

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Misc. Application No.S-422 of 2024

For Applicant:	Mr. Rafique Ahmed K. Abro, learned Advocate
For Respondent/State:	Mr. Nazir Ahmed Bhangwar, DPG
Date of hearing:	16.04.2025
Date of Judgment:	16.04.2025

JUDGMENT

Jan Ali Junejo, J:--The current Criminal Miscellaneous Application under Section 561-A Cr.P.C. is directed against the order dated 27.11.2024 passed by learned Additional Sessions Judge-I/Ex-Officio Justice of Peace, Kamber, in Criminal Miscellaneous Application No. 2317 of 2024, whereby the application filed by the present applicant under Sections 22-A and 22-B Cr.P.C. for registration of FIR against the proposed accused was dismissed. The applicant, being aggrieved by said order, has invoked the jurisdiction of this Court with a prayer to set aside the impugned order and direct the SHO concerned to register the FIR on the version narrated by him.

2. Brief facts of the case are that the applicant, a practicing lawyer of the High Court, visited Kamber to attend a civil case No.34/2024 and a family event. The said civil case was instituted against Abdul Manan and others. The applicant alleges that on 24.11.2024 at about 12:50 PM, Abdul Manan along with several police officials forcibly trespassed into the applicant's residence, subjected him and his family to physical torture, issued death threats, and attempted to coerce him into withdrawing the civil case. It is further alleged that the applicant's mother, a pardanashin lady and asthma patient, was also injured during the assault. Despite several attempts, the local police refused to register an FIR. Hence, the applicant filed an application before the learned Ex-Officio Justice of Peace under Sections 22-A and 22-B Cr.P.C., which was dismissed vide the impugned order.

3. Learned counsel for the applicant argued that the impugned order is illegal, perverse, and without application of judicial mind. He submitted that serious allegations of criminal trespass, assault, and intimidation are leveled against the proposed accused, and the same disclose cognizable offences warranting registration of FIR. He further contended that under Section 154 Cr.P.C., the police is bound to record the statement of the informant if the information discloses a cognizable offence. Counsel emphasized that the Ex-Officio Justice of Peace was not competent to assess the veracity of allegations at this premature stage, as it is the domain of the police to investigate and unearth the truth. Learned counsel further relied upon the Lawyer Welfare and Protection Act, 2023, asserting that the applicant, being a lawyer, is entitled to protection against such acts of harassment.

4. Conversely, learned Additional Prosecutor General appearing for the State supported the impugned order, submitting that the dispute between the parties is of a civil nature. He argued that no independent witness or medico-legal evidence was produced before the learned Ex-Officio Justice of Peace, and that the reports submitted by the police negated the occurrence of any such incident. He further submitted that the application appears to have been filed with mala fide intention to pressurize the proposed accused in the civil litigation, and that the applicant has an alternate remedy available under the law through filing a direct complaint.

5. I have considered the arguments advanced by the learned counsel for the parties and examined the material available on record with their able assistance. It appears that the applicant has alleged commission of cognizable offences. However, the learned Ex-Officio Justice of Peace called for reports from the concerned police officials which revealed that the dispute was civil in nature and denied the occurrence of any such criminal incident. It is noteworthy that no independent witness or medical evidence was produced to substantiate the injuries allegedly sustained by the applicant's mother. The learned Justice of Peace has rightly observed that the remedy of filing a direct complaint under Section 200 Cr.P.C. was available to the applicant. The order is supported by settled principles enunciated by the Hon'ble Supreme Court in **2024 SCMR 985**, cautioning against mechanical issuance of directions under Sections 22-A & 22-B Cr.P.C. without proper scrutiny. In the case of ***Munawar Alam Khan v. Qurban***

Ali Mallano and others (2024 SCMR 985), the Honourable Supreme Court of Pakistan emphasized that the provisions of Sections 22-A and 22-B, Cr.P.C., have frequently been subjected to misuse. The Apex Court underscored that it is the judiciary's essential responsibility to prevent such misuse. Applications under these provisions must not be entertained casually or disposed of in a routine or mechanical fashion merely to direct the police to register an FIR, initiate investigation, or proceed with prosecution. The Apex Court further reiterated the well-established legal principle that every case must be adjudicated based on its own unique facts and circumstances. The impugned order clearly reflects application of judicial mind and addresses the legal and factual aspects with sufficient reasoning. Thus, I do not find any legal infirmity in the said order warranting interference by this Court under Section 561-A Cr.P.C. Furthermore, this Court issued an order on 04-02-2025, directing the Deputy Inspector General of Police (DIGP) in Larkana to conduct an inquiry to ascertain the factual circumstances of the case. In adherence to the Court's directive, the inquiry was carried out by the Assistant Superintendent of Police (ASP)/Sub-Division Police Officer of Hyderi, Larkana, who subsequently submitted his findings to this Court. The enquiry report conclusively contradicted the claims made by the Applicant. The critical conclusions of the inquiry are outlined below:

- The applicant failed to produce independent witnesses or conclusive evidence (e.g., medico-legal certificates) to substantiate claims of physical torture or injury.
- A video recording (submitted as evidence) only showed police entering a street but did not corroborate allegations of violence or the brick-hitting incident.
- Photographs of injuries (only legs with "tiny croups") were deemed insufficient without facial identification or medical documentation.
- Civil Suit (No.34/2024) is pending between the parties over property rights. The enquiry concludes that the applicant is attempting to convert a civil dispute into a criminal case to pressure the opposing party and police.
- The report suggests the applicant may have fled after firing at Abdul Manan Chandio.
- Allegations against police are discarded as baseless, with no proof of misconduct.

6. Based on the foregoing discussion, the present Criminal Miscellaneous Application, lacking any merit, is accordingly dismissed. The Impugned Order dated 27-11-2024, passed by the learned Ex-Officio Justice of Peace, is found to be well-reasoned and legally justified, and is therefore affirmed.

JUDGE

S.Ashfaq