

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No.1060 of 2025

Applicants : Anushey Tariq & Eeshal Ahsan Talpur, Through:
Dr. Amber Lakhani, advocate

Respondents 1-3 : The State Through: Mr. Sharafuddin Kanhar, A.P.G. Sindh a/w Inspector Hikmatullah SHO of P.S. Sahil.

Respondent No.4 : Muhammad Adil, Through: Mr. Iftikhar A. Shah, advocate

Date of hearing : 24.03.2026

Date of Order : 15.04.2026

O R D E R

Jan Ali Junejo, J:-- Through this Criminal Miscellaneous Application under Section 561-A, Cr.P.C., the applicants namely Mst. Anushey Tariq and Mst. Eeshal Ahsan Talpur have called in question the order dated 24.11.2025 (hereinafter referred to as the "Impugned Order") passed by the learned VIth Additional Sessions Judge/Ex-Officio Justice of Peace, Karachi South in Cr. Misc. Application No.4253 of 2025, whereby the SHO concerned was directed to record the statement of the complainant or mother of the deceased and, if cognizable offence is made out, to register FIR in accordance with law.

2. Succinctly, the case of the applicants is that on 23.07.2025 they, along with their friends including the deceased Sultan Zafar, went to Do Darya, Karachi for a recreational outing. During the said excursion, the deceased along with another friend sat on the rear trunk of a moving vehicle being driven by applicant No.1 at a slow

speed, and in an unfortunate incident both fell from the vehicle, resulting in fatal head injuries to the deceased who later expired. It is the case of the applicants that the incident was purely accidental and inquiries conducted by the police concluded absence of criminal intent; however, Respondent No.4 subsequently filed an application under Sections 22-A & 22-B Cr.P.C., which was allowed through the impugned order.

3. Learned counsel for the applicants contended that the impugned order is mechanical, illegal and passed without lawful justification, as the learned Justice of Peace failed to appreciate that detailed police inquiries had already concluded that the incident was accidental in nature. It was argued that no specific role or allegation constituting any cognizable offence has been attributed to the applicants, and the application before the Justice of Peace was based on conjectures and filed after unexplained delay. It was prayed that the impugned order be set aside and the applicants be protected from any coercive action.

4. Conversely, learned A.P.G. and learned counsel for Respondent No.4 opposed the application and submitted that the impugned order is well-reasoned and passed strictly in accordance with law. It was contended that the death of a young individual in the circumstances narrated prima facie discloses elements of negligence, if not culpability, and therefore requires proper investigation through registration of FIR. It was further argued that the scope of jurisdiction under Sections 22-A & 22-B Cr.P.C. is limited and the Justice of Peace is only to ensure that the matter is

set into motion where a cognizable offence is disclosed. It was prayed that the application be dismissed.

5. I have heard learned counsel for the parties and have examined the available record with their able assistance. At the outset, it is to be noted that the jurisdiction of the Ex-Officio Justice of Peace under Sections 22-A & 22-B Cr.P.C. is supervisory in nature and is exercised to ensure that where information disclosing commission of a cognizable offence is brought to the notice of police, the same is not ignored or left unattended. The Justice of Peace is not required to conduct a roving inquiry into disputed questions of fact nor to record definitive findings regarding guilt or innocence of the parties. In the present case, the admitted position emerging from the record is that the deceased sustained fatal head injuries after falling from the rear trunk of a moving vehicle. The enquiry reports, though suggesting that the occurrence was accidental, nevertheless indicate that the vehicle was being driven by applicant No.1 without a valid driving license and that persons were allowed to sit on the trunk of the moving vehicle, an act which is inherently unsafe and prima facie constitutes negligent conduct.

6. The conclusion drawn by the enquiry officer that the incident involved "contributory negligence" of the driver, the deceased and accompanying persons, itself reflects that the matter is not free from elements which may attract penal consequences. Whether such negligence amounts to commission of an offence under the relevant provisions of law is a matter to be determined after registration of FIR and proper investigation. It is also significant that the learned

Justice of Peace, through the impugned order, has not straightaway directed registration of FIR in a mechanical manner, but has directed the SHO to record the statement of the complainant or mother of the deceased and to proceed in accordance with law if cognizable offence is made out. Such direction is in consonance with the settled legal position and does not suffer from any jurisdictional defect.

7. The contention of the learned counsel for the applicants that the enquiry reports have exonerated them is also not sufficient to non-suit the complainant at this stage, as it is well-settled that an enquiry conducted by the police does not substitute the statutory process of investigation following registration of FIR where facts disclose commission of a cognizable offence.

8. Furthermore, the tragic death of a young person under the circumstances described, coupled with the findings of unsafe conduct and negligence, warrants that the matter be allowed to proceed in accordance with law so that all aspects may be thoroughly investigated and the truth brought on record. Interference by this Court at this stage would amount to stifling a legitimate inquiry into a cognizable occurrence. At the same time, this Court cannot lose sight of the apprehension expressed by the applicants regarding their possible arrest and the consequential prejudice to their liberty. It is a settled principle that while declining to interfere in such matters, appropriate relief can be extended to the applicants.

9. In view of the foregoing discussion, the instant Criminal Miscellaneous Application is dismissed. The impugned order dated 24.11.2025 passed by the learned VIth Additional Sessions Judge/Ex-Officio Justice of Peace, Karachi South is maintained and shall be complied with in letter and spirit by the concerned police authorities.

10. In order to safeguard the rights of the applicants, it is directed that in the event of registration of FIR pursuant to the impugned order, the applicants shall not be arrested unless some tangible incriminating evidence surface during the investigation. The applicants are directed to fully co-operate with Investigating Officer, who shall conduct the investigation strictly, in accordance with law.

JUDGE