

IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA

Crl. Misc.Application No.S-338 of 2024
(Gulab Khan Vs. SHO, P.S, Kamber & others)

DATE	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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- 01. For orders on M.A No.3999/2025. (U/ A)
- 02. For orders on office objection "A"
- 03. For hearing of main case.

21-08-2025

Mr. Atta Hussain Chandio, Advocate for applicant
Mr. Aitbar Ali Bullo, Deputy Prosecutor General.

ORDER

Ali Haider 'Ada'. J:- Through the instant application, the applicant has called in question the order dated 12.09.2024 passed by the learned Additional Sessions Judge-I / Ex-Officio Justice of Peace, Kamber, whereby the prayer of the applicant for issuance of directions to the police for registration of FIR, made under Sections 22-A and 22-B, Cr.P.C., was declined.

2. The applicant, through his application under Sections 22-A and 22-B Cr.P.C., alleged that the proposed accused, who are police officials posted at different police stations, on 25.08.2024, unlawfully entered his house and removed various valuable items. These included a motorcycle, a rickshaw, six goats, solar plates, batteries, an LCD television, gas cylinders, pedestal fans, gold ornaments, a licensed rifle, seventeen cocks, and cash amounting to Rs. 43,000/-. Upon filing of the application, the learned Ex-Officio Justice of Peace sought reports from the concerned police officials. In response, the police submitted that the applicant's son and certain other relatives have a criminal background and are allegedly involved in criminal activities. It was contended that the present application had been filed as a counterblast to preempt legal action and to pressurize the police. Based on this version, the learned Justice of Peace declined to issue directions for registration of FIR, vide order dated 12.09.2024, which is now under challenge through this Criminal Miscellaneous Application with a prayer to set aside the impugned order and direct the concerned Station House Officer to record the version of the applicant under Section 154, Cr.P.C.

3. Learned counsel for the applicant argues that the impugned order is unjustified and suffers from legal infirmity, as the learned Ex-Officio Justice of

Peace declined the applicant's prayer solely on the basis of the alleged criminal record of the applicant's son and some other individuals. Further contends that the alleged criminal record cannot be made a ground to deny the applicant's right to report the commission of a cognizable offence, particularly when the factual record contradicts the police version. The learned counsel pointed out that the applicant's son was implicated in FIR No. 289 of 2024, registered on 25.08.2024, and subsequently in FIR No. 293 of 2024, dated 28.08.2024, for offences under Section 395, PPC. However, both these FIRs were registered after the date of the alleged incident, which according to the applicant took place on 25.08.2024. Furthermore, the applicant's son has already been acquitted in FIR No. 293 of 2024, thereby rendering the allegations of habitual criminality unfounded and demonstrating mala fide on the part of the police officials. He further argues that the other individuals whose names were cited by the police as relatives of the applicant are in fact merely caste fellows, and not related to him by blood or family ties. This assertion was substantiated through the Family Registration Certificate (FRC) issued by NADRA, which confirms the applicant's immediate family members and excludes the said individuals. Therefore, the claim of shared criminal background through association is both factually incorrect and legally irrelevant to the question at hand. Learned counsel emphasizes that the applicant has alleged commission of a cognizable offence by police officials, and under section 154 of the Cr.P.C, the applicant has a legal right to have his version recorded and the law should be allowed to take its course.

4. On the other hand, the learned Deputy Prosecutor General opposed the present application. He submits that, in compliance of Court's notice, the concerned Station House Officer submitted a report disclosing that the applicant's son, namely Imran Mugheri, is involved in two criminal cases, while approximately 20 cases have been registered against individuals described as the applicant's relatives, at different police stations. He further submits that the instant application is nothing but a dramatized attempt to frustrate legal proceedings and to shield habitual offenders from the due process of law. The learned DPG further contends that the applicant's plea regarding the alleged incident occurring on 25.08.2024 and the subsequent registration of FIRs against his son on 25.08.2024 (FIR No. 289/2024) and on 28.08.2024 (FIR No. 293/2024) is misconceived and factually untenable, as the application under Sections 22-A and 22-B, Cr.P.C., was filed later on 07.09.2024. Therefore, the claim that FIRs were lodged after the incident is not credible, and in fact, it is the application that

was filed as an afterthought. It is also submitted that the applicant has approached the forum of the Justice of Peace with unclean hands, and the present application is frivolous and misconceived. Moreover, the learned Justice of Peace had already left open the remedy available to the applicant by observing that he may pursue the matter through a private complaint, which itself reflects judicial restraint and an opportunity for the applicant to seek redress through proper legal channels. However, such scope, it is argued, has increasingly been exploited by individuals seeking to pressurize police officials and to cut the criminal justice system. The learned DPG emphasizes that where persons with known criminal backgrounds attempt to utilize the legal forum in order to forestall or interfere with ongoing investigations; it contributes to a decline in police morale and encourages criminal elements. He submitted that such conduct undermines the integrity of the justice system and burdens it with unwarranted and malicious litigation. Therefore, in view of the applicant's conduct, the criminal background of his close associates, and the mala fide nature of the present application, the applicant is not entitled to the relief sought.

5. Heard the learned counsel for the parties and perused the material available on record with due care and caution.

6. It is a well-recognized legal position that that the Ex-Officio Justice of Peace, while exercising powers under Sections 22-A(6) and 22-B of the Code of Criminal Procedure, must not act as a post office to mechanically issue directions for registration of FIRs upon every application. Rather, the power vested under the said provisions is to be exercised with judicial discretion, based on application of legal mind. The primary object of this provision is to ensure that if a cognizable offence is disclosed and the concerned police officer fails to act in accordance with Section 154, Cr.P.C., the aggrieved person may seek redress. However, this does not mean that the Ex-Officio Justice of Peace is bound to issue directions in every case where a complaint is made. Thus, the role of the Ex-Officio Justice of Peace is not merely administrative but quasi-judicial in nature. Before issuing directions to the police, the Justice of Peace must examine the contents of the application to see if a cognizable offence is made out, consider any material placed by the police, such as reports, evaluate if the complaint is genuine or filed to pressurize or settle scores and discourage abuse of process by persons with unclean hands. Therefore, the duty of the Justice of Peace is to ensure that the process of law is not misused by malicious litigants. Where the matter appears motivated, based on mala fide, or aimed at harassing public

functionaries, no direction should be issued mechanically. The judicial conscience must be satisfied before invoking the coercive process of criminal law.

7. It is the prime duty of the Ex-Officio Justice of Peace, while exercising jurisdiction under Sections 22-A and 22-B Cr.P.C., to exercise his authority judiciously and not in a mechanical manner. The process must involve scrutiny of the application with an objective and impartial mind. Mere approach by an aggrieved person, without adequate substantiation, does not obligate the Justice of Peace to direct registration of FIR. The law does not permit such directions to be issued blindly or in routine. It is an accepted principle that direction for registration of FIR cannot be issued in a casual or arbitrary manner, especially in cases where the material placed before the Court indicates the possibility of malicious intent or abuse of process. The Ex-Officio Justice of Peace must ensure that applications are not frivolous, vexatious, or filed with ulterior motives. It is equally important that the Court discourages a trend whereby individuals attempt to bypass the standard criminal procedure to obtain favorable directions, especially when the complaint is based on suspicion, conjecture, or personal grudge. In this Context, reliance is placed upon the case of *Muhammad Saleem and 5 others vs Station House Officer Police Station City Sibi and 3 others* (2022 PCr.LJ 167), as further support is drawn from the case of Honorable Apex, titled *Munawar Alan Khan vs Qurban Ali Malano and others* (2024 SCMR 985).

8. The powers vested in the Ex-Officio Justice of Peace under Sections 22-A and 22-B of the Code of Criminal Procedure, are conferred not to serve those who seek to protect criminals or hardened offenders but are intended to facilitate and support the administration of the criminal justice system. Such powers must be exercised responsibly and judiciously to ensure that the rule of law prevails, and that the criminal justice process is not abused by individuals aiming to shield offenders or to press personal vendetta. The Justice of Peace, therefore, must scrutinize applications with care and must not issue directions in routine manner, thereby safeguarding the integrity of the justice system and preventing misuse of legal provisions.

9. The legislature's intent behind Section 22-A, Cr.P.C., was never to allow individuals performing their lawful duties to face undue harassment through misuse of this provision. Courts must refrain from approving applications under Sections 22-A and 22-B in a perfunctory or automatic fashion. Instead, judicial scrutiny is essential to determine whether the applicant has acted honestly and in good faith or is motivated by malice. Without such careful consideration, police

officers and public servants carrying out their responsibilities could be discouraged and vulnerable to baseless complaints. It is imperative that the law be interpreted to offer protection to all parties involved, thereby maintaining the integrity and balance of the criminal justice system. Support is drawn from the case of *Imtiaz Ahmed Cheema, SHO vs SHO Police Station Dharki, Ghotki and 2 others* (2010 Y L R 189), as this Court held that:

"I have heard the learned counsel and perused the record. The provisions of section 22-A, Cr.P.C. have been misused in a number of cases. 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. As per the record reflects that it was tainted with malice. I do not want to comment upon the conduct of the complainant, however it will be open to complainant to file direct complaint against the applicant if so advised and observations made in these proceedings will not come in the way of the complainant. The proposed complaint it filed will be decided on its own merits. This impugned order for the aforesaid reasons is set aside and Criminal Miscellaneous Application is allowed in the above terms."

10. For the foregoing reasons and after careful consideration of the facts and submissions, it is evident that the application filed by the applicant is frivolous and misconceived. The applicant has involved police officers from different police stations where FIRs have already been registered against alleged criminals, including persons described as relatives and the son of the applicant. In such circumstances, the applicant, having approached this Court with unclean hands, is not entitled to the relief sought. The application is thus dismissed in its entirety as being arbitrary and devoid of merit.

J U D G E