

IN THE HIGH COURT OF SINDH, AT KARACHI.

Cr. Misc. Application No. 363 of 2026.

Applicant : Muhammad Ikhlaq through Mr.Mohsin Ali
Soomro, Advocate.

Date of Hearing : 29.4.2026.

Date of Order : 29.4.2026.

ORDER

TASNEEM SULTANA J:-Through instant Criminal Miscellaneous Application, the applicant has assailed the order dated 05.01.2026 passed by learned Ex-Officio Justice of Peace/Additional Sessions Judge, Karachi South in Criminal Miscellaneous Application No. 4882 OF 2025, whereby applicant moved the applicant under Sections 22-A & 22-B, Cr.P.C. seeking direction for registration of FIR against the proposed accused was dismissed.

2. Succinctly, facts of the case are that the applicant had rented out commercial premises bearing Shop No.3, Plot Survey No.52, Zohra Manzil, Free Road, Artillery Maidan, Karachi to the proposed accused through written tenancy agreement. It is alleged that after expiry of tenancy period, the proposed accused failed to vacate the premises and also extended threats and intimidation to the applicant. Thereafter, the applicant approached the concerned police station for registration of FIR, however, no case was registered, hence application under Sections 22-A & 22-B, Cr.P.C. was filed before learned Ex-Officio Justice of Peace.

3. Learned counsel for the applicant contended that the applicant had disclosed commission of cognizable offence, therefore, the concerned SHO was legally bound under Section 154, Cr.P.C. to record the statement and register FIR. It was further contended that learned Ex-Officio Justice of Peace failed to appreciate the material available on record in its true perspective and illegally declined the prayer merely on the ground that civil/tenancy dispute existed between the parties.

4. Heard learned counsel for the applicant and perused the record.

5. Admittedly, an officer incharge of the Police Station is under legal and statutory obligation to record the information provided to him by any person

related to the commission of a cognizable offence, without going into its veracity that it is true or false. Likewise, Section 22-A(6), Cr.P.C. empowers Justice of Peace for issuance of appropriate direction to the police authorities concerned, on complaint, for registration of a criminal case. However, all these powers would not be exercised in random manner without application of independent mind. The powers under Section 154, Cr.P.C. and Section 22-A(6), Cr.P.C. are vested in the police authorities and Ex-Officio Justice of Peace, respectively, for dispensation of justice, but at the same time, the Court would keep in mind that the said powers are never meant to be exercised in aid of injustice. Where the lower Court has passed a well-reasoned order keeping in view the facts of the case, no interference is required by this Court. Reliance in this regard can be placed on **Syed Zafar Ali Shah v. Falak Sher Farooka, Additional District & Sessions Judge, Multan and 4 others (2005 MLD 1593)**.

6. In the case of **Younas Abbas vs. Additional Sessions Judge, Chakwal (PLD 2016 SC 581)**, where in the note added by Honourable Justice Rtd. Manzoor Ahmed Malik (as his lordship then was), it was inter-alia observed that:

“...powers under Section 22-A (6) Cr.P.C given to an Ex-Officio Justice of Peace 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...”

7. In the case reported as **Jamal Khan vs. Secretary Home Department (2021 SCMR 468)**, the Honourable Supreme Court, in a matter involving civil dispute, refused to interfere in the findings whereby registration of a criminal case was declined. In the present case, perusal of record reflects that after filing of application under Sections 22-A and 22-B, Cr.P.C. before learned Ex-Officio Justice of Peace, report was called from concerned SHO. The report submitted by police reflects that the dispute between the parties relates to tenancy/possession of shop and no cognizable offence was found to have been made out. It would be conducive to reproduce the relevant portion of the report as under: -

“During inquiry it has transpired that the dispute between the parties is with regard to tenancy and possession of commercial shop bearing No.3, Plot Survey No.52, Zohra Manzil, Free Road, Artillery Maidan, Karachi. The applicant had rented out the premises to proposed accused Syed Muhammad Noman and thereafter dispute arose between the parties regarding vacation of the said premises. The matter appears to be civil/tenancy dispute between landlord and tenant. No cognizable offence is made out. The parties may approach the competent forum for redressal of their grievance.”

8. Impugned order reflects that substance of the allegations was considered and weighed in juxtaposition with the material available. Admittedly, the tenancy agreement is available on record and the dispute between the parties has arisen out of landlord and tenant relationship regarding possession/vacation of commercial premises. The report submitted by police also categorically depicts that no cognizable offence was made out and the matter was of civil/tenancy nature.

9. Needless to mention here that when FIR is refused to be registered by police, other remedies are available to the aggrieved party; firstly, by approaching the Sessions Judge/Ex-Officio Justice of Peace for exercising power under Section 22-A(6), Cr.P.C.; secondly, by approaching the Magistrate for exercising power under Section 156(3), Cr.P.C.; and lastly, by filing a direct complaint under Section 200, Cr.P.C. In such circumstances, invoking inherent jurisdiction in presence of adequate remedy being available is not desirable in law. Reliance can be placed on Ghulam Ali alias Sadoro and others v. S.H.O., Police Station Veehar, District Larkana and others (2003 YLR 2168).

10. The scope of Section 561-A, Cr.P.C. is extraordinary in nature. Such jurisdiction is neither alternate nor additional and is to be rarely invoked only to secure the ends of justice or to prevent abuse of process of Court. Reliance is placed upon Maqbool Rehman vs. The State (2002 SCMR 1076).

11. Powers under Section 561-A, Cr.P.C. should ordinarily not be invoked as an alternate or additional jurisdiction to interrupt or divert the normal course of procedure as laid down in the relevant statute and are ought not to be exercised capriciously or arbitrarily, but should be exercised ex debito justitiae to do real and substantial justice. In similar circumstances, in Rai Ashraf and others v. Muhammad Saleem Bhatti and others (PLD 2010 Supreme Court 691), it has been held by the Honourable Supreme Court of Pakistan that:

“It is admitted fact that petitioners have alternate remedies to file private complaint before the competent Court, therefore, constitutional petition was not maintainable and the High Court has erred in law to send the copy of the writ petition to the S.H.O. concerned. The direction of the High Court is not in consonance with the law laid down by this Court in Jamshaid Ahmed's case (1975 SCMR 149). It is also a settled law that the learned High Court had no jurisdiction whatsoever to decide the disputed questions of fact in constitutional jurisdiction. In the case in hand, respondent No.1 has more than one alternate remedies as alleged by him in the application that he had secured restraining order against the petitioners from the civil Court, therefore, Additional Sessions Judge/Ex-Official Justice of the Peace observed that respondent No.1 had to avail appropriate remedy for violation of status quo before the civil Court under the provisions of C.P.C. vide Order XXXIX, Rules 3 and 4, C.P.C. It is also admitted fact that there is a dispute qua the property in question

between the parties as alleged by the petitioners and observed by the Courts below”.

12. It is evident from the record that the dispute between the parties primarily emanates from landlord and tenant relationship concerning possession and vacation of rented commercial premises. The learned Ex-Officio Justice of Peace while passing the impugned order has already directed the concerned police authorities to provide protection in accordance with law, if required. The principal controversy between the parties pertains to tenancy and possession rights, which predominantly fall within the domain of competent civil forum. Since the learned Court below has considered the material available on record, police report and surrounding circumstances before declining the prayer for registration of FIR, no case for interference with the impugned order is made out. The applicant, however, shall remain at liberty to file direct complaint before the competent Court, if so advised.

13. In view of what has been discussed hereinabove, I am of the view that the learned Ex-Officio Justice of Peace has considered all relevant aspects of the matter including application, police report, tenancy agreement and nature of dispute between the parties. The controversy between the parties essentially stems from landlord-tenant relationship and possession of rented commercial premises. No illegality, misreading, non-reading or jurisdictional defect has been pointed out in the impugned order warranting interference by this Court under Section 561-A, Cr.P.C.

14. Consequently, instant Criminal Miscellaneous Application is dismissed in limine. These are reasons of my short order dated 29.4.2026.

15. Needless to observe that the applicant shall be at liberty to avail any remedy available to him under the law.

JUDGE