

IN THE HIGH COURT OF SINDH KARACHI

Crl. Misc. Application No.613 of 2025

Crl. Misc. Application No.615 of 2025

Applicants: i. Hameedullah Rind
ii. Ameer Ali Merani
iii. Saleem Jan
through Mr. Mudassir Khan, Advocate

Applicants: i. Muhammad Amin Khoso
ii. Syed Farasat Hussain
iii. Adeel Ahmed Shah
through Mr. Arifullah Khan & Zeeshan Ajmal,
Advocates

The State: through Mr. Muhammad Noonari, D.P.G. Sindh
alongwith Ameer Ali Mirani, Assistant
Commissioner, Ibrahim Hyderi, Hameed Ullah
Rind, Mukhtiarkar, Ibrahim Hyderi, PI Amin
Khoso, SHO PS Sachal, PI Farasat Shah, SHO PS
Malir City & PI Adeel Ahmed Shah, SSP Office,
Malir

Date of hearing: 26.09.2025

Date of Judgment: 01.12.2025

ORDER

Dr. Syed Fiaz ul Hassan Shah, J.- By this consolidated order, I intend to dispose of both Criminal Miscellaneous Applications filed by the applicants challenging the Order dated 10.07.2025 ("**impugned Order**") passed by the learned IVth Additional Sessions Judge / Ex-Officio Justice of Peace, Malir, Karachi (the "**Trial Court**"). Through the impugned Order, the Station House Officer (**SHO**), Police Station Shah Latif Town, was directed to record the statement of the private respondent, Sheeraz Khan, under Section 154 of the Criminal Procedure Code (**Cr.P.C.**). If the statement discloses the commission of a cognizable offence, the SHO shall proceed strictly in accordance with law. However, if it is found to be false, appropriate legal

action shall be initiated against the respondent under Sections 182 and 211 of the Pakistan Penal Code, 1860 (**PPC**).

2. The brief facts of the case are that Respondent Sheeraz Khan claimed as a lawful leaseholder/ licensee of Pakistan Railway's land situated near Jumma Goth Station Yard, Ibrahim Haideri Sub-Division, District Malir, Karachi. The leased property comprises 12 acres designated for cattle farming (Plot Nos. A, B, C, D – Part-I) and 82 acres for cultivation purposes (Plot Nos. A, B, C, I, J – Part-II), as duly reflected in the approved Plan No. 24/P&L/KYC/24. It is alleged that despite submitting prior applications, including one dated 26.11.2024 addressed to Pakistan Railways, the Respondent was subjected to continuous harassment by revenue officials, police personnel, and members of the Anti-Encroachment Force. It is further alleged that Beat Tapedar Saleem Jan demanded illegal gratification of Rs. 2,000,000/-, of which Rs. 300,000/- was paid through a third party. Upon refusal to pay the remaining amount, a false FIR No. 1681/2024 was registered against the Respondent under Sections 447/34 of the Pakistan Penal Code (PPC) at Police Station Shah Latif Town, which was subsequently declared as 'C' class.

3. On 25.04.2025, it is further alleged that the proposed accused persons, in collusion with their subordinates, unlawfully entered the Respondent's land using police mobiles, government vehicles, tractors, and heavy machinery. They allegedly demolished the boundary walls of the cattle farm and caused extensive financial loss amounting to Rs. 10,000,000/-, despite being shown valid legal documents by the Respondent and his counsel. Subsequently, another FIR No. 541/2025 was registered at Police Station Shah Latif Town under Sections 447, 186, 147, 149, 506, 504, and 427 PPC against unknown persons, allegedly to shield the actual perpetrators. The Respondent also approached the Pakistan Railway Police Station, Landhi, through an application dated 26.04.2025, but no action has been taken to date. Consequently, the Respondent filed Criminal Petition No. 1567/2025 before the Trial Court, which resulted in the impugned Order now challenged by the Applicants.

4. I have heard the Counsel for Applicant, Complainant and State Prosecutor and with their assistance perused the record.

5. The Applicants, being public officers, have challenged the impugned Order passed by the learned Justice of Peace. It is observed that the Order passed by a Justice of peace is not amenable to the inherent jurisdiction under Section 561-A of the Criminal Procedure Code, 1898 being does not qualify as a judicial order within the meaning of Section 6 Cr.P.C., having been issued by a quasi-judicial forum. Upon being confronted, learned counsel for the Applicants submitted that Applicants were performing their official duties in good faith, and that two FIRs concerning the same subject matter had already been registered. He further contended that the learned Ex-Officio Justice of Peace failed to consider this aspect, despite being empowered under Section 22-A (6) Cr.P.C. to oversee and regulate the investigative process and this aspect of pendency of investigations on same subject matter and same allegations coupled with the fact that the impugned order has passed in violation of settled principle of Apex Court, it can be considered in the present application under the inherent jurisdiction as it involves investigation in already pending criminal cases and Respondent's conduct amounts to abuse of process, therefore, the matter warrants consideration under the Court's inherent jurisdiction. The contention of learned Counsel for the Applicant carries weight. Apparently, the impugned Order has passed in violation of supervisory power of investigation and the dictum laid down by the Supreme Court of Pakistan in *Sugra Bibi v. State* (PLD 2018 SC 595). Failure to exercise jurisdiction warrant consideration under the inherent jurisdiction of this Court.

6. From the record, it appears that Respondent No.4 claims the lawful possession in respect of land situated at Jumma Goth having Plot No. A, B, C & D Part-I (disputed land) on the basis of a five-year lease granted by Pakistan Railways for the purposes of cattle farming and agricultural cultivation through a public bid. On other hands, the Applicants, along with other Revenue officials, issued a notice for removal of alleged encroachment claiming that the land belongs to Government of Sindh and denied the ownership or entitlement of Pakistan Railway. In response, and as a

counterblast, Respondent No.4 filed an application with the local police and subsequently approached the Justice of Peace under Sections 22-A & B Cr.P.C., seeking registration of an FIR against the Applicants for alleged forcible action and damage to the property in question.

7. Learned counsel for Respondent No.4 has relied upon various documents issued by Pakistan Railways to assert possession of the disputed property; however, these documents fail to establish lawful ownership in the absence of any supporting revenue record. Under the Land Revenue Act, 1967, ownership of immovable property must be reflected in the record-of-rights and substantiated through proper demarcation and survey, which are conspicuously missing in this case and their absence undermines the credibility of Respondent No.4's claim. The lack of a survey number, Deh identification, and demarcation by the Survey Superintendent, Karachi Division, Karachi further complicates the matter.

8. The concept of Revenue land, rooted in post-colonial legal reforms, underscores the primacy of official land records in determining ownership and possession. Historically, during the British colonial period (1880–1920), land classification and survey systems were introduced in the subcontinent, resulting in the creation of survey numbers, its measurement (area of land) and ownership entries with proper name and parentage, while un-surveyed lands—commonly referred to as *Na-class*—were designated as State property. Under the Land Revenue Act, 1967, the record-of-rights forms the cornerstone of land ownership, and any conveyance or transfer of land must be predicated upon a valid Revenue Entry. The Qanun-e-Shahadat Order, 1984, establishes a presumption of truth in favor of official revenue records, which can only be rebutted by strong, cogent, and convincing evidence. This principle was affirmed in *Nawab Khan v. Said Karim Khan* (1997 SCMR 1840) and reiterated in *Mst. Sharif Zadgai v. Provincial Government* (2024 YLR 2303), emphasizing the evidentiary sanctity of revenue records.

9. The absence of any Revenue Entry in favor of Pakistan Railways, coupled with the failure of both Counsel for Complainant and the State Prosecutor to produce such documentation, casts serious doubt on the legal

entitlement of Pakistan Railways to the disputed land. Mere departmental documents or claims of allotment do not suffice to establish ownership unless they are duly reflected in the Revenue record. The rationale behind this legal requirement is to ensure transparency and safeguard the rights of the rightful owner, whose title is traceable through an unbroken chain of transactions—whether by conveyance, transfer, or inheritance—recorded in official Revenue land registers. Even any registered conveyance or transfer based on fictitious or Revenue Entry contradictory to official record of rights deem void under revenue law and therefore, the Revenue laws enacted quasi-judicial hierarchy within Revenue Department to cancel such fictitious entry notwithstanding the registration of sale or conveyance or any other title deed which can only be cancelled by a Decree of Civil court. This formality serves as a protective mechanism against fraudulent claims and overlapping interests, reinforcing the integrity of the Revenue system as the definitive source of land ownership.

10. Civil and criminal proceedings are fundamentally distinct in their features, scope, and objectives. The purpose of **criminal proceedings** is to punish an offender for the commission of an offence, whereas the object of **civil proceedings** is to declare or enforce legal rights. Because of these differences, both proceedings can coexist and run simultaneously without any legal restriction. The Supreme Court of Pakistan has consistently held that the pendency of a civil case does not bar the continuation of criminal proceedings, nor can criminal proceedings be quashed merely on this ground. This principle has been affirmed in a long line of cases, including *Gulam Muhammad v. Muzamal Khan* (PLD 1967 SC 317), *Mohsin Ali v. The State* (1972 SCMR 229), *Abdul Rehman v. Muhammad Hayat Khan* (1980 SCMR 311), *DIG Police v. Anees ur Rehman* (PLD 1985 SC 134), *Marghoob Alam v. Shams-uddin* (1986 SCMR 303), *Talab Hussain v. Anar Gul Khan* (1993 SCMR 2177), *Bashir Ahmed v. Zafar ul Islam* (PLD 2004 SC 298), *Haji Sardar Khalid v. Muhammad Ashraf* (2006 SCMR 1192), and *Rafiq Bibi v. Muhammad Sharif* (2006 SCMR 512). Moreover, a guiding principle is elaborated that the element of mala fide intent is particularly scrutinized where a civil case is filed subsequent to

criminal proceedings. Courts must carefully examine whether the civil action is malafide intended to undermine the criminal process. This principle has been endorsed in *Syed Mohammad Ahmad v. The State* (1972 SCMR 85) and *Seema Farid v. The State* (2008 SCMR 839).

11. Judicial Discretion to Stay Criminal Proceedings—in *Mohammed Akbar v. The State* (PLD 1968 SC 281), the Supreme Court clarified that there is **no absolute rule** requiring criminal proceedings to be stayed pending the outcome of a civil suit. The matter rests entirely within judicial **“discretion”**. The guiding consideration is whether continuation of the criminal case would cause prejudice. In disputes involving title or ownership, where a clear distinction can be drawn between a bona fide civil claim and alleged criminal conduct, courts may exercise discretion to stay criminal proceedings. This principle has been consistently applied in subsequent cases, including *N. Manak Ji v. Fakhar Iqbal* (1969 P. Cr. L.J 411), *Muhammad Tufail v. The State* (1979 SCMR 437), *Abdul Haleem v. The State* (1982 SCMR 988), *A. Habib Ahmad v. MGK Scott Christians* (PLD 1992 SC 353), *Ahmad Saeed v. The State* (1996 SCMR 186), *Sheraz Ahmad v. Fayyazuddin* (2005 SCMR 1599), *Akhlaq Hussain Kayani* (2005 SCMR 1835), *Abdul Ahad v. Amjad Ali* (PLD 2006 SC 771), and *Jamal Khan v. Secretary Home Department* (2021 SCMR 468).

12. This Principle of Judicial Discretion in Concurrent Proceedings has further elaborated by Supreme Court in its recent Judgments. In *Dr. Sikandar Ali Mohyuddin v. SHO and others* (2021 SCMR 1486), the Supreme Court reiterated the settled principle that it is within the **discretion of the court** to allow civil and criminal proceedings to continue side by side. The guiding consideration is whether such concurrency rests upon a cogent foundation. Subsequently, in *Salman Ashraf v. Additional District Judge Lahore and others* (2023 SCMR 1292), the Court further elaborated that criminal proceedings may be stayed where criminal liability is dependent upon, or intimately connected with, the outcome of civil proceedings, and where it is difficult to distinguish between a bona fide civil claim and the alleged criminal act. In contrast, in *Syed Mohammad Ahmad* (supra) and *Seema Farid* (supra), the Court emphasized that where a civil case is filed

after the initiation of criminal proceedings, the court must carefully examine the element of mala fide. This principle is not rigid or static; rather, it is flexible and applied on a case-to-case basis. For instance, if criminal liability clearly depends upon the outcome of civil proceedings, then the mere fact that a civil case was filed subsequent to criminal proceedings would not, in itself, justify staying the criminal trial—unless mala fide intent is established. In furtherance of these principles, the Hon’ble Supreme Court in *Salman Ashraf* (supra) distinguished the ratio in ***Zahida Sattar v. Federation of Pakistan* (PLD 2002 SC 408)**, holding that the trial of issues in a civil suit could amount to a trial of a criminal charge by a civil court, despite cognizance having already been taken by a criminal court of exclusive jurisdiction under a special law. In *Zahida Sattar* (supra), the suit was filed against the freezing of Benami/ostensible properties by NAB under NAO, 1999, rather than seeking remedy within the statutory framework of that special law, on the analogy that NAO does not provide relief for an ostensible owner. The dictum therein carved out a limited avenue for an aggrieved party claiming property in his or her own right to challenge a freezing order of NAB before the Accountability (Criminal) Court instead of filing a civil suit. Importantly, this principle does not relate or dilute or affect the guiding principles earlier laid down in *Muhammad Akbar* (supra), and subsequently elaborated and endorsed in *Dr. Sikandar Ali Mohyuddin* (supra) and *Salman Ashraf* (supra).

13. The third guiding principle concerns the scope of civil jurisdiction. Section 9 of the CPC mandates that civil courts must try every suit of a civil nature unless a statute expressly or impliedly bars such jurisdiction. Under Order VII, Rule 11(d) CPC, a plaint may be rejected where a statutory bar exists. This determination rests solely on national law, and courts may not rely on foreign jurisprudence in this regard. In contrast, criminal law explicitly provides mechanisms to stay or quash criminal proceedings. Criminal jurisprudence allows for statutory avenues to halt or suspend criminal trials in appropriate circumstances, whereas civil proceedings cannot be barred merely because criminal proceedings are ongoing. A comparative analysis of civil and criminal law reveals potential challenges

when concurrent proceedings occur. If civil and criminal trials run simultaneously, and the criminal case results in a conviction while the civil case grants rights or declarations to the same person, it creates conflicting findings. Such contradictions threaten the consistent administration of justice and violate the doctrine of consistency in judicial determinations. The established principle of jurisdiction further distinguishes the roles of civil and criminal courts. A civil court's judgment or decree regarding rights, title, interest, or status is final and can significantly affect elements of an offence under criminal trial. Conversely, findings made by a criminal court about facts constituting an offence have no bearing on civil proceedings related to rights, enforcement, or declarations of obligations. This distinction is particularly clear when a civil court's decree or direction issued in writ jurisdiction, based on facts and documents considered during civil proceedings, cannot be re-litigated in criminal trials. Such findings remain binding unless legally set aside through appropriate judicial processes.

14. As will be familiar to most, the standard of proof in a civil case is the balance of probabilities. A claimant will succeed in its case if it can show that it is more likely than not that the alleged events occurred. Criminal cases are tried to a higher standard of proof, with allegations needing to be proved beyond reasonable doubt, or so that the jury is sure. The general rule was established in *Hollington v F. Hewthorn & Co* [1943] KB 587: the findings of courts, tribunals and inquiries are not admissible in subsequent proceedings. The reason for this is that findings of fact by one decision maker cannot bind the decision maker in a subsequent trial, where there may be different evidence. In United Kingdom the law of evidence for the purposes of trial in criminal cases and adjudication in the civil cases are different. In contrast under the Pakistani legal system, the **unified law of evidence** for the purposes of criminal trial or adjudication of civil cases or corporate or company matters, is operative i.e. Qanun-e-Shahadat Order, 1984 unless specifically provided in any parental statute on substantial law. Therefore, after the finding of fact or adjudicated document(s) cannot reopen for trial on that particular fact in issue or judicial determination.

15. Accordingly, four clear thematic guiding principles stand enunciated and elaborated by the Supreme Court in the aforesaid line of judgments, and finally reaffirmed in *Dr. Sikandar Ali Mohyuddin* (supra) and *Salman Ashraf* (supra). These principles are: (i) the exercise of judicial discretion in permitting concurrent civil and criminal proceedings; (ii) the careful scrutiny of bonafide or mala fide of both proceedings and cogent foundation; (iii) the jurisdictional principles governing the competence of civil courts vis-à-vis statutory bars; and (iv) the test of doctrine of conflict of findings while ensuring consistency and to safeguard the administration of justice.

16. A further in-depth analysis suggests that trial in criminal jurisprudence must rest on the **totality of circumstances**, not on isolated elements such as a single answer or a remark made in cross-examination. The Supreme Court of Pakistan in *State v. Rab Nawaz and another* (PLD 1974 SC 87) held that a criminal case must be assessed holistically, with due regard to the cumulative impressions drawn from the entire factual matrix. This holistic approach prevents undue emphasis on singular aspects of testimony and ensures that justice is guided by a comprehensive evaluation of all relevant evidence and surrounding circumstances. The standards of proof in civil and criminal proceedings are fundamentally distinct: civil liability is determined on the basis of a preponderance of probability, whereas criminal liability requires proof beyond reasonable doubt. The latter standard, owing to the grave consequences of conviction, erects a barrier against erroneous condemnation and demands a moral certainty that must convince the tribunal or court, as would a prudent person, beyond all reasonable doubt. Therefore, the paramount consideration is not merely the subject matter or the underlying transaction but the point at which civil and criminal proceedings intersect, particularly where determinative findings in a civil court directly affect criminal liability.

17. This distinction is reflected in the separate concepts of **admissibility** and **credibility** of evidence: admissibility is a threshold question of legal status, while credibility concerns the truthfulness and reliability of testimony or records. In the present case, the prosecution's or Respondent/complainant

reliance on oral testimony and official entries cannot, as a matter of law, substitute for a determinative assessment of ownership rights. Ownership and title are matters that flow from the Revenue record—beginning with the Revenue Entry and its chain of entries and encompassing transactions such as inheritance, gift, sale or conveyance, or otherwise through allotments made by the Government under the Colonization Act, 1912. A criminal court, bound by the prosecution’s static burden to prove guilt beyond reasonable doubt, cannot resolve questions of title or ownership in the absence of civil adjudication. Statements recorded under **section 342 Cr.P.C.** are explanatory in nature and cannot be used to fill evidentiary gaps for the prosecution or as a means of collecting evidence for its case. The option under **section 340(2) Cr.P.C.** is not binding on the accused and does not preclude the accused from giving evidence or calling witnesses in defence. Consequently, where an accused elects not to produce evidence under section 340(2), the mandatory recording of his statement under section 342 cannot, in law, be treated as admissible evidence or as a measure of credibility; it remains confined to explanation of circumstances and cannot substitute for substantive proof. The evidentiary value of section 342 Cr.P.C. is therefore limited and does not afford the prosecution any advantage in meeting the standard of proof beyond reasonable doubt.

18. In summation, I humbly observe that the matter rests in the realm of judicial **discretion**, to be exercised judiciously, and where a comparative examination of civil and criminal proceedings, satisfies the criteria of any such principle, the civil case may prevail and the criminal proceedings may be stayed, in line with the legislative intent.

19. Given these deficiencies, and in light of the DSP’s report highlighting the complexity of the issue, it is evident that the question of ownership and possession can only be conclusively determined by a competent Civil Court. Pakistan Railway’s claim of ownership is rebutted by the Government of Sindh. A mere Notification of the Federal Government cannot, by itself, establish ownership for purposes of criminal liability. The absence of any Revenue Entry or title deed raises a serious controversy which lies within the exclusive domain of the civil court. Such implication falls short of the

requirements of the criminal justice system. Consequently, I partly dismissed the instant application and leave the complaint of Respondent at the wisdom of the SHO concerned to decide it while partly allowing the instant application, I direct that the criminal proceedings (including arrest, remand, charge or trial) arising out of any of the FIR No. 1681/2024 & FIR No.641/2025 on the same subject-matter or same transaction which include any FIR emanate from the complaint of Respondent, shall remain **stayed** until the final adjudication and determination of ownership rights in the civil proceedings already pending before the competent court.

20. Office is directed to communicate this order to all the concerned Trial Courts, Judicial Magistrate, VIth Senior Civil Judge trying Suit No.3752 of 2025 as well as to DIG East Zone, Karachi, SSP Malir and SSP (Investigation-II), Malir, East Zone, Karachi, for compliance.

J U D G E