

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Miscellaneous Application No.S-128 of 2025

Applicant: Ali Ahmed s/o Khairo Kapri
Through Mr. Shah Nawaz Ali Kumbhar advocate.

Respondents: 1. S.S.P District Umerkot.
2. SHO P.S Umerkot City.
3. Khamiso s/o Muhammad Uris.
4. Qadir Bux s/o Muhammad Uris.
5. Two unknown persons.
6. The State.
Official respondents through Mr. Ghulam Abbas Dalwani, D.P.G and private respondents through Mr. Ghulamullah Chang advocate.

Date of hearing: 27.06.2025.

Date of Order: 27.06.2025.

ORDER

Jan Ali Junejo, J. – Through this Criminal Miscellaneous Application under Section 561-A of the Code of Criminal Procedure, 1898, the applicant Ali Ahmed seeks setting aside of the order dated 26.05.2025 (hereinafter referred to as the *“Impugned Order”*) passed by the learned Additional Sessions Judge-I / Ex-Officio Justice of Peace, Umerkot, whereby his application under Sections 22-A and 22-B Cr.P.C. seeking directions to the Station House Officer, Police Station Umerkot City, for registration of FIR was dismissed.

2. The applicant claims that on 20.05.2025, after attending bail proceedings at the Court, he, along with Khair Muhammad and Dilawar S/o. Dodo, was allegedly intercepted outside the court premises by the private respondents and two unknown accomplices in a white-colored Mehran car bearing registration No. BFK-623. It is alleged that the private respondents, armed with weapons, forcibly abducted Khair Muhammad and Dilawar at gunpoint and fled the scene. The applicant contends that despite approaching the concerned police station, no FIR was registered, and

subsequent efforts with higher police officials also failed. He thereafter filed an application under Sections 22-A and 22-B Cr.P.C. before the learned Additional Sessions Judge-I, Umerkot, which was dismissed vide Impugned Order dated 26.05.2025. The applicant now seeks reversal of the said order.

3. The SHO, Police Station Umerkot City, submitted his report. He reported that on 20.05.2025, following the dismissal of bail of the so-called abductee, Khair Muhammad, in F.I.R No. 32/2025 registered under Sections 337-H(ii), 395, 324, 147, 148, 149, 506(ii), 337-A(i), and 337-F(i), PPC at Police Station Samaro, the Investigating Officer, SIP Muhammad Siddique of PS Samaro, arrested Khair Muhammad outside the main gate of the Court under a duly prepared mashirnama. The report also reflects that there exists a longstanding dispute between the parties over agricultural land.

4. The learned counsel for the applicant contended that the impugned order dated 26.05.2025 is perverse, illegal, and passed in a cursory and hasty manner without appreciating the facts and circumstances brought on record. He argued that the applicant had categorically narrated a grave incident of abduction that occurred on 20.05.2025 outside the court premises involving Khair Muhammad and Dilawar, who were allegedly kidnapped at gunpoint by the private respondents and unknown accomplices. He further asserted that despite approaching the relevant police authorities, including the SHO and SSP of District Umerkot, no cognizance was taken, prompting the applicant to approach the Ex-Officio Justice of Peace. Counsel emphasized that the arrest of Khair Muhammad, as later shown by the police, appears to be a manipulated cover-up aimed at shielding the abductors. He also alleged that respondent No.3 is an influential person with a history of lodging false FIRs and using his influence to harass and blackmail innocent persons. He maintained that the Ex-Officio

Justice of Peace failed to consider that the applicant's complaint disclosed a cognizable offence, and thus, he prayed for the impugned order to be set aside and for directions to be issued to the police to record the applicant's statement and register FIR.

5. Conversely, the learned counsel for the private respondents vehemently opposed the instant application, terming it as a gross abuse of legal process intended to frustrate and pressurize the respondents in retaliation for lodging FIR No. 32/2025 at P.S Samaro against members of the applicant's party. He argued that the so-called abductee Khair Muhammad was in fact lawfully arrested by SIP Muhammad Siddique on 20.05.2025 outside the court premises in relation to the aforementioned FIR. The arrest was duly documented under mashirnama and judicial remand was obtained from the Magistrate on 21.05.2025. The counsel pointed out that the arrest record and official reports substantiate that the applicant's claim of abduction is a fabricated and malicious attempt to discredit the lawful arrest. Furthermore, he submitted that the applicant has a motive to mislead the Court due to a pending land dispute and longstanding enmity between the parties. He argued that the application under Section 22-A & B Cr.P.C. is not maintainable in the absence of any prima facie commission of a cognizable offence. Lastly, the learned counsel prayed for dismissal of the present Criminal Misc. Application.

6. The learned Deputy Prosecutor General appearing on behalf of the State also opposed the application and supported the reasoning given in the impugned order. He submitted that the applicant failed to produce any concrete evidence substantiating the alleged incident of abduction. He argued that the police record, including the memo of arrest, judicial remand order, and internal correspondence between the SHO and SSP, clearly reflect

that Khair Muhammad was arrested in a criminal case and not abducted as alleged. The DPG emphasized that the applicant never appeared before the police to formally report the alleged offence and has instead attempted to misuse the provisions of Sections 22-A & B Cr.P.C. for extraneous motives. He maintained that the impugned order is well-reasoned and in accordance with settled law and facts on record, and the present application is liable to be dismissed.

7. Having considered the arguments advanced by the learned counsel for the applicant, the learned counsel for the private respondents, and the learned Deputy Prosecutor General for the State, and upon meticulous examination of the available record, it appears that the allegations leveled by the applicant pertain to the alleged forcible abduction of Khair Muhammad and Dilawar. However, the record clearly establishes that Khair Muhammad was lawfully arrested by SIP Muhammad Siddique, the Investigating Officer of Police Station Samaro, following the dismissal of his bail application in F.I.R No.32/2025, registered under Sections 337-H(ii), 395, 324, 147, 148, 149, 337-A(i), 337-F(i) and 506(ii) PPC of P.S. Samaro. The arrest took place outside the main gate of the Court and was duly documented through a properly executed mashirnama (arrest memo). Furthermore, the legality of his arrest was affirmed by the remand order issued by the competent Judicial Magistrate on 21.05.2025. This formal and well-documented legal process categorically refutes the applicant's allegation of abduction. Furthermore, the applicant did not follow the proper legal recourse by filing a written complaint with the police. Instead, he directly approached the learned Ex-Officio Justice of Peace with a vague and unsupported application under Sections 22-A and 22-B, Cr.P.C., without disclosing any cogent or verifiable material to support such serious allegations. Notably, the applicant has failed to bring on record any

independent witness statement, or corroborative material to substantiate the purported incident of abduction. In the absence of such evidence, the allegation remains unproven and appears contrived. The circumstances surrounding the application suggest that it is tainted with mala fide intent, likely driven by pre-existing enmity and ongoing disputes between the parties, particularly over agricultural land. The case, therefore, bears clear signs of retaliatory litigation, intended more to settle personal scores than to seek justice through lawful means. The impugned order dated 26.05.2025, passed by the learned Additional Sessions Judge-I / Ex-Officio Justice of Peace, Umerkot, reflects proper application of judicial mind. It is supported by documentary evidence and consistent with the settled principles of law. The applicant has failed to point out any legal infirmity, jurisdictional defect, or procedural irregularity in the said order that would warrant interference by this Court. It is a well-established principle that the inherent powers of the High Court under Section 561-A, Cr.P.C., are to be invoked sparingly and only in rare and exceptional circumstances to prevent the abuse of the process of law or to secure the ends of justice. These powers are not to be exercised routinely, nor to bypass regular legal procedures or to override well-reasoned judicial or quasi-judicial orders. In the present matter, the applicant has failed to demonstrate the existence of any such exceptional circumstance justifying the invocation of this Court's inherent jurisdiction. Accordingly, no case for interference is made out. It is also pertinent to emphasize that applications under Sections 22-A and 22-B, Cr.P.C., must not be entertained in a mechanical or perfunctory manner. The Court (Ex-Officio Justice of Peace) is under an obligation to assess whether the applicant has approached with clean hands and whether the application is free from malice or ulterior motives. Failure to exercise this judicial scrutiny may not only encourage frivolous litigation but also unfairly target police officials

lawfully performing their duties, thereby undermining the integrity of law enforcement and judicial oversight. In this regard, reliance is placed on the judgment of this Court in the case of ***Imtiaz Ahmed Cheema, S.H.O. v. S.H.O., Police Station Dharki, Ghotki and 2 others (2010 YLR 189)***, wherein it was held that: *“The wisdom of legislature was not that any person who in discharging of duties takes an action against the accused would be subjected to harassment by invoking provision of section 22-A, Cr.P.C. The Courts in mechanical manner should not allow application under sections 22-A & B and should apply its mind as to whether the applicant has approached the Court with clean hands or it is tainted with malice. Unless such practice is discharged, it would have far reaching effect on the police officials who in discharge of duties take actions against them. The law has to be interpreted in a manner that its protection extends to everyone. I am therefore, of the opinion that order of the Sessions Judge was passed in mechanical manner and the applicant approaching the Sessions Judge”*. In similar circumstances, the Honourable Supreme Court of Pakistan, in the case of ***Munawar Alam Khan v. Qurban Ali Mallano and others (2024 SCMR 985)***, held that: *“Having heard the petitioner and scanned the material available on the record, we observe that there are many precedents regarding misuse of provisions of Sections 22-A and 22-B, Cr.P.C. and it is the prime duty of the Court that such misuse be taken care of and application filed should not be lightly entertained and decided in a mechanical manner for issuing direction to the police to lodge an FIR, conduct investigation in the matter and prosecute the accused. It is a settled principle of law that each and every case is to be decided on its own peculiar facts and circumstances and inference in this regard can be drawn from the cases reported as Rai Ashraf and others v. Muhammad Saleem Bhatti and others (PLD 2010 SC 691), Trustees of the*

Port of Karachi v. Muhammad Saleem (1994 SCMR 2213) and The State v. Mushtaq Ahmed (PLD 1973 SC 418)”.

8. In view of the above findings and legal reasoning, the present Criminal Miscellaneous Application is found to be meritless. The impugned order dated 26.05.2025 passed by the learned Additional Sessions Judge-I / Ex-Officio Justice of Peace, Umerkot, is upheld. Consequently, the application stands dismissed.

JUDGE

Saleem

