

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No. 816 of 2026

Applicant : Khawaja Jalaluddin Akbar
S/o. Khawaja Fariduddin
Through Mr. Abdul Moiz Jafferi,
Advocate

Respondent No.1 : Zainulabdin Shariq
Son of Shariq Suhail
Through Mr. Blosch Ahmed Junejo
Advocate

Respondent No.2 : SHO of PS Gizri

The State : Through Ms. Sharafuddin Kanhar,
APG

Date of hearing : 21.09.2026.

Date of Order : 21.09.2026.

ORDER

Jan Ali Junejo, J:- Through this criminal miscellaneous application, the applicant has called in question the order dated 20.08.2026 (hereinafter referred to as the “impugned order”) passed by the learned Additional District & Sessions Judge-I, Karachi South, in his capacity as Ex-Officio Justice of Peace, whereby the application filed by respondent No.1 under Sections 22-A and 22-B, Cr.P.C. was allowed, with a direction to the concerned police to proceed in accordance with law on the allegations made therein.

2. Succinctly, the case of Respondent No.1 is that the proposed accused/applicant, who is his brother-in-law, has allegedly been continuously harassing, intimidating and stalking the Respondent No.1 and his family for the last several months. It is alleged that the proposed accused/applicant repeatedly visited the Respondent No.1’s residence

without permission, used abusive language, extended threats, attempted to meet and take the minor daughter of the Respondent No.1 without parental consent, and followed her to her school, piano, swimming and gymnastics classes despite repeated warnings. It is further alleged that on 30.09.2025 the proposed accused/applicant unlawfully entered the Respondent No.1's house in his absence, while on 10.10.2025 he came with his father and demanded custody of the minor daughter and, upon refusal, allegedly abused and chased the Respondent No.1's wife. Thereafter, on 01.12.2025 and on several occasions between January and April 2026, he allegedly appeared at the child's educational and extracurricular activities and sent threatening messages to the Respondent No.1 and his wife. On 20.04.2026, the proposed accused/applicant allegedly came to the Respondent No.1's residence, attempted to enter the premises and, upon being stopped, shouted and used filthy language, resulting in a call to Police Helpline 15 and a report at P.S. Gizri. It is further alleged that on 25.05.2026, 09.06.2026, 12.07.2026 and 22.07.2026, the proposed accused/applicant again appeared at the workplace of the Respondent No.1's wife and at the minor daughter's piano, swimming and gymnastics classes, respectively, despite previous warnings. On 30.07.2026, during the minor daughter's birthday celebration at the petitioner's residence, the proposed accused/applicant allegedly arrived without permission, attempted to forcibly enter the house, abused the Respondent No.1 and his family, created a disturbance and issued threats concerning the minor child, whereafter another report was made through Police Helpline 15. The Respondent No.1 further alleges that despite a civil suit for declaration, private nuisance and permanent injunction being filed before the learned Civil Court, and an order dated 01.08.2026 directing the parties to maintain status quo, the proposed accused/applicant continued his alleged acts of interference and harassment, including appearing at the minor daughter's gymnastics class on 05.08.2026. On the basis of these allegations of repeated harassment, stalking, criminal trespass, intimidation and threats, the Respondent No.1 approached the Court under Sections 22-A/22-B Cr.P.C. seeking directions for registration of an FIR and initiation of criminal proceedings against the proposed accused/applicant.

3. Upon hearing the parties, the learned Ex-Officio Justice of Peace allowed the application, observing, inter alia, that the allegations disclosed an apparent instance of criminal trespass and that the alleged offence was cognizable in nature. The learned Court accordingly directed the SHO concerned to record the statement of the complainant under Section 154, Cr.P.C. and, if a cognizable offence was disclosed, to register an FIR in accordance with law and proceed with investigation. The SHO, Police Station Gizri, was also directed to provide lawful protection to respondent No.1, his wife, minor daughter and other family members from any unlawful act. Hence, the present application.

4. Learned counsel for the applicant contended that the impugned order is perverse, arbitrary and contrary to law and has been passed without proper appreciation of the material available on record. He submitted that the learned Ex-Officio Justice of Peace failed to appreciate that the applicant is the maternal uncle of the minor and has considerable affection for the child. According to learned counsel, the dispute between the parties is essentially familial in nature and no criminal offence has been committed by the applicant. It was further argued that there was a family gathering and the applicant had merely gone there to meet the minor. Learned counsel maintained that respondent No.1 is attempting to give a criminal colour to a family dispute in order to pressurize and humiliate the applicant. He, therefore, prayed that the impugned order be set aside.

5. Conversely, learned counsel appearing for respondent No.1 opposed the application and submitted that the same is misconceived and legally untenable. He contended that the applicant is repeatedly interfering in the family affairs of respondent No.1 and has, on several occasions, entered the house without permission, issued threats and subjected respondent No.1 and his family to harassment. It was emphasized that respondent No.1 is the real father of the minor, whereas the mother of the minor is the real sister of the applicant, and that the applicant cannot claim any lawful right to enter the residence of respondent No.1 against the wishes of the occupants. Learned counsel

further submitted that the allegations disclose cognizable offences and, therefore, the police are required to record the statement of respondent No.1 and proceed in accordance with Section 154, Cr.P.C. He supported the impugned order and prayed for dismissal of the instant application.

6. Learned counsel for the State also supported the impugned order and submitted that the existence of a family or civil dispute does not, by itself, prevent initiation of criminal proceedings where the allegations otherwise disclose the commission of a cognizable offence. It was contended that the respective claims of the parties are matters for investigation and cannot be conclusively adjudicated at the stage of proceedings under Sections 22-A and 22-B, Cr.P.C.

7. I have heard learned counsel for the applicant, learned counsel for respondent No.1 and learned counsel for the State, and have examined the impugned order as well as the material available on record.

8. The jurisdiction exercised by an Ex-Officio Justice of Peace under Sections 22-A and 22-B, Cr.P.C. is supervisory in nature. At this stage, the Court is not required to conduct a detailed inquiry into the truth or falsity of the allegations, determine the guilt or innocence of the proposed accused, or undertake a deeper appreciation of evidence. The relevant consideration is whether the information placed before the Court, if taken at its face value, discloses commission of a cognizable offence warranting action in accordance with law.

9. It is equally well settled that the mere existence of a civil, family or other private dispute does not, in itself, constitute a legal bar to criminal proceedings where the allegations independently disclose the commission of a cognizable offence. The nature of the underlying relationship between the parties may be relevant to the assessment of the allegations, but such relationship cannot, by itself, justify refusal to perform the statutory duty arising under Section 154, Cr.P.C., where the information *prima facie* discloses a cognizable offence.

10. In the present case, respondent No.1 has specifically alleged that the applicant, despite being a close relative, repeatedly entered or attempted to enter his residence without his consent, interfered in the affairs of his minor daughter, used abusive language and extended threats. The allegation concerning the incident dated 30.07.2026 is also specific, inasmuch as it is alleged that the applicant came to the residence of respondent No.1 during the birthday celebration of the minor, attempted to enter the house forcibly and extended threats to the complainant and his family.

11. At this preliminary stage, these allegations cannot be discarded merely on the ground that the applicant is the maternal uncle of the minor or that the parties are closely related. Whether the applicant had any lawful justification for his presence at the premises, whether he actually attempted to enter the house without consent, whether the alleged threats were extended, and whether the ingredients of any particular penal provision are ultimately established are questions which require verification through lawful investigation and, if necessary, determination by the competent Court after recording evidence.

12. The contention of learned counsel for the applicant that the applicant had gone to the residence merely to meet the minor also constitutes a matter of defence. Such explanation may be placed before the investigating agency and, if criminal proceedings are instituted, before the competent Court. At the present stage, this Court cannot conclusively accept such defence so as to nullify allegations which, on their face, require investigation.

13. At the same time, the direction contained in the impugned order has to be understood in its proper statutory context. The learned Ex-Officio Justice of Peace was not required to record a final finding that the applicant had committed the offence of criminal trespass. The determination whether any cognizable offence was in fact committed, which particular penal provision is attracted, and whether sufficient

material exists against any person are matters falling within the domain of the investigating agency and, thereafter, the competent trial Court.

14. Therefore, the impugned order, when read as a direction to the police to proceed in accordance with Section 154, Cr.P.C. upon the information furnished by respondent No.1 and to register an FIR if the statutory requirements are fulfilled, does not suffer from any illegality or jurisdictional defect warranting interference by this Court.

15. It is clarified that the police shall independently examine the allegations made by respondent No.1 and shall proceed strictly in accordance with law. If the information discloses commission of a cognizable offence, the SHO concerned shall record the statement under Section 154, Cr.P.C. and register the FIR without unnecessary delay. Thereafter, investigation shall be conducted fairly, impartially and in accordance with law. Conversely, no penal provision shall be invoked merely because the parties are involved in a family dispute, unless the ingredients of the alleged offence are found to be prima facie attracted.

16. As regards the direction for protection, the same shall be understood as requiring the police to take lawful and preventive measures in accordance with law for the safety of respondent No.1 and his family, and shall not be construed as authorizing any action against the applicant except strictly in accordance with law.

17. For the foregoing reasons, I find no illegality, impropriety or jurisdictional defect in the impugned order dated 20.08.2026 warranting interference by this Court. Consequently, the instant criminal miscellaneous application is dismissed and the impugned order is maintained, subject to the clarifications contained herein.

18. The SHO, Police Station Gizri, is directed to act strictly in accordance with Section 154, Cr.P.C. upon the information furnished by respondent No.1 and, if the information discloses commission of a cognizable offence, to register the FIR and conduct investigation strictly in

accordance with law. The investigation shall be carried out independently and impartially and shall not be influenced by any observation made in this order or in the impugned order. Nothing contained herein shall be construed as an expression of opinion on the guilt or innocence of the applicant.

19. The instant criminal miscellaneous application stands disposed of accordingly.

JUDGE