

ORDER SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Cr. Misc. Application No. S-321 of 2026

Counsel of Applicant	: Applicant Insp. Badaruddin Buriro SHO Shahdadpur through his counsel Mr. Shoukat Ali Rahimoon, Advocate.
Counsel of Respondents	: Mr. Dhani Baksh Mari, APG Mr. Asif Chaudhary, Advocate for Respondent No. 2
Respondents	: Mr. Shahnawaz Chachar, SSP Sanghar, Mr. Haq Nawaz Odho DSP/SDPO Shahdadpur, Mr. Zakareya Koreja, DSP Legal Sanghar.
Date of Hearing	: 05.10.2026
Date of Order	: 05.10.2026

ORDER

Muhammad Humayon Khan, J.: Through this Criminal Miscellaneous Application under Section 561-A Cr.P.C., the applicant, Badaruddin Buriro, has called in question the order dated 23-09-2026 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Shahdadpur, in Criminal Miscellaneous Application No.2214 of 2026 (Phul v. SSP Sanghar & others), whereby the learned Ex-Officio Justice of Peace allowed the application moved by respondent No.2 and directed the Senior Superintendent of Police, Sanghar, to record his statement and, if a cognizable offence is disclosed therefrom, to proceed with the matter strictly in accordance with law. The applicant, claiming to be aggrieved by the said direction, has invoked the inherent jurisdiction of this Court seeking, inter alia, setting aside of the impugned order on the ground that the allegations levelled by respondent No.2 are false, fabricated and motivated, and that no cognizable offence is made out from the material placed before the learned Ex-Officio Justice of Peace.

2. The brief background necessary for disposal of the present application is that respondent No.2, Phul son of Allah Rakhiyo, approached the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Shahdadpur, by

filing Criminal Miscellaneous Application No.2214 of 2026 under Sections 22-A & 22-B Cr.P.C. His case, in substance, was that on 14-09-2026, the present applicant, accompanied by about forty police officials and equipped with heavy machinery and a Mazda truck, allegedly came to his residential house and demolished/damaged the structure comprising two rooms, courtyard, kitchen, washroom and the adjoining cattle enclosure. It was further alleged that during the said occurrence, two buffaloes, four goats and three tolas of gold were taken away and that, upon resistance, threats of dire consequences and implication in false criminal cases were extended to him.

3. The record further reflects that, according to the present applicant, on 16-09-2026 the police, acting upon spy information, conducted a raid in Village Mehram Rind for the arrest of absconding accused persons, whereupon, according to the police version, the accused persons resorted to direct firing upon the police party and thereafter succeeded in escaping from the spot. In respect of the said occurrence, Crime No.320 of 2026 under Sections 324, 353 and 34 PPC was registered. It is the stance of the present applicant that the allegations subsequently levelled by respondent No.2 were fabricated as a counterblast to the aforesaid police action and were intended to create a defence in respect of the criminal proceedings initiated by the police.

4. Upon institution of Criminal Miscellaneous Application No.2214 of 2026, notices were issued and reports/comments were called from the concerned police authorities, including the Senior Superintendent of Police, Sanghar, and the Deputy Superintendent of Police, Complaint Cell, Sanghar. The present applicant denied the allegations levelled by respondent No.2, whereas the DSP, Complaint Cell, Sanghar, also submitted his report regarding the allegations made in the application.

5. After hearing the parties and examining the material placed before him, the learned Ex-Officio Justice of Peace, Shahdampur, vide impugned order

dated 23-09-2026, disposed of/allowed the application with a direction to the Senior Superintendent of Police, Sanghar, to record the statement of respondent No.2 and, if a cognizable offence was disclosed therefrom, to deal with the matter strictly in accordance with law. Feeling aggrieved by the aforesaid order, the present applicant has invoked the inherent jurisdiction of this Court under Section 561-A Cr.P.C. through the instant Criminal Miscellaneous Application, principally seeking setting aside of the impugned order.

6. Learned counsel for the applicant contended that the impugned order dated 23-09-2026 is illegal, arbitrary and not sustainable in law, having been passed without proper appreciation of the material available on record. He argued that the allegations levelled by respondent No.2 are false, fabricated and motivated and, even if taken at their face value, do not justify the direction issued by the learned Ex-Officio Justice of Peace. He further contended that the learned Ex-Officio Justice of Peace failed to give due consideration to the reports submitted by the concerned police authorities, particularly the report of the DSP, Complaint Cell, Sanghar, wherein the allegations levelled against the applicant were denied. According to learned counsel, the actual controversy arose out of a police raid conducted on 16-09-2026 at Village Mehram Rind for apprehending absconding accused persons, during which the police party was allegedly fired upon, resulting in registration of Crime No.320 of 2026 under Sections 324, 353 and 34 PPC. He maintained that the application under Sections 22-A & 22-B Cr.P.C. was thereafter pursued by respondent No.2 as a counterblast to the said police action, with the ulterior object of creating a defence and exerting pressure upon the police officials. Learned counsel further argued that the learned Ex-Officio Justice of Peace was required to examine whether the material placed before him prima facie disclosed commission of a cognizable offence and could not issue a direction mechanically merely on the basis of unverified allegations. He maintained that the impugned order does not reflect proper consideration of the police reports or the surrounding circumstances and has exposed the applicant to unnecessary criminal proceedings

on the basis of a mala fide and concocted version. He, therefore, prayed that the instant application be allowed, the impugned order dated 23-09-2026 be set aside and Criminal Miscellaneous Application No.2214 of 2026 filed by respondent No.2 be dismissed.

7. Conversely, learned counsel for respondent No.2 opposed the instant application and supported the impugned order. He contended that respondent No.2 had approached the learned Ex-Officio Justice of Peace with specific allegations regarding demolition of his residential house, removal of his livestock and gold ornaments, threats and harassment allegedly committed at the hands of the applicant and other police officials; therefore, the information placed before the learned Ex-Officio Justice of Peace prima facie disclosed cognizable offences requiring recourse to law. He argued that the learned Ex-Officio Justice of Peace neither directed registration of an FIR straightaway nor recorded any finding regarding the guilt of the applicant, but merely directed the SSP Sanghar to record the statement of respondent No.2 and, only if a cognizable offence was disclosed therefrom, to proceed in accordance with law. According to learned counsel, such a conditional direction causes no prejudice to the applicant and leaves it to the competent police authority to act in accordance with Section 154 Cr.P.C. He further contended that the plea that the allegations were concocted as a counterblast to Crime No.320 of 2026 constitutes a disputed question of fact which cannot, at this preliminary stage, be treated as sufficient to prevent respondent No.2 from having his version recorded and considered in accordance with law. He maintained that the police reports relied upon by the applicant could not, by themselves, conclusively determine the truth or falsity of the allegations made by respondent No.2. He, therefore, prayed that no case for interference in the impugned order under Section 561-A Cr.P.C. was made out and that the instant Criminal Miscellaneous Application be dismissed.

8. The SSP Sanghar, through DSP Legal, has submitted a report in compliance with the order of this Court. The report, besides denying the allegations

levelled against the police, has extensively referred to the alleged criminal antecedents of the applicant and his relatives. According to the report, the applicant Phull Rind is shown to have been involved in about 08 criminal cases; his son Abdul Qadir Rind in 05 cases, while criminal antecedents have also been alleged against his other son Hyder Rind. The report further attributes approximately 25 criminal cases to Nazeer @ Kaloo, nephew of the applicant; 06 cases to Sher @ Baktar Band, his brother-in-law; 13 cases to Laig, his nephew; 14 cases to Ameero @ Ameer Bux, his grandson; 09 cases to Chanesar @ Chano, his son-in-law; 05 cases to Gul Hassan, his cousin; 11 cases to Asif, a close relative; 06 cases each to Ajaz @ Ajoo and Peeral, stated to be close relatives; 02 cases to Sadique, his step-cousin; and 09 cases to Ghulam Shabir @ Machar, another step-cousin. The report has thus sought to portray the applicant, his immediate family and several of his collateral relatives as persons having extensive criminal antecedents.

9. I have heard the learned counsel for the parties and the learned APG and have perused the record. The points requiring determination are: whether the impugned order reflects a lawful and reasoned exercise of discretion under section 22-A(6) Cr.P.C.; whether its conditional formulation answers the objections concerning the statutory basis for intervention; and whether the applicant has established grounds for correction under section 561-A Cr.P.C. The inquiry is confined to the legality of the impugned direction and does not extend to a final adjudication of the truth of either party's allegations.

10. At the outset, the procedural competence of the present challenge may be clarified. In *Zahid Ali Khan v. Assistant Director FIA Circle Mirpurkhas and others* (2026 SHC MPK 403), decided on 04-02-2026, a Division Bench of this Court examined the divergent practice concerning challenges to orders under section 22-A(6) Cr.P.C. and held that such challenges should ordinarily be instituted as Criminal Miscellaneous Applications under section 561-A Cr.P.C. before the appropriate Single Bench. Correction was recognised where the impugned order suffers from jurisdictional defect, patent illegality, procedural

impropriety or manifest abuse of process. The present application is examined within those confined parameters; the inherent jurisdiction is not being treated as an unrestricted appeal on disputed facts.

11. The nature of the jurisdiction of an Ex-Officio Justice of Peace was authoritatively explained by the larger Bench of the Honourable Supreme Court in *Younas Abbas and others v. Additional Sessions Judge, Chakwal and others (PLD 2016 SC 581)*. The functions under section 22-A(6) Cr.P.C. are quasi-judicial: the Justice of Peace entertains the application, examines the record, hears the parties and exercises discretion with application of mind. The safeguards discussed in that judgment also require attention to the material showing recourse to the concerned police officer and the higher police authorities before seeking intervention for non-registration. Consequently, the forum is neither a substitute for investigation nor a mere forwarding channel. In the present matter, the alleged police excess, the police response and the factual basis for invoking the remedy required an intelligible assessment.

12. The statutory duty of the police must remain distinct from the discretion exercised by the Justice of Peace. In *Muhammad Bashir v. Station House Officer, Okara Cantt. and others (PLD 2007 SC 539)*, the Honourable Supreme Court explained the obligation under section 154 Cr.P.C. to register information disclosing a cognizable offence. *Syed Qambar Ali Shah v. Province of Sindh and others (2024 SCMR 1123)* reiterates that obligation and disapproves the High Court's assumption of an investigative role to pronounce allegations false. The latter authority also makes clear that the availability of a private complaint does not displace the statutory obligation to register qualifying information. These principles govern the present case: a police denial cannot be accepted as an adjudication of innocence, and a complainant cannot be required to prove his accusation before investigation. Equally, a direction under section 22-A(6) must result from the exercise of the discretion vested in that forum.

13. The need to guard against misuse of this jurisdiction was emphasised in *Munawar Alam Khan v Qurban Ali Mallano and others* 2024 SCMR 985. The Honourable Supreme Court deprecated mechanical directions under sections 22-A and 22-B Cr.P.C. and required consideration of the peculiar circumstances of each case. *Rai Ashraf and others v. Muhammad Saleem Bhatti and others* PLD 2010 SC 691 likewise demonstrates the relevance of a substantiated ulterior purpose when criminal directions are sought against public functionaries. Neither authority establishes that a mere plea of mala fides defeats every complaint. Their applicability here lies in the obligation to examine and answer the applicant's objection through the material circumstances, rather than either accepting it automatically or leaving it altogether unanswered.

14. In *Mir Wais v. Naseebullah and 3 others* 2024 MLD 462, the Balochistan High Court similarly explained that an Ex-Officio Justice of Peace must apply judicial mind to the prima facie material and cannot act mechanically upon the narrative of the person seeking registration. This persuasive authority supports meaningful scrutiny of the basis for the direction sought in the present matter. It does not require respondent No.2 to produce a complete prosecution case or establish the alleged offences beyond reasonable doubt at this preliminary stage.

15. Reasons are necessary to disclose why the material satisfies, or fails to satisfy, the relevant statutory requirement. Section 24-A of the General Clauses Act, 1897 embodies the obligation to exercise statutory power reasonably, fairly and for the purposes of the enactment, and to furnish reasons so far as necessary or appropriate. The principles governing fair and reasoned exercise of statutory power are recognised in *Muhammad Amin Muhammad Bashir Limited v Government of Pakistan and others* 2015 SCMR 630 and *Government of Pakistan and others v Farheen Rashid* 2011 SCMR 1. Those authorities are relied upon for that general principle, rather than as decisions directly determining a section 22-A complaint. Read with *Younas Abbas (supra)*, they require an intelligible connection between

the complaint, the material objections and the direction issued. A lengthy judgment is unnecessary; an answer to the decisive issue is indispensable.

16. Applying these principles, the infirmity in the impugned order lies in its failure to disclose the foundation on which intervention under section 22-A(6) Cr.P.C. was considered justified. The direction to record respondent No.2's statement and proceed if a cognizable offence is disclosed does not identify the information previously presented to the police, the refusal or failure complained of, or the material on which the learned Ex-Officio Justice of Peace was satisfied that the statutory remedy had properly been invoked. Nor does it contain an intelligible evaluation of the objections arising from the police reports and the competing account of the occurrence. Merely calling for reports and reciting the positions of the parties cannot take the place of deciding the question for which those reports were obtained. The defect concerns the exercise of the statutory discretion, rather than the absence of a finding about the applicant's guilt.

17. The allegations of demolition of a dwelling, removal of livestock and gold, and intimidation are serious. If the information meets the requirements of section 154 Cr.P.C., the police are bound to perform their statutory duty; it would be incorrect to hold that allegations of this nature are inherently incapable of disclosing a cognizable offence. The point, however, is whether respondent No.2 established the basis for the particular judicial intervention sought and whether the learned Ex-Officio Justice of Peace decided that question. The impugned order leaves that foundation unresolved and forwards the controversy to the SSP without explaining why the objection to invoking this jurisdiction was being rejected. *Younas Abbas and Munawar Alam Khan (supra)* require an exercise of judgment on that issue, not a formula applicable to every application irrespective of its circumstances.

18. The chronology also requires precision. Respondent No.2 places the alleged demolition and removal of his property on 14-09-2026, whereas the police

place the raid and alleged encounter on 16-09-2026. The former date precedes the latter. It would therefore be unsafe to conclude merely from these dates that the alleged occurrence itself was a counterblast to Crime No.320 of 2026. The date of an alleged occurrence must be distinguished from the date and circumstances in which the complaint was pursued. The applicant's contention of an ulterior purpose was a matter requiring consideration, but its assertion does not establish its truth. The present decision accordingly does not rest upon a conclusive finding that respondent No.2 fabricated his complaint in retaliation for that FIR.

19. For the same reason, the police version cannot be treated as conclusive merely because Crime No.320 of 2026 stands registered. Registration proves that an accusation was recorded; it does not by itself establish either the truth of the police account or the falsity of an allegation of police excess. A lawful authority to apprehend an absconding accused does not confer authority to appropriate property, demolish a dwelling without lawful justification, or intimidate its occupants. Conversely, the naming of a police officer in a complaint does not establish that he committed the alleged acts. The accounts of 14-09-2026 and 16-09-2026 cannot be merged, or treated as one incident for procedural purposes, without a basis in the record. These matters underline why an independent and reasoned exercise of the limited jurisdiction was required.

20. The extensive list of alleged criminal antecedents in the SSP's report also has a limited bearing on the controversy. A person does not lose the protection of law merely because cases have been registered against him or his relatives. Registration of a case is not equivalent to conviction; the alleged conduct of a collateral relative is not proof of the complainant's conduct. Those particulars may explain the police assertion that a raid was undertaken to apprehend absconders, to the extent supported by the relevant record, but they cannot answer whether unlawful demolition or removal of property occurred. I therefore decline to treat the numbers of cases attributed to respondent No.2 and his relatives as an independent ground for rejecting his grievance. Equally, the reports could not

simply be ignored: their relevant contents required assessment within the limited statutory inquiry.

21. The submission that the impugned order is immune from correction because it is conditional and directs action only in accordance with law cannot be accepted in that absolute form. Such a conditional direction is not inherently unlawful and may be appropriate where it follows the requisite judicial scrutiny. Its formulation, however, does not cure the omission to undertake that scrutiny. In the present case, the criticism is not that the SSP was permitted to act lawfully, but that an application invoking quasi-judicial intervention was allowed without a reasoned determination of the basis for that intervention. As Zahid Ali Khan (*supra*) explains, an order affecting initiation of criminal process remains subject to correction for patent illegality or procedural impropriety. The expression “in accordance with law” cannot supply reasons which the order itself does not contain.

22. Respondent No.2 is correct that disputed questions concerning the truth of the alleged demolition, removal of property and threats ordinarily belong to investigation and, where necessary, trial. That proposition does not relieve the Justice of Peace of deciding the threshold question within his own jurisdiction. The present scrutiny does not require photographs, title documents, recovery of property, independent witnesses or a completed investigation as preconditions to reporting a cognizable offence. Nor does it authorise acceptance of a police denial merely because the proposed accused is an officer. The defect is the absence of a demonstrated and reasoned basis for the judicial direction sought. In that respect the present matter falls within the requirement of due application of mind explained in *Younas Abbas, Munawar Alam Khan and Mir Wais (supra)*.

23. *Syed Qambar Ali Shah and Muhammad Bashir (supra)* have been considered with particular care. They prevent this Court from assuming the role of investigator, requiring proof before registration, or substituting a private complaint for the mandatory duty imposed by section 154 Cr.P.C. They do not require

preservation of every direction under section 22-A irrespective of a defect in its statutory foundation. The distinction is between deciding that a complaint is false, which is not being done here, and deciding that the particular order of judicial intervention cannot be sustained for want of the requisite reasoned determination. The application under section 561-A Cr.P.C. succeeds on the latter, confined ground. The applicant's wider submission that the allegations have conclusively been proved false is not accepted.

24. It remains to consider the appropriate disposition. Both sides have been heard in the present proceedings. On the case presented, respondent No.2 has not demonstrated a sustainable basis for maintaining the impugned direction or for granting the particular relief claimed in Criminal Miscellaneous Application No.2214 of 2026. The matter does not call for this Court to conduct an evidentiary inquiry or to direct the Justice of Peace to undertake a trial of the disputed accounts. A remand is not an inevitable consequence of setting aside an order: relief must remain confined to the jurisdiction invoked and the case established for its exercise. In these circumstances, the appropriate course is to bring the present section 22-A proceedings to an end, without foreclosing any independent remedy available under the Code. The matter is therefore not remanded.

25. Consequently, this Criminal Miscellaneous Application No.S-321 of 2026 is allowed. The impugned order dated 23-09-2026 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Shahdadpur, in Criminal Miscellaneous Application No.2214 of 2026 (Phul v. SSP Sanghar and others) is hereby set aside, and the application filed therein by respondent No.2 under sections 22-A and 22-B Cr.P.C. stands dismissed. No remand or direction for reconsideration is made. Any pending ancillary application in these proceedings stands disposed of accordingly.

27. Office shall transmit a copy of this order to the District Judge, Sanghar, Additional Sessions Judge/Ex-Officio Justice of Peace, Shahdadpur, and

the SSP Sanghar for information and compliance. The observations above are confined to the disposal of this application and shall not prejudice the independent consideration of any proceedings lawfully instituted before a competent forum.

JUDGE

APPROVED FOR REPORTING
FAISAL