

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No. 691 of 2025

Applicant : Mst. Alia Rani d/o Rehmatullah, through
Mr. Muhammad Kamran, Advocate

Respondent No.1 : The Senior Superintendent of Police

Respondent No.2 : SHO PS Shershah, Karachi

Proposed Accused : Mst. Sobia w/o Syed Shahzad Ahmed

Date of Hearing : 07.08.2025

Date of Short Order : 07.08.2025

Date of Reasons for
Short Order : 18.08.2025

ORDER

Jawad Akbar Sarwana, J.: On 07.08.2025, this bench passed a Short Order on even date dismissing this Criminal Misc. Application for reasons to be recorded later. Hereinbelow are the reasons for the said Short Order.

The applicant, Mst. Alia Rani, aggrieved by the impugned Order dated 21.07.2025 passed by the Ex-Officio Justice of Peace, Karachi West preferred this Cr. Misc. Appln. against the respondent, Mst. Sobia. Counsel for the applicant claims that the respondent-proposed accused, Mst. Sobia, who is the owner of a beauty parlour, "Areeza Beauty Parlour", at some point unknown to the applicant, while she was in a state of undress inside the dressing room of the said beauty parlour, allegedly secretly took photos of Mst. Alia Rani. Thereafter, apparently on 08.07.2025, the respondent-proposed accused showed the compromising photos stored on her smartphone to the applicant and allegedly attempted to blackmail her to work for the respondent-proposed accused in a "porn racket". On 09.07.2025, the applicant claims she couriered a written complaint to the SSP Complaint Cell West but when there was no response, on 11.07.2025, she filed an application under Section 22-A Cr.P.C. before the Ex-Officio Justice of Peace seeking directions to have her statement recorded by the Police

Authorities, to lodge an FIR against the respondent-proposed accused and sought police protection from the Official respondents.

During the hearing, the Ex-Officio Justice of Peace called for a report from the concerned SHO. The SHO twice, the first time apparently on his own, and then again (second time), on the directions of the Ex-Officio Justice of Peace, as recorded in the impugned Order, accessed the respondent-proposed accused smartphone. On both occasions, the record reflects that he found neither photos nor videos of the applicant in the smartphone of the proposed accused Respondent. The respondent-proposed accused also denied the allegations averred by the applicant before the Ex Officio Justice of Peace. But the applicant-complainant was not satisfied, and when the Ex Officio Justice of Peace ultimately dismissed the applicant-complainant's application, the applicant filed this application under Section 561-A Cr.PC.

Heard Counsel. According to the title page of the application, both the applicant's residence and the respondent-proposed accused beauty parlour are located on Urdu Bazar Road, Sher Shah Colony, District West, Karachi. The applicant lives on Street 71, Block "C", whereas the respondent-proposed accused carries on the business of a beauty parlour on Street 70 in Block "B". Thus, the information suggests they may know each other. The applicant has alleged that she was forced to work at the beauty parlour by the respondent-proposed accused, but she provided no information about the timeline. According to the applicant's narration, there is no information regarding the date when the respondent-proposed accused allegedly took pictures of the applicant. The time lapsed between the taking of photos and 08.07.2025, when the proposed accused showed the applicant the alleged photos, is also not disclosed by the applicant. Yet, within 24 hours of having been shown the photos, the applicant did not approach the concerned P.S. to lodge a criminal complaint; instead, she couriered a complaint to SSP Complaint Cell West. Further there is no information on how the applicant uncovered within 24 hours between

08.07.2025 and 09.07.2025, the alleged illegal “porn racket” of the proposed accused, including that the latter had already made several videos of other innocent women, etc. Further, the applicant’s averment that the proposed accused threatened to make the applicant’s compromising photos/video viral has not materialized. No information has been provided to support it.

The Ex-Officio Justice of Peace has given his reasons for rejecting the application in the impugned Order, and an FIR doesn't need to be lodged in each and every complaint. The private parties knew each other, operating in the same locality. The information brought on record does not inspire confidence as to its bonafide. Nothing has been brought forward by the applicant side or filed any affidavit of witness in support of her claim that the respondent-proposed accused has committed any cognizable offence. No such information is available on record. As such, I do not find any defect in the impugned Order.

Before parting with the lis, it may be mentioned here that accessing data hidden within files and sub-files on smartphones is a specialised task and requires, training, skill and expertise. While the Police Authorities examined the respondent-proposed accused smartphone, the said exercise was not carried out by an expert in electronic forensics. Such exercise is better suited to be carried out by a competent officer of the National Cyber Crimes Investigation Agency (“NCCIA”), which is an independent statutory body distinct from the now dissolved Cyber Crime Wing of the FIA regulated under the Pakistan Electronic Crimes Act (“PECA”), 2016 as amended by the Prevention of Electronic Crimes (Amendment) Act, 2025 which came into effect on 29.01.2025. PECA, 2016, as duly amended by the 2025 amendment, sets out the detailed procedure for filing a complaint with NCCIA in matters involving offences, such as section 20 (“Offences against dignity of a natural person”), section 21 (“Offences against modesty of a natural person and minor”), etc. In the case at hand the applicant approached the police authorities under the general law.

Thereafter, presumably after consulting legal counsel, she opted to implead the police authorities in the application filed before the Ex-Officio Justice of Peace. Therefore, as part of her legal strategy, she selected to proceed against the respondent-proposed accused, first, under the provisions of the PPC read with the Cr. P.C., inasmuch as she could have also triggered recourse under PECA, 2016, approached the NCCIA, and filed with them a complaint against the proposed accused. The remedies available under the two regimes, PPC and PECA, 2016, are different, and so is the level of expertise of the concerned officer required to investigate offences involving digital and electronic crimes available to the complainant. Based on principles of law articulated in a reported Judgment of a Single Judge who was later elevated to the Supreme Court of Pakistan, dealing with a matter involving a bounced cheque balancing the two competing remedies under Section 489-F and Section 20 of the Financial Institution (Recovery of Finances) Ordinance, 2001, it is arguable that even now the applicant-complainant can avail the remedy under PECA, 2016, in addition to the remedy already available under the PPC, as criminal and civil proceedings can run side by side.¹

Given the above, on 07.08.2025, I dismissed the above-titled application by way of a Short Order, and the above are the reasons for such dismissal.

J U D G E

¹ *Muhammad Mazhar Iqbal v. The State and Another*, PLD 2011 Lahore 306, paragraphs 8 and 9 (Ijaz Ahmed Chaudhry, CJ, Lahore High Court) read in the light of *Agricultural Workers Union v. The Registrar of Trade Unions*, 1997 SCMR 66, 81 (para 18). Weightage of Judgments by a Single Bench of the High Courts. Cases decided by High Court Judges who were subsequently elevated to the Supreme Court, which were neither approved nor disapproved by the Supreme Court, were entitled to the highest consideration and respect as and when such cases come up for consideration before the Supreme Court. Also see 2008 SCMR 839.