

IN THE HIGH COURT OF SINDH KARACHI

CrI. Misc. Application No. S-1031 of 2025

Applicant : Muhammad Shehzad s/o Abdul Rasheed
Through Mr. Saadi Sardar, Advocate

Respondent No.2 : Faiz Ahmed s/o Riaz Ahmed
Through Mr. Zeeshan Ahmed Qasi, Advocate

The State : Through Mr. Zahoor Ahmed Shah, Additional
Prosecutor General

Date of hearing: 23.04.2026
Date of decision: 07.05.2026

ORDER

MIRAN MUHAMMAD SHAH, J:- Through instant criminal miscellaneous application u/s 561-A Cr.PC, the applicant, has assailed the order dated 07.11.2025, passed by learned Additional Sessions Judge-X / Ex-Officio Justice of Peace, Karachi East, whereby an application u/s 22-A & B Cr.P.C [Cr.Misc. Application No.5695/2025] filed by respondent No.2, was allowed with direction to SHO P.S Alfalah Karachi to record statement of the applicant and if such statement reveals commission of cognizable offence, the same be incorporated in 154 Cr.P.C book.

2. The allegations against the present applicant are that he entered into a business deal with complainant/respondent No.2 to supply him coils of Hier Company and accordingly Rs.80,30,000/- were delivered to the applicant through banking channel. The applicant neither abide by the deal nor send the coils whereas usurped the amount of the complainant/respondent No.2 by committing fraud and cheating.

3. It is contended by learned counsel for the applicant that the impugned order is illegal, unlawful and liable to be set-aside as the same has been passed in hasty manner without hearing the applicant who wanted to bring certain documents on record. Even notice has not been issued to the applicant. He also contended that the report filed by the respondent No.3 was not adhered to in which he stated that it is civil dispute. He further argued that the impugned order is conflicting to the facts, law, equity and is against the principles of natural justice.

4. On the other hand, learned counsel for the respondent No.2 supported the impugned order and submitted that there is nothing wrong with the impugned order,

applicant has committed fraud and learned trial court has rightly allowed the application and ordered for registration of the FIR.

5. Learned APG also supported the impugned order and opposed the present application

6. In cases under Sections 22-A & 22-B, Cr.P.C., it has been observed that, many times, orders for the lodgment of FIRs are passed arbitrarily without properly examining the facts of the case and without issuing notice to the concerned parties or affording them an opportunity of hearing. In many instances, directions are issued merely on the ground that if case is made out, FIR under Section 154, Cr.P.C, may be lodged, which does not reflect the true spirit of the law. The provisions of Sections 22-A & 22-B, Cr.P.C. were incorporated by the legislature to provide relief to aggrieved persons who were denied the registration of their complaints by the police, as denial was detrimental to the dispensation of justice and, on a day-to-day basis, resulted in non-reporting of crimes, thereby facilitating offenders to evade legal consequences. To curb such practices, the office of Justice of Peace was created, and the District & Sessions Judge was designated as Ex-Officio Justice of Peace, with the authority to delegate such powers to judicial officers in accordance with their rank. A landmark judgment on the law of section 22-A & B was passed by the Honourable Supreme Court of Pakistan reported in PLD 2016 Supreme Court 581; relevant para of the same is reproduced hereunder: -

“Once a false criminal case is registered against an individual, it become 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 humiliate and harass the opposite party. In such a milieu, powers given to an ex-officio Justice of Peace under subsection (6) of Section 22-A, Code of Criminal Procedure, to issue appropriate direction 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.”

Similarly, I rely upon 2024 SCMR 985, which reads as under: -

- “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. the same case. No separate FIR is to be recorded for any 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 fade 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."

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:"

7. However, it has also been observed that this provision is, many times, misused and misinterpreted, whereby directions for registration of FIRs are issued without proper application of judicial mind and without ascertaining the true facts of the case. Even where reports are called from the concerned police officer, the same are ignored or set aside without assigning cogent reasons.

8. In the present case, a similar course appears to have been adopted. The person against whom action was sought (the present applicant) was neither called nor issued any notice, nor were his comments obtained. Although a report was called from the concerned SHO, the same was not properly considered while passing the impugned order. The matter pertains to a private transaction relating to property, which falls within the domain of civil litigation; however, it has been given a criminal color, resulting in the direction for registration of FIR, which does not serve the actual purpose of resolving the dispute. The Hon'ble Superior Courts, in a number of judgments, have held that disputes of civil nature should not be adjudicated by criminal courts; however, such settled principles and case law appear not to have been considered in the instant matter. Furthermore, since the dispute arises out of a private transaction, the present applicant ought to have been afforded an opportunity of hearing by the learned trial court before passing the impugned order so as to enable him to submit his contentions and relevant material. The failure to do so amounts to a denial of fair trial and due process,

which is violation of Article 10-A of the Constitution of Islamic Republic of Pakistan, and such violation cannot be sustained in the eyes of law.

9. In view of the above circumstances, the impugned order dated 07.11.2025, passed by the learned Additional Sessions Judge-X / Ex-Officio Justice of Peace, Karachi East, is hereby set aside, and Criminal Miscellaneous No. 5695/2025 is remanded to the learned Additional Sessions Judge-X / Ex-Officio Justice of Peace, Karachi East, with the direction to decide the matter afresh strictly in accordance with law, after providing an opportunity of hearing to the present applicant, namely Muhammad Shehzad s/o Abdul Rasheed, and after allowing him to produce his documents and advance his contentions.

The instant application stands disposed of accordingly.

JUDGE

