

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.
Cr.Misc. Appln:No.S-146 of 2025

Applicant: Muhammad Rafique through Mr. Jameel Ahmed Khanzada, Advocate.

Private Respondent: Muhammad Salman through Mian Taj Muhammad Keerio, Advocate.

The State: Senior Superintendent of Police & another through Mr. Nazar Muhammad Memon, Addl.P.G.

Date of Hearing: 11.06.2026.

Date of Order 11.06.2026

ORDER

TASNEEM SULTANA, J.— Through the instant Criminal Miscellaneous Application under Section 561-A, Cr.P.C., the applicant Muhammad Rafique has called in question the order dated 12.03.2025, passed by the learned Sessions Judge/Ex-Officio Justice of Peace, Hyderabad, in Criminal Miscellaneous Application No.1075 of 2025, whereby the Station House Officer, Police Station City, Hyderabad, was directed to record the statement of respondent No.3 under Section 154, Cr.P.C. and, if on perusal of such statement a cognizable offence was made out, to incorporate the same in 154, Cr.P.C. book.

2. Brief facts, as appearing from the record, are that respondent No.3 Muhammad Salman filed an application under Section 22-A(6)(i), Cr.P.C. before the learned Sessions Judge/Ex-Officio Justice of Peace, Hyderabad, alleging that on 28.11.2024, at about 12:00 noon, he went to the site of Arif Builders for doing electrician work and, on the same day at about 11:00 p.m., when he returned home, he found household articles scattered, lock of the almirah broken and cash amount of Rs.7,50,000/-, prize bonds of Rs.3,50,000/-, two tolas gold, ten unstitched suits of his wife and one iron missing. He further alleged that police officials came to the spot, collected evidence and foot prints, which allegedly led towards the house of the proposed accused; that the proposed accused opened the door after some time, became worried on seeing the police, admitted the theft and handed over the articles to the police officials; however, the police officials released

them and neither returned the articles nor lodged the F.I.R. On such application, the impugned order dated 12.03.2025 was passed.

3. Learned counsel for the applicant contended that the impugned order has been passed in a mechanical manner and does not reflect proper application of mind; that the learned Ex-Officio Justice of Peace failed to examine the contents of the application, attending circumstances and material available on record before issuing direction under Section 154, Cr.P.C.; that the applicant is the real paternal uncle of respondent No.3 and proposed accused Muhammad Awais is son of the applicant; that respondent No.3 concealed the material fact that a mutual agreement/razeenama dated 02.12.2024 had already been executed between respondent No.3 Muhammad Salman and Muhammad Awais, reflecting a monetary transaction of Rs.7,60,000/-, out of which Rs.4,60,000/- had been paid and the remaining amount of Rs.3,00,000/- was to be paid in monthly installments of Rs.10,000/-; that the alleged incident was shown to have taken place on 28.11.2024, whereas the application under Section 22-A(6)(i), Cr.P.C. was filed on 11.03.2025 after delay of more than three months, without any plausible explanation; and that the dispute is essentially rooted in a money transaction between close relatives, which has been given criminal colour. He lastly submitted that the impugned order suffers from non-application of mind and is liable to be set aside.

4. Conversely, learned counsel for respondent No.3 supported the impugned order and contended that the contents of the application disclosed commission of cognizable offences; that the learned Ex-Officio Justice of Peace did not direct registration of F.I.R. as a matter of course, but only directed the SHO to record statement of respondent No.3 and proceed in accordance with law if a cognizable offence was made out; and that no case for interference under Section 561-A, Cr.P.C. is made out.

5. Learned D.P.G./A.P.G. for the State assisted the Court and submitted that the impugned order is limited to recording of statement under Section 154, Cr.P.C. However, he did not controvert that the record contains a stamp

paper/razeenama dated 02.12.2024 and police report indicating monetary dispute between the parties.

6. Heard. Record perused.

7. There can be no cavil to the proposition that an Ex-Officio Justice of Peace is competent to issue appropriate directions to the police authorities under Section 22-A(6), Cr.P.C. However, such jurisdiction is quasi-judicial in nature and is not to be exercised mechanically. Reference may be made to the case of Younus Abbas and others v. Additional Sessions Judge, Chakwal and others (PLD 2016 SC 581), wherein the Honourable Supreme Court of Pakistan observed that the Ex-Officio Justice of Peace, while exercising powers under Section 22-A(6), Cr.P.C., entertains applications, examines the record, hears the parties, passes orders and issues directions with due application of mind, and that every lis before him demands discretion and judgment.

8. In the present case, the impugned order merely records that the allegations levelled by respondent No.3 are serious in nature and, on that basis, directs the SHO P.S City Hyderabad to record his statement and proceed under Section 154, Cr.P.C., if a cognizable offence is made out. The order, however, does not reflect consideration of the circumstances appearing from the record. The alleged occurrence is stated to have taken place on 28.11.2024, whereas the application under Section 22-A(6)(i), Cr.P.C. was filed on 11.03.2025, after delay of about three months and ten days. The impugned order is silent as to such delay.

9. The record further reflects that a stamp paper/razeenama dated 02.12.2024 was executed between respondent No.3 Muhammad Salman and proposed accused Muhammad Awais, wherein a monetary transaction of Rs.7,60,000/- was mentioned; Rs.4,60,000/- was shown to have been paid, while the remaining amount of Rs.3,00,000/- was to be paid through monthly installments of Rs.10,000/-. This document, coupled with the close relationship between the parties, was material for forming a tentative view whether the matter disclosed a cognizable offence or whether the dispute was primarily rooted in a monetary transaction between close relatives.

10. It is expected that every order passed by an Ex-Officio Justice of Peace should reflect due examination of the contents of the application, the prayer made therein and the material placed before him. The application of mind must be reflected from the order itself. In the present case, the police report available on record also indicates that the matter appeared to be connected with a money transaction and that the parties were related to each other. These circumstances were not discussed in the impugned order. Seriousness of allegations alone, without advertng to the delay, relationship between the parties, razeenama/stamp paper and police report, was not sufficient in the peculiar circumstances of the present case.

11. It is clarified that this Court is not examining the truth or falsity of the allegations levelled by respondent No.3, nor is any opinion being expressed on the merits of the proposed criminal case. However, where material circumstances prima facie suggest that the matter may have arisen out of a monetary/family dispute, the learned Ex-Officio Justice of Peace was required to examine the matter with greater care and pass an order after considering the relevant material and hearing the concerned parties.

12. In view of the above facts and circumstances, the impugned order dated 12.03.2025 appears to have been passed without proper consideration of the record and, therefore, cannot be sustained in its present form. Consequently, the instant Criminal Miscellaneous Application is allowed; the impugned order dated 12.03.2025 is set aside and the matter is remanded to the learned Sessions Judge/Ex-Officio Justice of Peace, Hyderabad, to decide the same afresh, after calling report from the concerned SHO and providing opportunity of hearing to the concerned parties, strictly in accordance with law.

J U D G E

Ahmed/Pa,