

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Miscellaneous Application No. S- 288 of 2025

(Ali Dino Solangi & others Vs. Mst. Nazia Solangi and others).

Applicant(s): Ali Dino, Ghulamullah @ Ghulam Muhammad, Mst. Maryam and Mst. Naina @ Ume Kalsoom through Mr. Javeed Ahmed. Advocate.

Respondents: Mst. Nazia *through* Mr. Manzoor Ali Kalhoro Advocate.

Station House officer Police Station Civil Line Larkana and others *through* Mr. Aitbar Ali Bullo, Deputy Prosecutor General, Sindh.

Date of Hearing : 08.09.2025.

Date of Decision : 08.09.2025.

ORDER

Ali Haider 'Ada'.J:- Through the instant application, the applicants have assailed the order dated 07.08.2025, passed by the learned Additional Sessions Judge-IV/Ex-Officio Justice of Peace, Larkana, in Criminal Miscellaneous Application No. 1248 of 2025, whereby the application filed by Respondent No.01 was allowed, directing the concerned SHO to record her statement in the relevant register under Section 154, Cr.P.C.

2. The nutshell of the case is that Respondent No.1 filed an application under Sections 22-A and 22-B, Cr.P.C, wherein she annexed her proposed F.I.R. and alleged that due to maltreatment at the hands of the present applicants, she suffered a miscarriage. It is pertinent to mention here that Applicant No.1 is her husband, whereas Applicants No.2 to 4 are the brother and sisters of Applicant No.1. The learned Ex-Officio Justice of Peace entertained the said application and, subsequently, passed the impugned order, which is now under challenge through the instant proceedings.

3. Learned counsel for the applicants submits that, prima facie, the facts narrated in the proposed F.I.R. do not constitute commission of any cognizable offence. He points out that the so-called proposed F.I.R. annexed by Respondent No.1 was in fact her application addressed to the SSP, District Larkana on 31.07.2025, alleging that due to maltreatment and assault by the present applicants, she suffered a miscarriage of her two-month pregnancy.

Learned counsel contends that this application was a managed and motivated attempt, filed after Respondent No.1 was confronted with the medical proceedings initiated by Applicant No.1. He explains that Applicant No.1 had earlier moved an application before the Women Medical Officer regarding the miscarriage of the child, whereupon the police called Respondent No.1 and recorded her statement on 11.05.2025. In that statement, she did not support the allegations of maltreatment or assault, but rather admitted that the miscarriage occurred due to weakness and not on account of any overt act of the applicants. Learned counsel emphasizes that despite this categorical statement, the learned Ex-Officio Justice of Peace proceeded to pass the impugned order mechanically, without adverting to the medical evidence available on record. He, therefore, prays that the impugned order be set aside.

4. Conversely, learned counsel for Respondent No.1 argues that prima facie an offence is made out, and the applicants are directly responsible for the miscarriage. He submits that the statement dated 11.05.2025 allegedly recorded by the police does not reflect the true version of Respondent No.1, as the police only obtained her signature/thumb impression without reading out or recording her statement verbatim. Learned counsel maintains that her subsequent application before the SSP, which clearly narrates the allegations of maltreatment, carries greater evidentiary weight than the disputed statement dated 11.05.2025. He, therefore, prays for dismissal of the present application.

5. Learned D.P.G, appearing on behalf of the State submits that while, generally, if commission of a cognizable offence is disclosed, it is the statutory duty of the police under Section 154, Cr.P.C. to register an F.I.R., the Court, while exercising powers under Sections 22-A and 22-B, Cr.P.C., is also bound to consider whether the applicant has approached the forum with clean hands. He points out that Respondent No.1 had already made a statement on 11.05.2025, wherein she attributed her miscarriage to natural weakness and not to any assault. The subsequent application dated 31.07.2025, moved after an unexplained delay, did not disclose this earlier version, which prima facie amounts to concealment of material facts. Learned D.P.G. further submits that in order to bring an offence under Section 338, P.P.C. (Isqat-i-Haml) on record, medical jurisprudence requires that there must be some external marks of violence or bleeding from vaginal tract resulting from use of force. Reliance is placed on Modi's Medical Jurisprudence 26th Edition, (Chapter 35, Abortion,

Medical Termination of Pregnancy and Female Foeticide), which categorically notes that miscarriage caused by assault ordinarily leaves external or internal injuries. In the present case, the medical officer found no such signs of violence. Hence, the impugned order, being contrary to medical evidence and passed in a mechanical manner, deserves to be set aside.

6. Arguments heard. Record perused.

7. The Ex-Officio Justice of Peace is not to function as a mere *post office*, whereby every application is mechanically transmitted to the police authorities for compliance. Judicial norms demand that before issuing any direction under Sections 22-A and 22-B, Cr.P.C, the Justice of Peace must apply his judicial mind to the facts and circumstances of the case, assess whether a *prima facie* cognizable offence is disclosed, and ensure that the process of law is not misused for ulterior motives.

8. It is a settled proposition of law that the jurisdiction of an Ex-Officio Justice of Peace under Sections 22-A and 22-B, Cr.P.C, is not unlimited or mechanical in nature. Whenever such powers are exercised, it is the prime obligation of the forum to pass findings and orders strictly within the ambit of law, while applying a judicious mind to the facts and circumstances of the case. Acting mechanically or in a routine manner defeats the spirit of judicial norms and encourages misuse of the criminal process. In this context, reliance is placed on the case of *Mir Wais vs Naseebullah and 3 Others* 2024 MLD 462, wherein it had been held that:

By comparing the abovementioned provisions of the Criminal Procedure, it is abundantly clear that in section 154, Cr.P.C, the word shall have been used while in section 22-A(6), Cr.P.C the word may have been used, which manifests the intention of the legislature that the Justice of Peace is still left with discretion to pass an order for the registration of FIR that's too in appropriate/certain cases.

Proceedings before the Justice of Peace are quasi-judicial and are not executive, administrative or ministerial to deal with the matters mechanically rather, the same is quasi-judicial powers in every case before his demand discretion and judicial observations, and that is too after hearing the parties.

9. It has unfortunately become a common practice that parties, in order to create pressure upon their adversaries, invoke the jurisdiction of the Justice of Peace through applications under Sections 22-A and 22-B, Cr.P.C, without

disclosing real and truthful facts. Such applications are often general in nature, lacking cogent reasoning or reliable material, and are filed merely to set the law enforcement agencies into motion. Entertaining such applications without due scrutiny results not only in harassment of the opposite party but also in unnecessary burden upon the criminal justice system. Therefore, when a person approaches the Justice of Peace, it becomes the prime responsibility of the forum to examine whether the application discloses commission of a cognizable offence, and whether the applicant has approached the Court with clean hands. Relief cannot be granted on vague, mala fide, or pressure-driven allegations. Only in cases where a clear cognizable offence is made out and the police has failed to perform its statutory duty, can the Justice of Peace justifiably issue directions under Section 154, Cr.P.C. Reliance is placed upon the case of *Akbar Harifal and another vs Zahid Noor and 3 others* 2022 YLR 953.

10. No doubt, recording of a statement is a fundamental right of a complainant, but such a statement must be truthful, consistent, and based upon the applicant's own version. In the present case, however, Respondent No.1 has not approached the forum with clean hands. At the first instance, in her statement recorded on 11.05.2025, she attributed her miscarriage to weakness and natural causes, whereas in her subsequent application addressed to the SSP, Larkana, on 31.07.2025, she introduced an altogether improved and contradictory version, alleging maltreatment at the hands of the applicants. This material contradiction was not disclosed in her application under Sections 22-A and 22-B, Cr.P.C., which amounts to suppression of facts and mala fide conduct. Furthermore, it is an admitted position that the matter essentially arises out of matrimonial discord between the parties. During the course of arguments, learned counsel for Respondent No.1 candidly submitted that proceedings for *Khula* are already pending before the competent Family Court. This strengthens the inference that the criminal machinery has been invoked as a tool of pressure in the backdrop of strained matrimonial relations, rather than for redressal of a genuine grievance.

11. It has been observe that there are numerous precedents wherein the Hon'ble Superior Courts have deprecated the misuse of provisions of Sections 22-A and 22-B, Cr.P.C. It is the prime duty of the Court to ensure that such provisions are not invoked as instruments of harassment or to settle personal scores. Applications under these provisions should not be entertained lightly,

nor should directions be issued in a mechanical manner for registration of F.I.R., initiation of investigation, or prosecution of the accused, without due judicial scrutiny. It is a settled principle of law that each case must be decided on its own peculiar facts and circumstances, and the Justice of Peace is bound to apply judicial mind to determine whether a prima facie cognizable offence is made out. In this regard, reliance is placed upon the case of *Munawar Alam Khan v. Qurban Ali Malano and others* (2024 SCMR 985), wherein the Hon'ble Supreme Court was pleased to hold that:

4. Having heard the petitioner and scanned the material available on the record, we observe that there are many precedents regarding misuse of provisions of Sections 22-A and 22-B, Cr.P.C. and it is the prime duty of the Court that such misuse be taken care of and application filed should not be lightly entertained and decided in a mechanical manner for issuing direction to the police to lodge an FIR, conduct investigation in the matter and prosecute the accused. It is a settled principle of law that each and every case is to be decided on its own peculiar facts and circumstances and inference in this regard can be drawn from the cases reported as Rai Ashraf and others v. Muhammad Saleem Bhatti and others (PLD 2010 SC 691), Trustees of the Port of Karachi v. Muhammad Saleem (1994 SCMR 2213) and The State v. Mushtaq Ahmed (PLD 1973 SC 418).

8. Under the circumstances, we are clear in our mind that the trial Court has taken into consideration all material aspects of the matter, either legal or factual, and has rightly dismissed the application filed by the petitioner under Sections 22A(6)(1) and 22-B, Cr.P.C. on the ground that the same is tainted with males fide, that order has been upheld by the High Court through the impugned order. The petitioner has failed to persuade us to interfere in the well-reasoned orders passed by the fora below.

12. For the foregoing reasons, and after careful consideration of the facts and submissions advanced by the learned counsel for the parties, it is evident that the application filed by Respondent No.1 before the learned Ex-Officio Justice of Peace was frivolous and misconceived. Consequently, the instant application is allowed, and the impugned order dated 07.08.2025 passed by the learned Additional Sessions Judge-IV/Ex-Officio Justice of Peace, Larkana, is hereby set aside. Accordingly, the instant application stands disposed of in the above terms.

JUDGE