

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Cr. Miscellaneous Application No. S-213 of 2025

Applicant : Bashir Ahmed s/o Ihsan Ahmed Khoso
Through Mr. Aftab Ahmed Channa,
advocate.

Respondent No.5 & 7 : Through Mr. Abdul Rehman Bhutto,
Advocate

The State : Through Mr. Sardar Ali Solangi, DPG.

Date of hearing : 28-07-2025
Date of order : 01-08-2025

ORDER

KHALID HUSSAIN SHAHANI, J:- The applicant invokes the inherent jurisdiction of this court, assailing order dated 17.06.2025, passed by the learned Sessions Judge/Ex-Officio Justice of Peace, Kashmore @ Kandhkot, whereby an application u/s 22-A(6)(i) Cr.P.C, seeking direction for the registration of a FIR against the proposed accused was declined.

2. The applicant's case, in brief, is that he is the lawful owner of (36-37) acres of agricultural land. On 25.04.2025, the proposed accused, armed with deadly weapons, allegedly trespassed onto his land, illegally dispossessed him from seven acres, robbed his tractor and his witnesses' motorcycle, demanded an extortion amount (Bhatta) of Rs. 10,00,000/-, and issued threats of dire consequences. The applicant claims he reported the matter to the local police, but they failed to register his FIR, compelling him to approach the learned Justice of Peace.

3. The learned counsel for the applicant argued that the impugned order is illegal and against the settled principles of law. He contends that the information provided by the applicant clearly discloses the commission of several cognizable offenses, including robbery, extortion, and criminal intimidation. He submits that under Section 154

Cr.P.C., the SHO is duty-bound to record the FIR when a cognizable offense is reported, and the learned Justice of Peace erred by delving into the merits and credibility of the case, which is the domain of the investigating officer after the FIR is registered.

4. Learned DPG for the State duly assisted by the learned counsel for the proposed accused submitted that impugned order passed by the learned Ex-Officio Justice of Peace is just, proper and does not require interference by this court.

5. While it is a well-established principle of law that the registration of an FIR is mandatory upon the disclosure of a cognizable offense, the discretionary jurisdiction vested in the Justice of Peace under Section 22–A Cr.P.C., and the inherent jurisdiction of this Court under Section 561–A Cr.P.C., cannot be exercised in a mechanical fashion. These powers are meant to be invoked to advance the cause of justice and prevent the abuse of the process of the court, not to facilitate it.

6. The learned Justice of Peace, in his detailed and well-reasoned impugned order, has highlighted several critical aspects that militate against the applicant's plea. The primary finding is that the dispute between the parties is essentially civil in nature, revolving around a parcel of land. It is not the function of the criminal justice system to serve as a tool for settling property disputes or to be used as a lever to coerce a party in such a dispute.

7. Most significantly, the learned Justice of Peace has noted that the applicant has already invoked an appropriate legal remedy by filing a Direct Complaint under the Illegal Dispossession Act, 2005, which is reportedly pending adjudication. This demonstrates that the applicant is already pursuing a specific remedy for the alleged dispossession.

8. The most glaring contradiction, which exposes the *mala fides* of the applicant, is the finding in the impugned order regarding the very tractor and motorcycle allegedly robbed on 25.04.2025. The learned Justice of Peace has referred to a separate proceeding (D.C No.8/2025)

wherein the SHO had reported that the same tractor and motorcycle had already been seized and that litigation concerning them was already pending. This fact fatally undermines the applicant's narrative of a fresh incident of robbery. It strongly suggests that the instant application is an attempt to initiate parallel criminal proceedings and entangle the proposed accused in multiple cases as a pressure tactic.

9. The learned Justice of Peace did not embark upon a "deep inquiry" or a "trial" as contended by the applicant's counsel. Instead, he rightly considered the police report and the information regarding pre-existing litigation to determine whether a *prima facie* case for the exercise of his discretionary powers was made out. He correctly concluded that the application was an attempt to abuse the legal process for ulterior motives related to a civil dispute. The finding that no cognizable offense as alleged had taken place is supported by the surrounding circumstances and the applicant's own conduct of pursuing parallel remedies with contradictory claims.

10. The impugned order dated 17.06.2025 is found to be comprehensive, based on sound reasoning, and in accordance with the settled principles governing the exercise of jurisdiction under Section 22–A Cr.P.C. It does not suffer from any legal infirmity, perversity, or jurisdictional error that would warrant interference by this Court in the exercise of its inherent powers under Section 561–A Cr.P.C.

11. For the foregoing reasons, this Criminal Miscellaneous Application is found to be wholly devoid of merit and appears to be a classic example of the abuse of the process of law. It is accordingly dismissed.

JUDGE

Asghar Altaf/P.A