

**IN THE HIGH COURT OF SINDH CIRCUIT COURT
MIRPURKHAS**

Crl. Misc. Application No.S-311 of 2024

Applicant: Osaf Rasool Shah S/o Syed Ghulam Rasool Shah, advocate in person.

Respondents No.1 and 2: Through Mr. Ghulam Zaheer Arain, Advocate

Respondent No.5 Through Mr. Nadeem Abbasi, Advocate.

Respondent No.6 Through Mr. Taimoor Ali Qureshi, Advocate.

The State: Through Mr. Ghulam Abbas Dalwani, D.P.G.

Date of Hearing: 19.09.2025

Date of Order: 19.09.2025

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ORDER

Amjad Ali Sahito, J:- Through this Crl. Misc. Application, the applicant has challenged the order dated 27.01.2022 passed by the learned Additional Sessions Judge-I, Mirpurkhas in Criminal Revision Application No.22/2021, whereby dismissed the revision application and order dated 24.11.2021 passed in Misc. Application No.03/2021 under section 133 Cr.P.C, by Civil Judge and Judicial Magistrate-I, Mirpurkhas, whereby he dismissed the application was maintained.

2. Learned counsel for the applicant submits that the respondent No.6 has allegedly encroached upon the public footpath and the sewerage/drain has been choked, causing hardship to the residents of the locality. He further submits that such obstruction amounts to public nuisance and that no person is permitted to raise encroachment on the footpath or the sewerage drain. He, therefore, prayed for setting aside the impugned orders and allowing the application.

3. On the other hand, Mr. Ghulam Zaheer Arain filed Vakalatnama on behalf of the respondents No.1 and 2, Mr. Nadeem Abbasi filed Vakalatnama on behalf of respondent No.5 alongwith report of Assistant Director, SBICA, Mirpurkhas and Mr. Taimoor

Ali Qureshi filed Vakalatnama on behalf of the respondent No.6 which are taken on record. Counsel for the respondents and learned D.P.G have supported the impugned order and prayed for dismissal of the application.

4. Heard and perused.

5. From perusal of record it reflects that during the proceedings before the trial court the applicant himself stated that at present no dispute has arisen with the private respondents and that there is no nuisance or obstruction existing at the site. The report submitted by the Assistant Director, Sindh Building Control Authority, Mirpurkhas further supports this position as it clearly confirms that there is no encroachment upon the footpath or sewerage drain nor is there any unauthorized construction or blockage of the public way. The Civil Judge and Judicial Magistrate, Mirpurkhas after considering the statement of the applicant and the report has rightly concluded that the very foundation for invoking Section 133 Cr.P.C was lacking as no public nuisance presently exists which could warrant action under the said provision. The Revisional Court has also re-appraised the entire material and rightly maintained the order of the trial court.

6. In view of above, no illegality or material irregularity pointed out by the counsel for the applicant in the impugned order, as such instant Crl. Misc. Application stands **dismissed** alongwith pending application.

JUDGE

Faisal