

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Crl. Misc. Application No. S-386 of 2025

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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- 1. For Orders on MA No. 3289/2025 (U/ A).
- 2. For Orders on MA No. 3290/2025. (Ex./ A)
- 3. For hearing of main case.
- 4. For Orders on MA No. 3291/2025. (Stay)

27-06-2025

Mr. Achar Khan Gabol, Advocate for the applicant.

- 1. Application for urgent hearing is granted.
 - 2. Granted subject to all just legal exceptions.
- 3&4. Through the instant Criminal Miscellaneous Application, the applicant challenges the order dated 26.06.2025, passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Kandiaro, in Criminal Miscellaneous Application No. 2367/2025 filed under Sections 22-A and 22-B Cr.P.C by Respondent No. 4, Mst. Humaira. By the said order, the learned Ex-Officio Justice of Peace directed that the statement of respondent No. 4, Mst. Humaira, be recorded to the effect that the applicant/proposed accused, who is her husband along with other family members, subjected her to maltreatment, resulting in the miscarriage of her child and thereby committed a cognizable offence.

Learned counsel for the applicant submits that during the proceedings before the learned Ex-Officio Justice of Peace, Respondent No. 4 was provided with medical treatment. The Provisional Medical Certificate issued by the Women Medical Officer, RHC Mehrabpur, point out that no evidence of external violence was observed on any part of the body. Furthermore, the Final Medical Certificate states that it is not possible to conclusively determine whether the condition resulted from violence or any underlying gynecological pathology. It is further submitted that a report was obtained by the learned Ex-Officio Justice of Peace from the DSP Complaint Cell, Naushahro Feroze, who also disowned the occurrence of the alleged incident. In light of these circumstances, the learned counsel prays that the impugned order may kindly be set aside.

Heard learned counsel for the applicant and perused the material available on record.

As per the documentary evidence annexed with the instant application, particularly at page No. 33, which contains the Final Supplementary Medical Report issued by the Women Medical Officer (WMO), RHC Mehrabpur and upon which the learned counsel for the applicant has placed strong reliance, it is observed that the medical findings are expressly state that it is not possible to definitively determine whether the condition in question resulted from an act of violence or from an underlying gynecological pathology. So, Investigation officer is advised to dig out the circumstantial evidence for sake of transparency and justice. In light of these medical findings and in order to ensure a fair and impartial investigation, the Investigating Officer has been appropriately advised to explore and collect circumstantial evidence. Such an approach is imperative to uphold the principles of transparency and justice, especially when direct medical evidence does not conclusively establish the cause of the alleged incident.

That, there exists a specific allegation against the applicant pertaining to the alleged miscarriage of a child. However, even the medical officer was unable to reach a conclusive determination on this point. In these circumstances, it is imperative that a proper investigation be conducted to ascertain the factual position. Therefore, the appropriate legal remedy under Section 154, Cr.P.C. ought to be invoked, so that the investigation may formally commence and the truth may be unearthed through lawful means.

The role of the Investigating Officer is of paramount importance in the administration of the criminal justice system. The investigation report forms a vital component of the prosecutorial process and carries significant evidentiary value and consequences on the outcome of any criminal case. Reliance is placed on the case of *Syed Qambar Ali Shah v. Province of Sindh and others* (2024 SCMR 1123).

In view of the foregoing, the instant Criminal Miscellaneous Application is hereby dismissed in limine. However, the Investigating Officer is directed not to effect the arrest of the applicant unless and until tangible evidence comes on record during the course of investigation.

J U D G E