

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Miscellaneous Application No. S-103 of 2025

Applicant : Zafar Iqbal Jatoi, Advocate
Through Mr. Wakeel Ali Shaikh,
Advocate.

Complainant : Through Mr. Anwar Ali Shaikh, 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:- Applicant invokes the inherent jurisdiction of this court, seeks to set aside the order dated 13-02-2024, passed by the learned Sessions Judge/Ex-Officio Justice of Peace, Shikarpur, whereby Cr. Misc. Application No.126/2024, in pursuance of section 22-A&B Cr.P.C for according directions to the to the SHO, Police Station Gaheja, to record his statement under Section 154, Cr.P.C was declined.

2. The gravamen of the applicant's case is that on 19-12-2023, he was intercepted by the proposed accused, Khadim Jeho (Respondent No.1), who, while armed with a pistol, issued threats of dire consequences. The applicant asserts that he approached the concerned SHO for the registration of an FIR but was refused, compelling him to seek remedy from the Justice of Peace.

3. Record reflects that the learned Sessions Judge, in the impugned order, has concisely noted the core issue between the parties. It is observed that there is an admitted ongoing landed dispute between the applicant and the proposed accused. Significantly, the proposed accused, Khadim Jeho, had also instituted an application of a similar nature against the present applicant, containing a comparable set of allegations. The report from the SHO, PS Gaheja, also highlighted this pre-

existing property dispute and opined that the applicant's intention was to lodge a false FIR. On these premises, the learned Sessions Judge concluded that there was no substance in the application for the lodgment of an FIR and consequently dismissed the same.

4. The primary contention of the applicant is that the existence of a dispute provides a motive for the alleged offence and that the Justice of Peace overstepped by conducting a mini-trial instead of simply directing the registration of an FIR, as a cognizable offence was disclosed.

5. This Court is fully cognizant of the principle that the registration of an FIR is a fundamental right when information disclosing a cognizable offence is provided, and the police are duty-bound to record the same without embarking on a preliminary inquiry to determine its veracity. The investigation is a subsequent stage where the truth is to be unearthed. However, the powers conferred upon a Justice of Peace under Section 22-A, Cr.P.C., while circumscribed, are not merely a mechanical function. The Justice of Peace must apply a judicial mind to the facts presented to prevent the abuse of the process of law. In the instant matter, the learned Sessions Judge was confronted not just with an application and a police report, but also with a counter-application filed by the proposed accused against the applicant. This crucial fact suggests a situation of a private dispute being escalated with mutual, retaliatory allegations, where the machinery of criminal law is being invoked to settle personal scores stemming from a civil matter.

6. The learned counsel for the applicant has placed profound reliance on the judgment in the case of *Syed Qamber Ali Shah v. Province Of Sindh* (2024 S C M R 1123). While the principles enunciated therein are the settled law of the land, the said case is distinguishable on its facts from the present one. In *Qamber Ali Shah's case*, the allegation pertained to abduction, and the Hon'ble Supreme Court deprecated the High Court for assuming the role of an investigator and rendering findings on merits at a premature stage. In the case at hand, the learned Sessions Judge has not

conducted a fact-finding inquiry or a mini-trial. Rather, he has exercised his discretion based on the material on record, most notably the existence of a counter-blast application, which prima facie indicates a malicious intent to entangle the opposing party in criminal litigation over a pre-existing landed dispute. The function of the Justice of Peace is also to guard against the initiation of proceedings that are a clear abuse of process. The conclusion that the application was an attempt to weaponize the criminal justice system for leverage in a civil dispute is a plausible view based on the available record.

7. The inherent powers of this Court under Section 561-A, Cr.P.C., are to be exercised sparingly to secure the ends of justice and prevent the abuse of the process of any Court. The order passed by the learned Sessions Judge/Ex-Officio Justice of Peace is well-reasoned and does not suffer from any patent illegality or jurisdictional error that would warrant interference. The discretion exercised by the learned Judge is neither arbitrary nor capricious. For the foregoing reasons, this Criminal Miscellaneous Application is found to be devoid of merit and is hereby dismissed.

J U D G E

Asghar Altaf/P.A