

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

C.P No. D-1382 of 2025

along with
C.P No.D-1388 of 2025

**PRESENT: Mr. Justice Muhammad Saleem Jessar
Mr. Justice Nisar Ahmed Bhanbhro**

- Petitioner**
Dost Ali Solangi
son of Din Muhammad
in C.P No.D-1382 of 2025

:

Through Mr. Nazeer Ahmed Junejo,
Advocate
- Petitioner**
Meeran Khan
son of Haji Khan Solangi
in C.P No.D-1388 of 2025

:

Through M/s. Ghulamullah Memon
& Muhammad Ayaz Mari, Advocates
- Respondents No.1 to 4**
in C.P No.D-1382 of 2025

:

Through Mr. Ali Raza Baloch, Addl.
Advocate General, Sindh & M/s.
Zulfiqar Ali Jatoi & Aftab Ahmed
Shar, Addl. Prosecutor Generals,
Sindh along with Abdul Majeed
Arain, I.O of Crime No.170/2025 of
P.S Moro, SIP Ali Akber Khokhar
SHO P.S Moro.
- Respondent**
Manzoor Ali son of
Allah Bachayo Laghari
in both C.Ps

:

Through Mr. Meer Ahmed Mangrio,
Advocate, who files Vakalatnama on
behalf of Respondent Manzoor Ali.
- Date of Hearing**

:

26.08.2025
- Date of Judgment**

:

08.09.2025
- Date of Announcement**

:

11.09.2025

J U D G M E N T

Muhammad Saleem Jessar, J.- Through instant Petition, the Petitioner has claimed following relief:

- i. To suspend the operation of Notice dated 06.08.2025 and proceedings in Criminal Misc. Application No. 2978/2025 pending before Learned Additional Sessions Judge, Moro, District Naushero Feroz until final adjudication of this Petition.
- ii. To quash the proceedings in Criminal Misc. Application No. 2978/2025 pending before Learned Additional Sessions Judge, Moro, District Naushero Feroz.
- iii. To restrict the Official Respondents from lodgement of any other FIR in purview of the incident as recorded in FIR No. 170/2025 at PS Moro, District Naushero Feroz.

2. Mr. Nazeer Ahmed Junejo, Learned Counsel for the Petitioner contended that the Respondent No 5 has filed an application under section 22 - A (6) (i) Cr.P.C before the Court of Learned Sessions Judge/Ex-Officio Justice of Peace, Naushehro Feroze for seeking directions to the SHO concerned for registration of his FIR against proposed accused, which was assigned to the Court of Learned Additional District & Sessions Judge Moro, for its disposal in accordance with law. He argued that the Respondent No 5 sought registration of second FIR for the incidents which were subject matter of FIR No 170 / 2025, 171 of 2025 and 172 of 2025 registered at police station Moro. He contended that in terms of section 154 CrPC two FIRs of the one and same incident cannot be registered. He argued that Learned Justice of peace erred in law by entertaining the application. He argued that not only the application was entertained but Learned Ex- Officio Justice of Peace, started inquiry into the matter by calling reports from Medico Legal Officer who conducted post-mortem of deceased and examined the injured. He contended that from bare reading of the contents of the application filed by Respondent No 5 it transpired that he wanted to record another FIR of the same incident, as such the application was not maintainable and should have been declined straight away. He next contended that Ex-Officio Justice of Peace was not competent under the law to entertain an application seeking registration of Second FIR. He contended that the issue of registration of more than one FIR for the same incident has been settled at rest by the Honorable Supreme Court of Pakistan in the case of Mst Shugran Bibi Vs The State reported as 2018 PLD SC 595, wherein the practice of recording more than one FIR for the same incident has been depreciated. He contended that the judgment of Honorable

Supreme Court was binding upon subordinate courts as the same settled a principle of law interpreting the wisdom and intent of legislation for section 154 of CrPC.

3. When confronted with Office objections as to maintainability of instant petition, Learned Counsel argued that the Petition was maintainable as it involved a question of law regarding powers of justice of peace to entertain an application for registration of Second FIR of the same incident. In support of his contention, he has placed reliance on the case of Mst Shugran Bibi Vs The State reported as 2018 PLD SC 595, Jamshed Ahmad v. Muhammad Akram Khan and another (1975 SCMR 149) and Kaura v. The State and others (1979 PCr.LJ 521). He further argued that Learned Ex - Officio Justice of Peace in peculiar facts and circumstances lacked jurisdiction to entertain the application seeking registration of Second FIR when from bare reading of contents of said application it transpired that FIR for the same incident was already recorded at Police Station Moro. He prayed for quashment of the proceedings in criminal miscellaneous application No 2978 of 2025.

4. Mr. Meer Ahmed Mangrio, Learned Counsel for the Respondent No 5 contended that the Petition was not maintainable, as the justice of peace had only entertained an application and no adverse order was passed, therefore, Petition cannot be maintained for apprehension that the forum seized with the matter might pass an adverse order. He contended that Respondent No 5 wanted to record his statement in terms of section 154 CrPC which cannot be denied. He contended that in the Moro incident two relatives of the Respondent No 5 were killed and many other were injured, but police recorded FIR contrary to the real facts. He argued that Respondent No 5 was real aggrieved person, therefore, refusal to record his version would be tantamount to impinging his fundamental rights.

5. When confronted that the incident as per the version contained in memo of application under section 22 A (6) (i) Cr.P.C took place in the month of May, whereas the application was delayed by more than two months' time. He failed to explain such delay. Mr. Mangrio was confronted with the judgment of Honorable Supreme Court in the case of Mst. Sughra Bibi (supra) which omitted the scope for registration of more than one FIR for same incident, he contended that Sughra Bibi case would not apply to the facts and

circumstances of present case. He placed reliance upon the case of Syed Qamber Ali Shah Versus Province of Sindh and others 2024 SCMR 1123, Rai Ashraf and others Versus Mohammed Saleem Bhatti and others PLD 2010 SC 691, Abdul Rehman Malik Versus Synthia D. Ritchi, Americans National and others 2020 SCMR 2037, Mohammed Bashir Versus SHO PS Cantt PLD 2007 SC 539. He prayed for dismissal of the Petition.

6. Mr. Ali Raza Baloch, Learned Additional Advocate General Sindh, so assisted by Mr. Ghulam Abass Kubar Learned Assistant Advocate General Sindh contended that Learned Ex-Officio Justice of Peace lacked jurisdiction to entertain an application seeking registration of second FIR for the same incident. He contended that the application under section 22-A (6) (i) Cr.P.C was not maintainable as per the facts and circumstances of the case, thus proceedings undertaken by Learned Ex-Officio Justice of Peace were bad under the law and are liable to be quashed. He placed reliance on the case of Younas Abass Vs Additional District & Sessions Judge Chakwal and others PLD 2016 SC 581, Ayesha Tayab Versus Station House Officer, Police Station Cantt. District Sialkot and others 2025 SCMR 1117, M.S. Khwaja Vs The State PLD 1965 SC 287, Mst Maryam Tariq and others Versus SHO Police Station Defence and others PLD 2015 Sindh 382

7. Mr. Zulfiqar Ali Jatoi Learned Additional Advocate General, Sindh so assisted by Mr Aftab Ahmed Shar, Addl. P.G, Sindh supported the case of Petitioner. He contended that the application under section 22 - A (6) (i) Cr.P.C from its face was not maintainable. He contended that Respondent No 5 has arrayed all the police officials as proposed accused in the present petition who are either complainant or witnesses in FIR No 170 of 2025 registered under section 302, 353, 324 PPC read with Sections 6 - 7 of ATA, 1997 which prima facie constituted his defence, which can be recorded either before investigation officer of the case or before the trial court. He contended that two FIRs of the same incident cannot be allowed, if the Respondent No 5 is allowed to record his FIR, it will militate the provisions of section 154 CrPC which mandated for recording of one FIR only. He contended that the petition was maintainable and proceedings before the Ex - Officio Justice of Peace were *corum non judice* and are liable to be quashed.

8. Heard arguments, perused material made available before us on record.

9. Moot point involved in present petition is whether second FIR on the same incident can be recorded? And Whether Ex-Officio Justice of Peace can entertain an application seeking directions for registration of second FIR of the same incident?

10. Scanning of the material made available before us revealed that on 20.05.2025 a protest demonstration was held at Moro bypass at about 03:00 PM. Police reached at the place of protest and asked the mob to open road which they refused. The mob went unruly and started damaging the vehicles, setting on fire the public and private property and causing injuries to police officers of police station Moro. The FIR of the incident was recorded by SHO Police Station Moro for an offence punishable under section 324, 353, 427, 435, 397, 398, 431, 337 Hii, 147, 148, 149, 109 PPC and 6 – 7 of ATA, 1997 vide crime No 170 of 2025 registered at police station Moro. Per record in the incident Inspector Ghulam Hussain Dahri, PC Tahir Afzal Dahri, PC Saddam Hussain Mubejo, PC Seengar Ali Laghari, PC Farooq Ahmed Sahito, PC Zahid Hussain Lashari were injured at the hands of protestors. Record further transpired that government ammunition was also robbed from the police. Per contents of FIR the video recording of the incident was also available, wherefrom the facts of the incident could be verified. The FIR mentions that protestors Zahid Leghari, Irfan Leghari, Shehzado Leghari, Dilber and Wishal sustained fire arm injuries.

11. After the first incident, the protestors mobbed Police Station Moro, at about 07:00 pm ransacked the police station and set on fire police van, for the said incident FIR No 171 of 2025 was recorded by ASI Abdul Majeed Dahr at Police Station Moro for an offence punishable under section 324, 353, 427, 435, 337 Hii, 148, 149, 1504 PPC and 6 – 7 of ATA, 1997 against 50 nominated and 70/75 unidentified accused.

12. Record further evidenced that unruly mob attacked the house of Provincial Minister for Law & Parliamentary Affairs, who is elected MPA from Moro City and set it on fire, robbed valuable articles, at about 04:15 PM for which Petitioner Dost Ali Solangi who is caretaker of the house recorded FIR No 172 of 2025 at Police Station Moro for the offence punishable under

section 324, 353, 436, 397, 450, 337 Ai, 337 Aii, 147, 148, 149, 109 PPC and 6 – 7 of ATA against 28 nominated and 50 / 60 unidentified accused person.

13. Another FIR No 173 of 2025 for offences punishable under section 123 A, 151 PPC was recorded by ASI Ali Mardan against 14 nominated and 30 unidentified accused who gathered at Guchero Road in the night of 20.05.2025 blocked road and chanted slogans against the sovereignty of Pakistan.

14. FIR No 175 of 2025 was recorded at police station Moro by Miran Khan Solangi for an offence under section 324, 337 Hii, 147, 148 PPC against 8 nominated and 10/15 unidentified accused who caused injury to his brother Wali Mohammed with intention to commit murder at about 03:00 PM on 20.05.2025 when he defied the protestors who wanted to shut hotel where complainant party was taking tea.

15. Series of above FIRs evidenced that Moro City remained in the control of unruly mob for whole day on 20.05.2025, the protestors vandalised and set on fire public and private property at different times in the city for which Police registered Three FIRs and Private Persons registered two FIRs, all for the different incidents happening at different places on the same day.

16. On 22.07.2025, the respondent No.5 filed an application under section 22 – A (6) (i) Cr.P.C seeking registration of FIR, before the Court of Learned District & Sessions Judge Naushehro Feroze (Ex – Officio Justice of Peace) which was assigned to the Court of Learned Additional District & Sessions Judge Moro for its disposal in accordance with law.

17. In Para No 6 to 9 of the application, applicant/Respondent No 5 has set forth the set of allegations which he intended to record at police station Moro for incorporation of the same under 154 Cr.P.C Book. The Paras No.6 to 9 of the application for a better understanding, are reproduced herein below:

“6. That after all the protests were called off in the entire province, the news of extracting the same canals again even after the notification of CCI for turning down such plan, started to float through social media as well as electronic & print media, that no any extracting work on canals project has been stopped but is progressing illegally. Upon hearing such news all people of Sindh were anxious and planned to start the protests again in such regard likewise other districts, the people of Moro also initiated their peaceful protest regarding the same concern. On 20-05-

2025 people of Moro organized protest at Dadu Bypass, Moro at Admore Pump against extraction of six canals on Indus River and corporate farming in which students, farmers, social workers, political activists and people of nearby villages including Respondent No. 5 and his relatives (as their village is located at the bank of River Indus and their life wholly solly is dependent with their Agricultural Lands by getting water of it) participated including relatives of applicant's village Bijrani Laghari namely (1) Qurban Ali Laghari S/O Darban Laghari (2) Nabi Bux S/O Mian Ditto (3) Dilber S/O Ali Nawaz (4) Mohsin S/O Rahib Ali were present at Dadu Bypass Admore pump at about 02:45 pm police officials in police mobiles started gathered at Dadu Bypass, Moro, all were armed with weapons. Police officials in the supervision of SSP Sanghar Malik, DIB Incharge Nosheros Feroz, Shahid Ali Dahraj armed with KK, S.H.O Mujeeb-ur-Rehman Narejo armed with pistol, DSP Mohsin Jandan armed with gun, SHO PS New Jatoi Muhammad Rafique Bohyo armed with Rifle, PC Ayaz Bhutto armed with Pistol, ASI Asad Chandio armed with pistol, Shahid Zardari CIA personnel along with 40 to 50 police person having lathis and pistol and other weapons in their hands came at the palace of protest at 1500 hours, accused Sanghar Malik said vacate the road and stop the protest otherwise we have got instant directions from Zia-ul-Hassan Lanjar to kill you all here. On that Irfan Laghari from my village retaliate him by saying we will not vacate the road until we record our protest. Thereafter, SSP Sanghar Malik instigate all proposed accused to made straight fires on the protestors, meanwhile applicant saw that one proposed accused namely Shahid Zardari pointed out Irfan Laghari to PC Ayaz Bhutto and SHO Mujeeb-ur-Rehman. PC Ayaz Bhutto fired from his pistol which directly hit on leg of Irfan Laghari and fell down. Then SHO Mujeeb-ur-Rehman Narejo came upon Irfan and made straight fire from his gun which directly hit face of Irfan Laghari & on the other hand other unknown police personnel started lathi charge and made straight firing on the protestors while all other proposed accused persons beaten applicant and other protestors with lathis. That police made heavy aerial firing to create panic and harassment. The applicant was trying rescue himself and other protestors while PW Qurban Laghari S/O Darban Laghari and Nabi Bux Laghari along with others took the injured Irfan Laghari to the Taluka Hospital Moro wherefrom injured Irfan laghari got first aid then referred to Nawabshah hospital then referred to Civil Hospital Hyderabad due to his serious condition at Hyderabad he died succumbed injuries.

7. That in reaction/condemnation attack on protest and straight fire to Irfan Laghari. The villagers of Bijrani Laghari and other citizens gathered at Gachero Chowk Moro to protest against police action. Among others applicant's brother Zahid Laghari, Dilber laghari Mohsin Laghari and others were present. At about 04:30 pm applicant saw that people of Solangi community namely (1) Faraz @ Gul S/O Zahid Solangi armed with khilashankoff (2) Afzal Solangi S/O Khair Muhammad Solangi armed with Klashankoff (3) Shaman Solangi armed with Kilashankoff (4) Javed Ali S/O Asghar Ali armed with pistol (5) Jansar Ali S/O Ghulam

Nabi Solangi armed with Rifle (6) Wali Muhammad S/o Haji Khan Solangi armed with rifle (7) Meeran Khan Solangi S/O Haji Khan Solangi armed with Repeater (8) Muneer S/O Asghar Solangi armed with kilashankoff along with 30 to 40 Unknown persons immediately came at the place while making firing in their way to place of incident. They threaten applicant party to vacate the road. We refuse to stop our peaceful protest on that accused Afzal Solangi made straight fire from his gun which hit Zahid Laghari's forehead due to which he fell down on the ground, accused Faraz ® Gul made straight fire from his Kilashankoff with intention to kill which hit to right leg of Mohsin Laghari accused Shaman Solangi with intention to kill made two straight fires from his gun which hit left side leg of Dilber Laghari and repeatedly third fired was made by Javed Solangi which hit on the same leg of Dilber Laghari on which he fell down on the ground. While Meeran Khan Solangi and Muneer Ahmed Solangi along with all other accused persons after injuring the victims made aerial firing to spread fear & terror and went away towards Lanjar House. After that applicant along with some nearby people took the injured Dilber Laghari, Zahid Laghari & Mohsin Laghari on motorcycles to the Taluka Hospital Moro where doctors referred Zahid Laghari to the Civil Hospital Nawabshah where Doctors Confirmed his Death and initiated treatment of injured Dilber Laghari and Mohsin laghari and then referred them to Civil Hospital Nawabshah. Where from injured Dilber referred to Karachi Trauma Centre.

8. *That it is important to mention here that above mentioned proposed accused of Supra Para No 7 were clearly seen in the recorded videos by themselves, having heavy weapons, uttering words against applicants and performing horrific incident.*

9. *That injured Irfan Laghari due to his unconsciousness shifted him from civil Hospital Moro to Nawab Shah where he immediately after performing CT scan admitted to ICU but due to the unavailability of expert surgeons, again injured Irfan Laghari shifted to the Civil Hospital Hyderabad where he was admitted for two days and he took his last breath on 23-05-2025. Doctors performed the post mortem of deceased. When news of deceased was circulated in social media peoples from different platforms including lawyers to show the sympathy gathered at Civil Hospital Hyderabad then applicant saw that heavy contingency of Police came and illegally taken away the dead body of deceased and made arrest of all persons whom were there. Such brutal act of state machinery was criticized by the peoples of whole province due to such pressure police personnel buried the dead body of deceased Irfan Laghari in the absence of his legal heirs."*

18. It is important to notice that in Para No 10 of the application No 2978/2025, it has been mentioned that Police had already registered FIRs of the incident and relatives of the Applicant / Respondent No 5 were accused in the said FIRs. Admittedly Respondent No 5 sought registration of Second FIR,

on which the law by now has been settled and well propounded that on registration of FIR for an incident. Even the contents of the allegations in the above referred para were not in consonance with the factual story as the applicant has stated that the incident took place at 04:30 PM whereas per medical record the injured of the incident reached the hospital before 04:00 PM on the same day. This factual discrepancy reflected that Petitioner wanted to bring a counter blast to the version given by the police and other private persons.

19. The Second FIR cannot be recorded as has been laid down by the Hon'ble Supreme Court in case of Mst. Sughra Bibi Versus the State reported as PLD 2018 SC 591. It will be conducive to reproduce the operative part of the judgment:

"27. As a result of the discussion made above we declare the legal position as follows:

(i) According to section 154, Cr.P.C. an FIR is only the first information to the local police about commission of a cognizable offence. For instance, an information received from any source that a murder has been committed in such and such village is to be a valid and sufficient basis for registration of an FIR in that regard.

(ii) If the information received by the local police about commission of a cognizable offence also contains a version as to how the relevant offence was committed, by whom it was committed and in which background it was committed then that version of the incident is only the version of the informant and nothing more and such version is not to be unreservedly accepted by the investigating officer as the truth or the whole truth.

(iii) Upon registration of an FIR a criminal "case" comes into existence and that case is to be assigned a number and such case carries the same number till the final decision of the matter.

(iv) During the investigation conducted after registration of an FIR the investigating officer may record any number of versions of the same incident brought to his notice by different persons which versions are to be recorded by him under section 161, Cr.P.C. in the same case. No separate FIR is to be recorded for any new version of the same incident brought to the notice of the investigating officer during the investigation of the case.

(v) During the investigation the investigating officer is obliged to investigate the matter from all possible angles while keeping in view all the versions of the incident brought to his notice and, as required by Rule 25.2(3) of the Police Rules, 1934 "It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be to discover the actual facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person."

(vi) Ordinarily no person is to be arrested straightaway only because he has been nominated as an accused person in an FIR or in any other version of the incident brought to the notice of the investigating officer by any person until the investigating officer feels satisfied that sufficient justification exists for his arrest and for such justification he is to be guided by the relevant provisions of the Code of Criminal Procedure, 1898 and the Police Rules, 1934. According to the relevant provisions of the said Code and the Rules a suspect is not to be arrested straightaway or as a matter of course and, unless the situation on the ground so warrants, the arrest is to be deferred till such time that sufficient material or evidence becomes available on the record of investigation prima facie satisfying the investigating officer regarding correctness of the allegations levelled against such suspect or regarding his involvement in the crime in issue.

(vii) Upon conclusion of the investigation the report to be submitted under section 173, Cr.P.C is to be based upon the actual facts discovered during the investigation irrespective of the version of the incident advanced by the first informant or any other version brought to the notice of the investigating officer by any other person.

28. As an FIR had been registered in the present case regarding the same occurrence and the offences allegedly committed therein and upon completion of the investigation of the case a Challan had been submitted before the trial court and as the present petitioner had instituted a private complaint depicting her version of the same incident and after summoning of the accused persons nominated there in a trial is already in progress in connection with that private complaint, therefore, ordering registration of another FIR based upon the petitioner's version of that very incident is not legally warranted. This petition is, thus, dismissed."

20. Honorable Supreme Court of Pakistan while discussing the issue of second FIR in case of Sughra Bibi (Supra) has placed reliance upon plethora of judgments rendered by itself, whereby it was held time and again that second FIR was not permitted in respect of the same incident. However, has further laid down that investigating officer may record a number of versions of the same incident brought to his notice by different persons in terms of Section 161 Cr.P.C and no separate FIR is to be recorded for any new version in respect of the same incident brought to the notice of the investigating officer during investigation of such crime. Thus, issue of registration of second FIR stood settled; hence, second FIR cannot be registered for the same incident.

21. The Honorable Supreme Court while passing the judgment in Sughran Bibi case supra took judicial review of the case of Mirza v. The S.H.O. (1982 PCr.LJ 171), the case of Abdul Ghani v. S.H.O., P.S. Saddar, Sheikhpura and others (1983 PCr.LJ 2172), the case of Muhammad Ibrahim v. S.H.O. Police Station Mansehra and another (PLD 1983 Pesh. 229), the case of Halim Sarwar v. S.H.O., Police Station Headmarala and 2 others (1984 PCr.LJ 2993), the case of Fateh Sher v. S.H.O etc. (1985 PCr.LJ 151), the case of Karim Bibi v. Station House Officer, Police Station Rajana (Faisalabad) and others (1985 PCr.LJ 213), the case of Ghulam Hussain v. Siraj-ul-Haq and others (1987 PCr.LJ 1214),

the case of Mst. Rehmi etc. v. S.H.O. Basirpur etc. (1987 MLD 1682), the case of Manzoor Hussain (Chaeywala) v. Station House Officer, etc. (1988 MLD 2681), Abdul Rehman v. S.H.O. Police Station Karianwala, Tehsil and District Gujrat and another (1989 MLD 2698), the case of Mrs. Ghanwa Bhutto and another v. Government of Sindh and another (PLD 1997 Karachi 119), the case of Muhammad Ishaque v. S.P. Jaffarabad and another (PLJ 1998 Quetta 1), the case of Mst. Razia Sultana alias Gogi Butt v. Deputy Inspector-General of Police and others (1999 PCr.LJ 694), the case of Ahmad Yar v. Station House Officer, Shah Kot, District Sahiwal and 8 others (2007 PCr.LJ 1352), the case of Muhammad Azam v. Inspector-General of Police, Islamabad and 2 others (PLD 2008 Lahore 103), the case of Mst. Allah Rakhi v. D.P.O. Gujranwala and 5 others (2009 MLD 99), the case of Muhammad Rafique v. Ahmad Yar and another (PLD 1982 Lah. 825), the case of Allah Ditta and 3 others v. The S.H.O., P.S. Basirpur, District Okara and 3 others (PLD 1987 Lahore 300), the case of Pervez Akhtar v. The State (1989 PCr.LJ 2199), the case of Firdous Barkat Ali v. The State (1990 PCr.LJ 967), the case of Muhammad Latif v. S.H.O., Police Station Saddar, Dunyapur and 14 others (1993 PCr.LJ 1992), the case of Hamayun Khan v. Muhammad Ayub Khan and 4 others (1999 PCr.LJ 1706), the case of Muhammad Anwar, Sub-Inspector, Railway Police Lahore v. Station House Officer, Railway Police, Kasur and 2 others (PLD 1999 Lahore 50), the case of Rana Ghulam Mustafa v. Station House Officer, Police Station Civil Line, Lahore and 2 others (PLD 2008 Lahore 110), the case of Independent Media Corporation (Pvt.) Ltd. through Attorney and another v. Prosecutor General, Quetta and 7 others (PLD 2015 Balochistan 54), the case of Pervaiz Rasheed and others v. Ex-officio Justice of Peace and others (2016 YLR 1441), the case of Imtiaz Ali v. Province of Sindh through Home Secretary and 8 others (2017 MLD 132) wherein it was held that the registration of Second FIR was not barred under the law.

22. The Honorable Supreme Court in the case of Sughran bibi (Supra) also reviewed the judgments of the Honorable Supreme Court on the issue, the case of Jamshed Ahmad v. Muhammad Akram Khan and another (1975 SCMR 149) wherein order of the Learned High Court refusing to issue directions for registration of second FIR was upheld. The case of Kaura v. The State and others (1983 SCMR 436) wherein the request for registration of second FIR was declined. The case of Wajid Ali Khan Durani and others v. Government of Sindh and others (2001 SCMR 1556) wherein order of the Learned High Court issuing directions for registration of second FIR was upheld. The case of Mst. Anwar Begum v. Station House Officer, Police Station Kalri West, Karachi and 12 others (PLD 2005 SC 297) wherein order of the Learned High Court issuing directions for registration of second FIR was upheld. The case of Ali Muhammad and

others v. Syed Bibi and others (PLD 2016 SC 484) wherein order of the Learned High Court issuing directions for registration of second FIR was upheld

23. In the cases of Abdul Rasool Versus SHO PS City Jacobabad and 2 others reported as 2024 YLR 1252 Learned Single Bench of this Court upheld the orders passed by Ex - Officio Justice of Peace refusing to issue directions for registration of Second FIR following the dicta laid down by learned Apex Court in the case of Sughra Bibi (Supra).

24. In the case of Badaruddin Versus Senior Superintendent of Police Shikarpur and 3 others reported as 2025 MLD 165 Learned Single Bench of this Court set aside the orders passed by Ex - Officio Justice of Peace issuing directions for registration of Second FIR following the dicta laid down by the learned Apex Court in the case of Sughra Bibi (Supra).

25. We have minutely examined the contents of application filed by the Respondent No 5 before Learned Ex - Officio Justice of Peace wherein the Respondent No 5 have admitted that Police has registered certain FIRs regarding the same incident. In the prayer clause the Respondent No 5 has sought indulgence of the Ex-Officio Justice of Peace to record his statement and incorporate the same in 154 CrPC Book. The prayer clause of the memo of application is reproduced below for the sake of convenience:

“(a) That this Honorable Court may be pleased to direct the SHO / Duty Officer of PS Moro to record the statement of applicant as his verbatim and incorporate it in FIR Book u/s 154 CrPC.”

26. The prayer so made by the Respondent No 5 appeared to be untenable in view of the provisions of section 154 CrPC and Rule 24.7 of the Police Rules 1934 and the dicta laid down by the learned Apex Court in the case of Sughra bibi (Supra).

27. The Constitution is based on the seminal principle of trichotomy of powers. The legislature makes the laws; the executive executes it while the judicial branch is entrusted with the duty to interpret it. The judgment of the Honorable Supreme Court enunciating a principle of law has binding effect, in terms of article 189 of the Constitution of Islamic Republic of Pakistan, 1973, which reads as under:

“189. Any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan.”

28. Moreover, where Honorable Supreme Court deliberately and with the intention of settling the law, pronounces upon a question, such pronouncement is the law declared by the Supreme Court within meaning of Art. 189 of the Constitution and is binding on all Courts in Pakistan. The doctrine of binding precedent promotes certainty and consistency in judicial decisions, and ensures an organic and systematic development of the law. Since Honorable Supreme Court of Pakistan settled law on the issue of recording second FIR in respect of the same incident, it is a law declared by the Supreme Court and binding on all the Courts.

29. Reliance in this regard is placed on the case of *The State Through P.G Sindh and others Versus Ahmed Omer Shaikh and others* reported as 2021 S C M R 873, wherein learned Apex Court has held that

“24. The argument of the learned counsel for prosecution that the guidelines given by this Court are directory in nature and are not mandatory. This Court in the case of Azeem Khan v. Mujahid Khan (2016 SCMR 274) had enunciated the following principles of law and categorically stated that Magistrate is required to observe all these mandatory precautions and observed as under: -

"the Recording Magistrate has to essentially observe all these mandatory precautions. The fundamental logic behind the same is that, all signs of fear inculcated by the Investigating Agency in the mind of the accused are to be shedded out and he is to be provided full assurance that in case he is not guilty or is not making a confession voluntarily then in that case, he would not be handed over back to the police .."

The guidelines given by this Court in numerous judgments have binding effect upon all the courts below in view of Article 189 of the Constitution."

30. In the Case of *Hasnain Raza and another Versus Lahore Development Auhtority and others* reported as P L D 2022 Supreme Court 7 Honorable Supreme Court has held that:

"Needless to mention that a decision of this Court, to the extent it decides a question of law or enunciates a principle of law, is binding on all other courts of the country including the High Courts, under the mandate of Article 189 of the Constitution of the Islamic Republic of Pakistan 1973 ("Constitution"). Similar is the binding effect of such a decision of a High Court, under Article 201 of the Constitution, on all courts subordinate to that High Court."

31. In the case of *Federation of Pakistan through Secretary Finance Division and another* reported as 2025 SCMR 532 Honorable Supreme Court of Pakistan has held that:

"15. The doctrine of Stare Decisis is a Latin term that connotes "let the decision stand" or "to stand by things decided". No doubt, according to the hierarchical

facade and veneer of our judicial system, the dominant consideration is that the law declared by this Court should be certain, translucent, and rational, as most decisions not only constitute a determination of rights of parties, but also set down a declaration of law that serve as binding principles in future cases, thereby contributing to the development of jurisprudence. The doctrine of precedents, vis-a-vis stare decisis, has fundamental value in ensuring an objective of certitude and firmness in the legal system. The rule of adherence to judicial precedents finds its expression in the doctrine of stare decisis. This doctrine posits that, when a point or principle of law has officially been decided or settled by the ruling of a competent court in a case where it was directly and necessarily involved, it will no longer be considered as open to re-examination or to a new ruling. This policy of the courts is conveniently termed as the doctrine of stare decisis. The rationale behind this policy is the need to promote certainty, stability, and predictability in the law."

32. The proceedings before Ex - Officio Justice of Peace in its power under section 22-A (6) (i) Cr.P.C are quasi-judicial in nature and are always amenable to the judicial scrutiny and review of this Court under the powers conferred under article 199 of the Constitution of Islamic Republic of Pakistan of 1973. This Court while exercising jurisdiction under Article 199 of the Constitution can quash the proceedings in the extenuating circumstances. The purpose of quashing the proceedings under the constitutional jurisdiction is to save a person from the rigors of an unjustified investigation and proceedings and to prevent the abuse of process of law or court as the ends of justice may require. The main considerations to be kept in mind would be whether the continuance of proceedings would be a futile exercise and abuse of process of court on the basis of the facts admitted and patent on record.

33. This view gets strength from the dictum laid down in the case of "M.S. Khowaja v. State" reported in PLD 1965 SC 287, the learned Apex Court held that to quash a judicial proceeding in order to secure the ends of justice would involve a finding that if permitted to continue that proceedings would defeat the ends of justice or in other words would either operate or perpetuate an injustice. To find an "abuse", it would be necessary to see in the proceedings, a perversion of the purpose of law such as to cause harassment to an innocent party, to bring about delay, or where the machinery of justice is engaged in an operation from which no result in furtherance of justice can accrue and similar perverse results.

34. This Court in terms of the powers conferred under Article 199(1)(a)(ii) of the Constitution of the Islamic Republic of Pakistan, 1973 can judicially review the acts done or proceedings taken by the persons performing functions in connection with the affairs of the Federation, a Province or a local authority. Where such acts or proceedings are found to be without lawful authority, the High Court is fully

competent to declare them as such and of no legal effect. This view also finds support from the judgment of Honorable Supreme Court in the case of FIA, through Director General FIA, and others v. Syed Hamid Ali Shah and others (PLD 2023 SC 265).

35. The Petitioner has alleged serious malice on the part of the Respondent No 5. The allegation of malice stands substantiated from the record that close relatives of Respondent No.5 were facing prosecution in the FIRs registered by Police and private complainants on the charges of murder, setting on fire the home, robbery, road blockade and attack on police and private persons, which evidenced that object to seek registration of Second FIR was actuated with an ulterior purpose to harm another or benefit oneself. Plea of malice in fact required a high standard of proof. The rationale behind such an approach was that a plea of malice in fact frustrated the process of justice. After a complainant established malice in fact against a person, the entire proceeding by the latter was brought to an end. This resulted in the merits of the case being ignored.

36. Learned Ex – Officio Justice of Peace was required to inquire into facts of the complaint then to pass an appropriate order. Learned Justice of Peace was well equipped with the knowledge that order for recording of second FIR cannot be passed, therefore instead of making inquiry into the application, it should have been dismissed straight away.

37. It has been time and again observed by the Honorable Apex Court that the provisions of section 22-A (6) (i) Cr.P.C were misused in myriad (thousands) of cases, which resulted in mental agony and distress for the real victims. As the offenders by taking benefit of the provisions of law file misconceived applications. It was therefore observed that the aggrieved person should adopt a recourse available under police hierarchy by moving applications. In the present case record reflected that the Respondent No 5 at no point of time moved any application to the officers of police, thus the application filed by him before justice of peace without adopting due course of law was not tenable under the law.

38. It has been observed by one of the members of the Bench of the Honorable Supreme Court in the case of Younas Abass and others Versus Additional Sessions Judge Chakwal and others reported as P L D 2016 Supreme Court 581 that:

2. *The past experience of around 14 years (since the insertion of these provisions into the Code of Criminal Procedure) would unmistakably reveal that these provisions especially Section 22-A of the Code of Criminal Procedure, though beneficial and advantageous to the public at large, yet in myriad cases, it has been misused and abused. Once a false criminal case is registered against an individual, it becomes exceedingly difficult for him/her to get rid of it. The time and money which is spent on acquiring a clean chit by way of cancellation of the case or acquittal is not hard to fathom. There is no denying the fact that at times false and frivolous cases are got registered just to humble and harass the opposite party. In such a milieu, powers given to an ex-officio Justice of the Peace under subsection (6) of Section 22-A, Code of Criminal Procedure, to issue appropriate directions on a complaint filed by an aggrieved person for registration of a criminal case (Clause-i) and for transfer of investigation from one police officer to another (Clause-ii) though efficacious and expeditious besides being at the doorstep, but at the same time, these provisions should not be unbridled or open-ended. These provisions must be defined, structured and its contour delineated to obviate misuse by influential and unscrupulous elements. Therefore:-*

(i) The ex-officio Justice of the Peace, before issuance of a direction on a complaint for the non-registration of a criminal case under subsection (6)(i) of section 22-A, Code of Criminal Procedure must satisfy himself that sufficient material is available on the record, such as application to the concerned SHO for registration of the criminal case and on his refusal or reluctance, complaint to the higher police officers i.e. DPO, RPO etc., to show that the aggrieved person, before invoking the powers of ex-officio Justice of the Peace, had recourse to the high ups in the police hierarchy.

39. The Honourable Supreme Court of Pakistan in the case of Said Zaman Khan v. Federation of Pakistan (2017 SCMR 1249) recognized another category of malice as “*malice in law*”, holding that actions that were manifestly illegal or so anomalous that they lacked nexus with the law under which they were taken, were the actions malice in law. We are of the considered view, that in the present case both the malice in fact and malice in law, were established as Learned Justice of Peace being quasi-judicial forum can exercise only the powers conferred upon them by law so as to fulfil the mandate of such law and to achieve its declared and self-evident purpose.

40. Honourable Supreme Court of Pakistan in the case of SAID ZAMAN KHAN and others Versus FEDERATION OF PAKISTAN through Secretary Ministry of Defence and others reported as 2017 S C M R 1249 has held that:

82. *All judicial and quasi-judicial forums for that matter even the Executive Authorities exercise only the powers conferred upon them by*

law so as to fulfill the mandate of such law and to achieve its declared and self-evident purpose. However, where any action is taken or order passed not with the intention of fulfilling its mandate or to achieve its purpose but is inspired by a collateral purpose or instigated by a personal motive to wrongfully hurt somebody or benefit oneself or another, it is said to suffer from malice of facts. In such cases, the seat of the malice or bad faith is the evil mind of the person taking the action be it spite or personal bias or ulterior motive. Mere allegations, in this behalf, do not suffice. Malice of fact must be pleaded and established at least prima facie on record through supporting material.

83. All persons purporting to act under a law are presumed to be aware of it. Hence, where an action taken is so unreasonable, improbable or blatantly illegal that it ceases to be an action countenanced or contemplated by the law under which it is purportedly taken malice will be implied and act would be deemed to suffer from malice in law or constructive malice. Strict proof of bad faith or collateral propose in such cases may not be required.

41. The record evinced that in the instant matter, the FIR No 170/2025, 171 of 2025, 172 of 2025 and others for the separate incidents on the same day have been registered at police station Moro and investigated and final report has been submitted before the Court of Law having jurisdiction. Therefore, registration of any other FIR as a counter version, different version or new version would be an exercise futile in nature and with r no rationale behind it.

42. The discussion made herein above leads to an irresistible conclusion that the application filed by the Respondent No 5 seeking registration of second FIR in respect of the same incident was not maintainable under the law. The Court of Learned Ex - Officio Justice of Peace lacked jurisdiction to entertain the application seeking registration of Second FIR. The proceedings in criminal miscellaneous No 2978 of 2025 were initiated in violation of the law pronounced by the Honorable Supreme Court of Pakistan.

43. For aforementioned reasons, we are of the considered view that the proceedings initiated by Learned Ex- Justice of Peace were without jurisdiction. Consequently this Petition bearing C.P No.D-1382 of 2025 is hereby **allowed**. Resultantly, the proceedings in terms of Criminal Miscellaneous Application No 2978/2025 titled as Manzoor Ali Versus DIG Shaheed Benazirabad are declared to be without lawful authority and without jurisdiction. Accordingly, Criminal Miscellaneous Application No.2978/2025 pending adjudication before learned Addl. Sessions Judge/Ex-Officio Justice

of Peace, Moro, being incompetent is hereby **dismissed**. The Respondent No 5 is at liberty to approach the concerned IO and may record his version in terms of the guidelines given by the Honorable Supreme Court in the case of Sughra Bibi (Supra)

44. CPD No 1388 of 2025

Through this Petition, the Petitioner had sought the same relief as in CPD 1382 of 2025. In view of the order passed in CPD 1382 of 2025, this petition became infructuous and disposed of accordingly.

45. The Petition stands disposed in above terms. Office to send Copy of the order to the Court of Learned Additional Sessions Judge Moro/ Ex – Officio Justice of Peace. Office to place a signed copy of this Judgment in the connected petition.

JUDGE

JUDGE

Sukkur

Dated. 08.09.2025

Approved for Reporting