

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No. 212 of 2026

Applicant : Abdul Wahab Shah
S/o. Mubarak Shah
Through M/s. Muhammad Yaseen
Khan Azad & Muhammad Samad Khan,
advocates

Respondent No.1 : The State
Mr. Sharafuddin Kanhar,
A. P. G. Sindh a/w SI-Sohail Khan,
SHO of PS Mochko and SI-Deedar
Hussain of PS Mochko.

Respondent No.2 : Mouta Khan son of Abdulah Zar.
Through Mr. Liaquat Ali Awan
advocate.

Respondent No.3. : Ismail Khan son of Abdullah Zar.
Through: Nemo

Respondent No.4. : Ajab Noor son of not Known.
Through: Nemo

Respondent No.5. : Asadullah son of not Known.
Through: Nemo

Date of hearing : 22.09.2026.

Date of Order : 22.09.2026.

ORDER

Jan Ali Junejo, J:-- Through this Criminal Miscellaneous Application, the Applicant has sought setting aside of the Order dated 27.01.2026 (hereinafter referred to as the "Impugned Order") passed by the learned Additional Sessions Judge-V, Karachi West, whereby prayer for registration of FIR against Respondent No.2 to 5 however, prayer for protection was allowed.

2. The facts, as reflected from the record, are that applicant is one of the partners of a partnership concern comprising the applicant and his real brother Ihsan-ul-Haq S/o Mubarak Shah. Proposed Accused/Respondent No.2 is the lessee of industrial land measuring 2,500 square yards situated in Survey No.326, Na-Class 162, Deh Gundpass, Tapo Gabopat, Maripur, District Karachi West, Keamari Town, Karachi (hereinafter referred to as the "Subject Property"), by virtue of Lease Deed Registration No.22 dated 05.01.2012 and Release Deed Registration No.248

dated 04.10.2016. Proposed Accused/Respondent No.2 subsequently entered into a Lease Agreement dated 26.04.2018 with the Applicant for a period of 30 years for operating a petrol pump and other petroleum-related business and, thereafter through his authorized attorney executed a registered Sub-Lease dated 15.05.2019 in favour of the Applicant for the same period, pursuant to which the Applicant has been in possession and conducting his business on the Subject Property. Subsequently, Proposed Accused/Respondent No.2 allegedly started interfering with the Applicant's business and attempted to create third-party rights in respect of the Subject Property, compelling the Applicant to institute Suit No.5406/2023 before the Hon'ble High Court of Sindh, wherein an order for maintenance of status quo was passed on 26.12.2025. Despite the said order, Proposed Accused/Respondent No.2 alongwith the other Proposed Accused/Respondents, allegedly trespassed into the Subject Property while armed with firearms, threatened the Applicant and his employees, disrupted and closed the Applicant's business operations and attempted to damage/destroy the installations situated thereon. The Applicant approached the concerned police authorities for registration of an FIR and submitted complaints/applications in this regard; however, despite recording statements of the concerned persons and an inquiry report dated 31.12.2025 reflecting the allegations of threats and interference, no FIR was registered and no effective action was taken against the Proposed Accused/Respondents. Having no other efficacious remedy, the Applicant has invoked the jurisdiction of the learned Ex-Officio Justice of Peace under Section 22-A, Cr.P.C., seeking appropriate directions to the concerned police authorities for registration of an FIR in accordance with law, hence, this case.

3. Learned Counsel for the Applicant contends that the impugned order is perverse, arbitrary, contrary to law and has been passed without proper appreciation of the material available on record. He submits that the learned Ex-Officio Justice of Peace failed to appreciate that the Applicant is the lawful lessee of the Subject Property by virtue of the registered Sub-Lease dated 15.05.2019 and has been peacefully conducting his petrol pump business thereon, whereas the private Respondents have continuously interfered with his business with an intention to intimidate and unlawfully dispossess him from the Subject Property. He further submits that, despite the status-quo order passed by the Hon'ble High Court of Sindh, the private Respondents allegedly trespassed into the Subject Property while armed with firearms, forcibly closed the

Applicant's business and extended threats to the Applicant and his employees, thereby giving rise to a genuine apprehension of harm to their lives and safety. According to learned Counsel, the alleged acts of the private Respondents prima facie disclose the commission of cognizable offences punishable under Sections 506-B, 347, 387, 424 and 447, PPC, but the learned Justice of Peace failed to appreciate the same and erroneously treated the dispute as purely civil in nature merely because civil proceedings between the parties are pending. He submits that the pendency of civil litigation does not, by itself, constitute a bar to criminal proceedings where the allegations independently disclose the commission of cognizable offences, and that civil and criminal proceedings may proceed concurrently in accordance with law. Learned Counsel further contends that Respondent No.1 was under a statutory obligation under Section 154, Cr.P.C. to record the Applicant's statement and register an FIR where a cognizable offence was disclosed, but failed to perform such lawful duty. He therefore submits that the learned Ex-Officio Justice of Peace failed to properly exercise jurisdiction under Section 22-A, Cr.P.C., and prays that the impugned order be set aside and appropriate directions be issued to Respondent No.1 to record the Applicant's statement and proceed in accordance with law for registration of an FIR, so as to protect the Applicant from the alleged threats, interference and unlawful dispossession. In support of his contentions he placed reliance on the case law reported as 2022 YLR 112 and 2008 SCMR 839.

4. Conversely, learned Counsel for Respondent No.2 opposes the instant application and submits that the same is misconceived, legally untenable and has been filed with mala fide intention and ulterior motive, as several civil proceedings concerning the same subject matter are already pending before the competent Courts, including Suit Nos.5405/2025, 5663/2025, 838/2024 and 3477/2026, Civil Appeal No.148/2026, C.M.A. No.33/2025 and Civil Revision Application No.202/2025; therefore, the learned Ex-Officio Justice of Peace rightly declined to issue any direction for registration of an FIR after finding that the dispute between the parties is essentially civil in nature and that appropriate remedies are available before the competent civil Courts. Learned Counsel further submits that Respondent No.2 claims lawful title over the industrial property measuring 2-23 acres situated in Survey No.326, Na-Class No.162, Deh Gunnedpass, Tapo Gabopat, Mauripur, Karachi West, on the basis of the registered lease and release deeds, and that all relevant title documents are already the subject matter of the

pending civil proceedings. He submits that the Applicant had earlier instituted Suit No.5406/2025 and sought an injunction therein, which relief was declined by the learned trial Court, and the subsequent proceedings arising therefrom also did not yield any relief in favour of the Applicant. Learned Counsel further contends that the Applicant had also instituted Suit No.838/2024 concerning the Subject Property, while M/s CENERGYICO PK Limited subsequently instituted Suit No.3477/2026 against the Applicant, demonstrating that the rights and possession of the parties are already the subject matter of adjudication before the civil Courts. He further submits that, under the terms of the agreement between the parties, the Applicant was required to intimate Respondent No.2 before sub-letting the Subject Property, but the Applicant allegedly executed a sub-lease in favour of his own company without the knowledge or consent of Respondent No.2 and subsequently attempted to deal with the property in favour of a third party. According to learned Counsel, upon discovery of the alleged transaction, Respondent No.2 demanded restoration of possession, whereafter the Applicant allegedly handed over peaceful possession of the premises to Respondent No.2 in August 2025, and Respondent No.2 has since remained in possession, while the parties' respective claims are pending adjudication before the competent civil Courts. Learned Counsel maintains that the Applicant has concealed material facts, has not approached the Court with clean hands and has instituted the present proceedings as a counterblast to the pending civil litigation and after failing to obtain the desired relief before the civil Courts. He further submits that the allegations contained in the application are false, fabricated and unsupported by any independent documentary material, and that the present proceedings have been initiated to harass and pressurize Respondent No.2 and to compel him to withdraw or compromise the pending civil proceedings. He therefore submits that no cognizable criminal offence is disclosed warranting a direction for registration of an FIR under Section 22-A, Cr.P.C., and prays that the instant Criminal Miscellaneous Application be dismissed.

5. Learned APG, while supporting the instant application, contended that the existence or pendency of civil litigation between the parties does not, in itself, operate as a bar against registration or investigation of a criminal case if the allegations prima facie disclose a cognizable offence. He submitted that civil and criminal remedies may lawfully coexist and that the pendency of a civil dispute cannot, by itself, be treated as a ground to deny criminal process. He further maintained that the

determination as to whether the allegations constitute a cognizable offence and whether any criminal liability is attracted falls within the domain of the investigating agency, to be examined in accordance with law. Thus, according to the learned APG, the learned Court below was not justified in declining the applicant's request merely on account of the pending civil proceedings. Accordingly, he supported the instant application and prayed that the impugned order be set aside and the relief sought by the applicant be granted in accordance with law.

6. I have considered the arguments advanced by the learned counsel for the parties and perused the record with their assistance. It is a settled principle that civil and criminal proceedings are distinct in their nature, scope and object. While civil proceedings are primarily concerned with the determination, declaration or enforcement of civil rights, criminal proceedings are intended to determine criminal liability and punish an offender for the commission of an offence. Therefore, the mere pendency of civil proceedings in respect of the same transaction or subject-matter does not, by itself, constitute a bar to the initiation or continuation of criminal proceedings. Both proceedings may, in appropriate circumstances, proceed simultaneously and independently.

7. The Hon'ble Supreme Court has further clarified in *Dr. Sikandar Ali Mohyuddin v. SHO and others* (2021 SCMR 1486) that it falls within the judicial discretion of the Court to permit civil and criminal proceedings to continue side by side, provided such concurrency has a cogent foundation.

8. It is also significant that, at the stage of exercising jurisdiction under Section 22-A, Cr.P.C., the learned Ex-Officio Justice of Peace is not required to conduct a detailed inquiry into the truthfulness or otherwise of the allegations, nor is it required to determine disputed questions of title, possession or contractual rights of the parties. Such matters fall within the domain of the competent forum and, insofar as the alleged commission of cognizable offences is concerned, the same are required to be investigated by the police in accordance with law. The defence of Respondent No.2 that the Applicant allegedly handed over possession, executed the sub-lease without consent, or has instituted the present proceedings as a counterblast to the pending civil litigation are matters which may be placed before the investigating agency and, if necessary, before the competent Court during the subsequent proceedings. At this stage, the same cannot be made the basis for refusing registration of an FIR where the allegations otherwise disclose cognizable offences.

9. The contention of learned Counsel for Respondent No.2 that the Applicant has an alternative remedy before the civil Courts is, therefore, not sufficient to defeat the prayer for registration of an FIR. Likewise, the pendency of the aforementioned civil suits, appeal, C.M.A. and civil revision does not ipso facto extinguish or suspend the statutory duty of the police under Section 154, Cr.P.C. to act upon information disclosing commission of a cognizable offence. The question as to whether the allegations are ultimately proved or whether the proposed accused are liable to be proceeded against is a matter for investigation and subsequent proceedings in accordance with law.

10. In these circumstances, the learned Ex-Officio Justice of Peace, while observing that the parties are engaged in civil litigation, has not adequately considered the specific allegations of forcible trespass, threats, use of firearms, interference with the Applicant's business and damage to the installations, nor the material placed before the police authorities in support thereof. The impugned order, to the extent it declined the prayer for registration of FIR solely on the premise that the dispute is civil in nature, therefore, cannot be sustained.

11. Consequently, the instant Criminal Miscellaneous Application is allowed and the impugned Order dated 27.01.2026 passed by the learned Additional Sessions Judge-V, Karachi West is hereby set aside to the extent of refusal of the prayer for registration of FIR. Respondent No.1/concerned police authority is directed to record the statement of the Applicant and, if the same discloses commission of cognizable offence, register the FIR in accordance with Section 154, Cr.P.C. and proceed with investigation strictly in accordance with law, without being influenced by any observations made herein or by the pendency of the civil proceedings between the parties.

It is clarified that this order shall not prejudice the rights or contentions of either party in the pending civil proceedings, nor shall any observation herein be construed as an expression of opinion on the title, possession or merits of the underlying civil dispute.

JUDGE