

IN THE HIGH COURT OF SINDH CIRCUIT COURT AT HYDERABAD

Criminal Miscellaneous Application No.S-315 of 2025

Applicant : Mst. Zohra wife of Mansoor Ali through
Mr. Munir Ahmed Kalhoro, Advocate

Respondent No.6 : Dr. Naeem through Mr. Shakeel
Ahmed Shaikh, Advocate

Respondents No.7 to 10 : Noor Khashkheli, Ghulam Nabi Babar,
Zubair Ghangro, Robeena wife of
Ghulam Nabi through Mr. Ashar
Majeed Khokhar, Advocate

Official Respondents : The State through Ms. Sana Memon,
Assistant Prosecutor General, Sindh

Respondents No.4 & 5 : NEMO

Date of hearing : 09.09.2025

Date of decision : 09.09.2025

ORDER

Jan Ali Junejo, J.- Through this Criminal Miscellaneous Application filed under Section 561-A, Cr.P.C., the applicant seeks to assail the order dated 05.05.2025 (hereinafter referred to as the “***Impugned Order***”) passed by the learned IV Additional Sessions Judge/Ex-Officio Justice of Peace, Hyderabad in Criminal Miscellaneous Application No.2019 of 2025 under Sections 22-A & 22-B, Cr.P.C., whereby the learned Court declined to issue directions for registration of FIR against the proposed accused.

2. The case of the applicant, in brief, is that_

- On 20.01.2025, while travelling in a rickshaw along with her husband and family members near the main gate of Memon Society, Qasimabad, she was allegedly intercepted by the proposed accused. Her husband was dragged out and assaulted, and she herself was subjected to beating with fists and sticks, resulting in loss of teeth and other injuries.
- She approached Police Station Qasimabad with a request for registration of FIR, but the duty officer refused and only issued a referral for medical examination.
- The initial medico-legal certificate issued by the Women Medico-Legal Officer categorized her injuries as “other hurts” under Section 337-L(ii), PPC. Dissatisfied, she sought re-examination before a

Medical Board, which opined that her missing teeth were due to poor hygiene and confirmed the correctness of the earlier certificate.

- The applicant filed an application under Sections 22-A & 22-B, Cr.P.C. before the learned Ex-Officio Justice of Peace, but the same was dismissed vide order dated 05.05.2025, leading to the present proceedings under Section 561-A, Cr.P.C.

3. Learned counsel for the applicant contended that the applicant, a law-abiding citizen, was subjected to a brutal and unprovoked assault by the proposed accused, resulting in multiple injuries including loss of teeth, yet despite disclosure of commission of cognizable offences, the SHO concerned failed to register the FIR, thereby violating the mandatory provisions of Section 154, Cr.P.C. It was argued that the learned Ex-Officio Justice of Peace misapplied the law by declining the prayer on the basis of medical opinion and police enquiry, which amounted to holding a mini-trial at a pre-registration stage, whereas the settled principle laid down in **PLD 2007 SC 539, PLD 2016 SC 484** and other authoritative pronouncements is that once allegations disclose cognizable offences, the SHO is bound to register an FIR without embarking upon verification of truthfulness or sufficiency of evidence. Learned counsel maintained that the impugned order is perverse, violative of Articles 4 and 10-A of the Constitution, and has effectively deprived the applicant of her fundamental right to access justice.

4. Conversely, learned counsel for Respondent No.6 and Respondents Nos.7 to 10 vehemently opposed the application, submitting that the allegations are false, fabricated, and motivated by mala fide intentions arising out of a civil and property dispute between the parties. It was pointed out that the medical record does not corroborate the alleged loss of teeth as a result of assault, since the Medical Board categorically attributed the same to poor hygiene, thereby nullifying the applicant's assertion of grievous injury. It was further argued that the police enquiry also confirmed that no cognizable offence was made out, and that the dispute between the parties is essentially civil in nature. Learned counsel contended that the Ex-Officio Justice of Peace rightly declined to direct registration of FIR in the absence of material disclosing a cognizable offence, and no ground is available for invoking inherent jurisdiction of this Court under Section 561-A, Cr.P.C. Lastly, both the learned counsel prayed for dismissal of the Criminal Misc. Application.

5. Learned Assistant Prosecutor General, appearing on behalf of the State, adopted the stance of the police and supported the impugned order, contending that the findings of the learned Ex-Officio Justice of Peace are

in consonance with the medical evidence as well as the police enquiry report. It was submitted that the role of the Ex-Officio Justice of Peace under Sections 22-A & 22-B, Cr.P.C. is supervisory and not adjudicatory, and where the material before the Court does not disclose commission of cognizable offences, no directions can be issued for registration of FIR. Learned A.P.G. further argued that the applicant has alternate statutory remedies under Section 155, Cr.P.C. and private complaint procedure, and thus the present application under Section 561-A, Cr.P.C. is misconceived, devoid of merit, and liable to be dismissed.

6. I have considered the arguments advanced by the learned Counsel for the Applicant, learned Counsel for the Respondents and the learned A.P.G. for the State, and have carefully examined the material available on record with their valuable assistance. The jurisdiction of this Court under Section 561-A, Cr.P.C. is exceptional in nature and its scope is narrowly confined. It is an inherent power, to be exercised sparingly and with circumspection, only to prevent abuse of the process of the Court or to secure the ends of justice. It neither partakes the character of appellate nor revisional jurisdiction, as it does not authorize this Court to reappraise evidence, substitute findings, or cure every irregularity in the proceedings. Interference is justified only where the proceedings are ex facie without jurisdiction, tainted by patent illegality, or result in manifest miscarriage of justice. Importantly, Section 561-A cannot be invoked as an alternative to statutory remedies expressly provided under the Code, particularly the revisional jurisdiction contemplated under Sections 435 to 439, Cr.P.C. When the law has created a specific mechanism for correction of errors or illegalities, that course must be pursued, and inherent powers cannot be employed to bypass or supplant such procedure. To do so would not only defeat legislative intent but also impermissibly expand the ambit of Section 561-A beyond its lawful contours. Reliance is placed on the case of ***Ali Gohar and others v. Pervaiz Ahmed and others (PLD 2020 SC 427)***, wherein the Honourable Supreme Court of Pakistan was pleased to observe that: *“The remedy under Section 561-A, Cr.P.C. is not an alternate and or substitute for an express remedy as provided under the law in terms of Sections 435 to 439, Cr.P.C. and or Sections 249-A or 265-K, Cr.P.C., as the case may be”*.

8. Likewise, the jurisdiction vested in an Ex-Officio Justice of Peace under Sections 22-A and 22-B, Cr.P.C. is supervisory in nature and of an extraordinary character. Its essential object is to provide a safeguard against arbitrary, capricious, or mala fide inaction on the part of the police, thereby ensuring that information relating to cognizable offences is not

unlawfully suppressed or stifled. In the case of **Munawar Alam Khan v. Qurban Ali Mallano and others (2024 SCMR 985)**, the Honourable Supreme Court of Pakistan was pleased to hold 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”*.

9. The medico-legal certificate declared injuries as “other hurts” under Section 337-L(ii), PPC, a non-cognizable offence. The Medical Board further confirmed that the alleged loss of teeth was not attributable to assault but to bad dental hygiene. Thus, the allegation of grievous injury (such as under Section 337-A, PPC) stands medically unsubstantiated. If an Ex-Officio Justice of Peace were to direct the police, in applications under Section 22-A, Cr.P.C., to register cases in respect of non-cognizable offences, it would defeat the very object and spirit of the law and would inevitably amount to harassment of the proposed accused. It is a well-settled principle that the Ex-Officio Justice of Peace exercises a limited and supervisory jurisdiction, confined to ensuring that information relating to a *cognizable offence* is not unlawfully suppressed by the police. The said jurisdiction is administrative in nature and not adjudicatory; hence, the Ex-Officio Justice of Peace cannot embark upon a roving inquiry, assess the credibility of evidence, or determine the truthfulness of allegations at the pre-registration stage. Where *prima facie* material discloses commission of a cognizable offence, the Justice of Peace may direct the police to register an FIR. Conversely, where the allegations do not disclose a cognizable offence, the statutory remedy lies under Section 155, Cr.P.C., which requires such information to be entered in the station diary and referred to the Magistrate concerned. In the present case, the allegations of brutal assault and loss of teeth stand contradicted by the medical evidence. The medico-legal certificate categorized the injuries as “non-cognizable,” and the Medical Board confirmed that the loss of teeth was due to poor hygiene rather than assault. Moreover, the record indicates that the dispute between the parties primarily pertains to ownership of immovable property, thereby reinforcing the civil complexion of the underlying hostility. In these circumstances, the learned Ex-Officio Justice of Peace rightly refrained from issuing directions for registration of FIR. The contention of the applicant that the learned Court conducted a “mini-trial” is misconceived, as the Court merely referred to the medical

record and police enquiry to determine whether a cognizable offence was disclosed, an exercise squarely within the scope of its mandate. At this stage, it is necessary to clarify that the right of access to justice does not translate into an absolute right to compel registration of an FIR regardless of the statutory framework. The law itself provides distinct mechanisms: where a cognizable offence is made out, registration of FIR under Section 154, Cr.P.C. is mandatory; where the allegations disclose only non-cognizable offences, recourse lies under Section 155, Cr.P.C. and the procedure of private complaint before the competent Magistrate.

10. For the reasons recorded above:

- The allegations are contradicted by medical record and police enquiry.
- The offences disclosed, if any, fall within the ambit of non-cognizable offences.
- The learned Ex-Officio Justice of Peace acted within jurisdiction; the impugned order is free from illegality or perversity.
- No case is made out for interference in exercise of inherent powers under Section 561-A, Cr.P.C.

Consequently, the Criminal Miscellaneous Application No.S-315 of 2025 stands dismissed, and the impugned order dated 05.05.2025 passed by the learned IV Additional Sessions Judge/Ex-Officio Justice of Peace, Hyderabad was hereby upheld. These constitute the detailed reasons for the short order announced on 09.09.2025.

JUDGE