

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Miscellaneous Application No.S-772 of 2025
[Mst. Rahib Khatoon vs. SSP Khairpur and others]

Applicant : Mst. Rahib Khatoon, *Through*
Mr. Riaz Ali Shaikh, Advocate

Respondent No.5 & 6 : Zafar and Majid, through
M/s Kashif Hussain Shaikh and Athar
Hussain Abro, Advocate.

Respondent No.1 to 4 : SSP Khairpur & others, through
Mr. Imran Mobeen, APG

Date of hearing : 22.07.2026

Date of decision : 22.07.2026

ORDER

JAWAD AKBAR SARWANA J.- Mst. Rahib Khatoon (second wife) wd/o Himat Ali Shaikh is aggrieved by the Order dated 28.11.2025 passed by the Court of the learned 2nd Additional Sessions Judge/Ex-Officio Justice of Peace, Khairpur Mirs, in Cr. Misc. Application No.5233/2025, u/s 22-A and 22-B Cr.PC. rejecting the application/complaint filed by Mst. Rahib Khatoon claiming to have been illegally dispossessed, etc. by her two step-sons (from the first marriage of her deceased husband/Himat Ali Shaikh), i.e., the two proposed accused, namely Zaffar and Majid Ali.

2. Learned Counsel for the applicant-second wife contends that the impugned order was passed by the Ex-Officio Justice of Peace, without properly appreciating the information available on record. Counsel contends that on 15.09.2025, the applicant-second wife and her daughter (step-sister of the two proposed accused) filed a complaint with the SSP Khairpur claiming that her step-sons-proposed accused had allegedly illegally dispossessed her and her daughter (available on page 33 of the file). After enquiry, the Office of the DSP Khairpur, as per the Report dated 11.10.2025, directed the SHO PS Babarloi to take appropriate action in the matter (available on page 39 of the record). But, when the SHO, Babarloi, apparently took no action, on 23.10.2025, she filed the

instant cr. misc. appln. before the Ex-Officio Justice of Peace (available on page 23 of the file). During the proceedings, the Ex-Officio Justice of Peace obtained a fresh police report which disputed that any crime took place. Counsel contends that the Ex-Officio Justice of Peace entirely disregarded the first report by the Office of the DSP Khairpur (Report dated 11.10.2025) that the applicant-second-wife and her daughter had been illegally dispossessed, and passed the impugned Order dated 28.11.2025, relying on another (second) police report observing, instead, that the alleged criminal act was just a civil dispute. Counsel argued that, in the facts and circumstances, a case is/was made out for recording of statement and registration of FIR for alleged illegal dispossession. Therefore, the impugned Order passed by the Ex-Officio is liable to be set aside and directions be granted by this (High) Court to record statement of the applicant/complainant, Mst. Rahib Khatoon.

3. Learned Counsel for the two step-sons-proposed accused contend that DSP Complaint Cell, Sukkur/enquiry officer sent both parties to one Alama Sabit Ali Najfi for private Faisla according to Shariat-e-Muhammadi. The Iqrarnama written in Sindhi language annexed with the objection on behalf of proposed accused/respondent No.4 and 5 is available on record. Thereafter, on 18.10.2025, the Shia Ulema also gave Fatwa in favour of the proposed accused. Therefore, he contends that the matter has been rightly observed by the Ex-Officio Justice of Peace as a civil dispute and the impugned Order is lawful and to be upheld.

4. Learned APG submits that the record reflects an inconsistency between two police reports. The (High) Court, too, has attempted to get to the root of the discrepancies. He submits that, in the circumstances, given the powers of the Ex-Officio Justice of Peace, he ought to have referred the case to the Police authorities to record Mst. Rahib Khatoon's statement.

5. Heard learned Counsel and APG and perused the record. It is apparent from the record, before this bench, as it was the case before the

Ex-Officio Justice of Peace, that the report prepared by the Office of the DSP Khairpur dated 11.10.2025, before the filing of the cr. misc. application on 23.10.2025, and the subsequent (second) police report relied upon by the Ex-Officio Justice of Peace are inconsistent with each other. The Ex-Officio Justice of Peace, while referring to the first police report of the Office of the DSP Khairpur dated 11.10.2025 in paragraph 5 of the impugned Order, entirely ignored its implications and, without any explanation or reasons stated in the operative paragraph 9 of the impugned Order, preferred to rely on the subsequent (second) police report. In doing so, he went beyond the contours of Sections 22-A & 22-B Cr.PC. In the circumstances, information (indeed, contradictory) was available on record to trigger the provisions of Sections 22-A & 22-B Cr.PC. The matter should have been best left with the competent police authorities to decide and take forward, if required, after the recording of the statement of Mst. Rahib Khatoon. It is now well-established that it is not the prerogative of the Ex-Officio Justice to Peace and well beyond his powers to take a deep dive into the facts and conduct a trial.

6. As per law, any person who has information of an offence having been committed is entitled under the law to provide such information to the police station. Such exercise was carried out in the first instance by the complainant vide her complaint dated 15.09.2025. Further, the enquiry report conducted by the Office of the DSP Khairpur, as per the Report dated 11.10.2025, also concluded that apparently an alleged crime had been committed. Once such information is/was available, it is/was up to the police officer to determine whether any offence is revealed, whether it is a cognizable or non-cognizable offence. The Code of Civil Procedure and Police Rules provide ample guidance to proceed in either situation as well as the situation where false information has been provided. In the instant case, the concerned SHO Baberloi, when approached by the complainant, contrary the Office of the DSP Khairpur Report dated 11.10.2025, for reasons best known to him, decided to remain silent, and took no action. Such action, essentially amounting to “inaction”, is/was contrary to the Cr.PC and the Police Rules.

7. Reference Counsel for the two proposed accused defense wherein he has relied on the alleged Iqrarnama dated 17.09.2025 and alleged faisla dated 18.10.2025. While the impugned Order dated 28.11.2025 mentions the above documents, there is no discussion in its reasoning. The arguments raised by Counsel for the proposed accused before me are misconceived. Both documents are irrelevant for deciding the applicant's cr. misc. appln. After the complaint concerning the alleged illegal dispossession on 08.09.2025 of the applicant/complainant had triggered the first police report by the Office of the DSP Khairpur dated 11.10.2025 directing the SHO Barberloi to take action, the alleged Iqrarnama and the faisla, lost their force. The same cannot vitiate the law and/or undo an alleged criminal action. This matter had to be decided by the State, if a case is/was made out, particularly when the first report by the Office of the DSP Khairpur dated 11.10.2025 directed the concerned SHO to take appropriate action. But the SHO P.S. Baberloi did nothing. Thus, the arguments of the Counsel for the proposed accused concerning the alleged Iqrarnama and faisla have no legs to stand.

8. Given the above, in the facts and circumstances of the case, the impugned order dated 28.11.2025 is hereby set aside. The concerned police officer, as nominated by the SSP Khairpur, from a P.S. other than the P.S. Barberloi, is directed to record the statement of the complainant, Mst. Rahib Khatoon within two (2) weeks from the date of this Order. It is hoped and expected that the concerned SHO shall behave in a neutral, polite and professional manner, even though almost 11 months have passed since the occurrence of the incident on 08.09.2025. The concerned SHO shall apply his own mind and act independently without prejudice to the documents discussed and/or other observations made by me herein. For the removal of doubt, if the police conclude that a cognizable offence has been revealed, they should not hurry to arrest people till they have some evidence to support the allegations.

9. In light of the timeline above, issue notice to the SSP Khairpur for appropriate action in terms of the order passed herein.
10. The instant Criminal Miscellaneous application stands allowed in the above terms.

JUDGE