly sustained a fire-arm injury on his leg- Trial Court which was to hear the police case as well as the complainant case was to decide as to which of the two parties had resorted to aggression---High court by restoring the criminal Complaint had provided opportunity to the both sides to place their respective case before the trial court in proper perspective and whosoever was found guilty could be punished, otherwise accused in the complaint case could not be punished—High Court before restoring the complainant's case had thoroughly examined the evidence led therein and its judgment was just and fair and in any case was not perverse or shocking' so as to call for interference by Supreme Court—leave to appeal was refused in Circumstances"

3. That no FIR has so far been registered against the accused side and complainant has been left with no remedy except to file this direct complainant to seek justice for his deceased

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guard Zaheer Rind and his own injuries which resulted because of indiscriminate firing of accused side with sole object of killing all the persons available in VIGO.

4. That it is fundamental right of the complainant and his guards to have protection and benefit of law as his complaint could be adjudicated according to law on equal footings as provided under article 25 of the constitution of Islamic Republic of Pakistan. The Honorable High Court held in PLD, 1996 30 LAHORE " Cross-Cases—Trial of—Complaint filed by accused containing counter-version of the incident, on which a challan case was already pending before Sessions court, was dismissed by the Magistrate and the revision petition against that order was also dismissed by the sessions court—Both the parties claimed to have fired in the exercise of the right of private defense at the time of occurrence resulting in death of a person on the complainant side and a compound fracture of the leg of one of the accused persons—Both cross-cases containing counter version of the same incident between the same parties under the established principle of law were to be tried by one court and the impugned orders whereby the aforesaid complaint was dismissed had violated that principle—Both the courts have committed an error of law in deciding the matter and had gone outside their jurisdiction conferred on them—Impugned orders were consequently declared illegal and of no legal effect and were set aside and the complaint was restored to the court of magistrate which had sufficient prima facie evidence for summoning the accused and proceeding

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further in accordance with law—constitutional petition was allowed accordingly". In this judgment it was also held that the object of inquiry u/s 202 CrP.c is different than a full dress trial as burden of proof in such inquiry is lighter on complainant as compared to the burden of proof on the prosecution during trial of an offence. The reliance was further placed on 1991 SCMR 1608, PLD 1984 LAH 323, PLD 1987 SC 447, PLD 1974 SC139 AND 1974 SCMR 530.

5. That the court while deciding the point of cognizance on complaint has to restrict its finding to material brought by the complainant and not the state case. In this connection reliance is placed on 2014 PcrLj 1133 & 2012 MLD 209 LAHORE.
6. That the delay has properly been explained that the complainant was pursuing applications up to Honorable Supreme Court of Pakistan for registration of FIR but same was withdrawn as not pressed on 06-02-2015, however law is settled that delay does not bar filing of criminal complaint. Reliance is placed on 2012 PCRLJ LAHORE "S 200- Constitution of Pakistan, Art 199--- Penal Code,-- Anti-Terrorism Act, S 7 (c)...Private complaint...Limitation— complaint of the petitioner had been dismissed by the trial court mainly on ground of delay in filing complaint--- Respondent had been unable to rebut the petitioner's contention that no limitation was provided in the criminal law for filing complaint.. petitioner has been continuously perusing case and in that respect he had also lodged an FIR and on being disappointed from police officials he resorted to filing the private complaint...petitioner has supported his complaint by recording his statement as

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witness, which was corroborated by the statement of other witness—trial court was not justified in dismissing the complaint". In this case reliance was also placed on 2010 SCMR 105.

7. That instant complaint does not create a defense story tainted with malice but an independent and reasonable case against the accused in which one of police guard was killed and complainant himself had sustained fire arm injury at back which is admitted position of the case. On the other hand in challan case the postmortem report of the deceased Suleman Mustafa Lashari makes it clear that he sustained bullet from lateral angle and not parallel as stated in FIR and too it is highly improbable that SMG bullet fired at distance of about ten feet bears no exit wound in human body especially at neck. Again the medical report of the complainant transpires that along with bullet some foreign bodies were recovered from his body which corroborates his statement that he did not come out of his VIGO and this falsifies the version of the accused side available in challan case. Moreover, FSL report of VIGO shows that it receives several bullets both from outside and roof of house of accused side hence strengthens the version of the complainant with natural and independent evidence.
8. That in case cognizance on this complaint is not taken, the complainant would be seriously prejudiced and murder of PC Zaheer and his own injuries would be left unpunished and this would amount to accepting and admitting the contents of FIR No 365/14 as true and correct without adjudication.

9. That law of superior court is settled that in case of counter version cases, both versions should be adjudicated according to law fairly and honestly and such versions be kept at juxtaposition and after fair trial it is to be judged which version is correct. It has further been held from time to time with total harmony that cross-version cases should be tried by same court, at the same time and judgments in both the cases should be pronounced simultaneously. Reliance is place on *Noor Illahi Case PLD 1966 SC 708, PLD 1981 SC 522*. Meaning thereby only this court has jurisdiction to try this complaint otherwise there is every possibility of contradictory and inconsistent judgments and more over as a rule of prudence and in order to meet the ends of justice both the cases should be given equal importance and treatment and this court will be in the best position to determine which side is the aggressor and which agressed upon.

PRAYER

That in the light of above facts it is humbly submitted that statement of the complainant may be recorded at once, and cognizance offences of intentional murder of deceased Zaheer Rind, attempt to murder of complainant and his police guards, causing natural and valuable evidence to disappear, creating fear and sense of insecurity among victims, by forming unlawful assembly armed with deadly weapons, may be taken under section 302,324,427/201,149 PPC R/W section 6/7 of ATA against Zeeshan Mustafa Lashari, Ali Ghulam Bughti, Rahimuddin, Riazat @ Joji and other 4 unknown identifiable armed men.

This will meet the ends of justice.

Zaheer Rind
COMPLAINANT

KARACHI

DATED.17-02-2015

Raza
SUPERINTENDENT
YOUTHFUL OFFENDERS INSTITUTION,

ADVOCATE FOR
THE COMPLAINANT