

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Appln. No. S-601 of 2025

Applicant : Saifullah son of Abdul Ghani, Bullo  
Through Mr. Muhammad Farooque Ali Jatoi,  
Advocate

Proposed Accused : 1. Abdullah s/o Allah Nawaza, Chachar  
Through M/s Ali Gul Abbasi & Muhammad Zohaib  
Azam, Advocates

2. WHC Yasir Chachar of P.S Pano Akil  
Through Mr. Sunder Khan Chachar, Advocate

The State : Through Mr. Muhammad Raza Katohar, DPG

Date of hearing : 24<sup>th</sup> November, 2025  
Date of Order : 27<sup>th</sup> November, 2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.—** Applicant Saifullah has invoked the inherent jurisdiction of this court, calling in question order dated 26<sup>th</sup> September, 2025 passed by the learned Additional Sessions Judge, Pano Akil, who while acting as Ex-Officio Justice of Peace, dismissed the application under Sections 22-A(6)(i) and 22-B of the Criminal Procedure Code, whereby the applicant had sought directions for recording the statement in order to lodge FIR against the proposed accused persons.

2. The facts leading to the present application, as set forth in the record, are that on 21<sup>st</sup> August, 2025, at about 0730 hours, the applicant along with his nephew Zain-ul-Abidin alias Zain Bullo, aged about 15 years, was proceeding towards Sukkur on a motorcycle for the purpose of obtaining pre-arrest bail in a case registered at National Cyber Crime Investigation Agency, Sukkur. The applicant has averred that when they reached near Grid Station, Pano Akil, two vehicles, one Cultus car and one Vigo, intercepted them. It is alleged that six persons including the proposed accused Abdullah Chachar and WHC Yasir Chachar, emerged from the said vehicles, physically assaulted the applicant, snatched his OPPO mobile phone, cash amount of rupees fifty-five thousand, his

original National Identity Card, and forcibly kidnapped his nephew Zain-ul-Abidin at gunpoint. The applicant has stated that after the said incident, he made contact with his brother Amanullah through mobile phones of passersby persons, who thereafter arrived at the scene along with other persons and took the applicant to Police Station Pano Akil. Despite repeated requests and written applications, the police refused to register the FIR. The applicant alleges that such refusal was on account of political influence enjoyed by the proposed accused persons, who are affiliated with influential persons in the ruling party of the province. When all efforts proved futile, the applicant approached the learned Justice of Peace and filed Criminal Miscellaneous Application No.2834 of 2025 under Sections 22-A(6)(i) and 22-B of the Criminal Procedure Code, seeking directions for registration of the FIR. However, the learned Justice of Peace, vide the impugned order dated 26<sup>th</sup> September, 2025, dismissed the said application on the reasoning that since the proposed accused had already registered an FIR bearing Crime No.33/2025 at Police Station NCCIA Sukkur against the victim side, the present attempt appeared to be a counterblast and thus not maintainable. Aggrieved by the said order, the applicant has invoked the inherent jurisdiction of this Court under Section 561-A of Cr.P.C.

3. Learned counsel for the applicant has strenuously argued that the impugned order is manifestly illegal, arbitrary, without lawful authority, and contrary to the binding precedents of the Honorable Supreme Court of Pakistan. It is submitted that the role of the Justice of Peace under Section 22-A (6) (i) of the Criminal Procedure Code is administrative and not adjudicatory. The Justice of Peace is empowered to direct the police to register an FIR where a cognizable offence is disclosed. However, the learned Justice of Peace exceeded his jurisdiction by assessing the motive behind the application and by undertaking a fact-finding exercise to determine whether the application was a counterblast to the FIR registered by the proposed accused. Learned counsel has relied upon the

case of *Syed Qamber Ali Shah v. Province of Sindh* (2024 SCMR 1123), wherein the Honourable Supreme Court of Pakistan has categorically held that the Justice of Peace must not assume the role of an investigator. The function of the Justice of Peace is limited to examining whether the facts narrated in the application disclose the commission of a cognizable offence. If such an offence is disclosed, the Justice of Peace is obligated to direct the SHO to record the statement of the complainant under Section 154 of the Criminal Procedure Code and register the FIR accordingly. The veracity or otherwise of the allegations is a matter to be determined during the course of investigation, and not at the stage of registration of the FIR. It is further submitted that the allegations made by the applicant clearly disclose the commission of cognizable offences punishable under Sections 365 PPC (kidnapping or abducting with intent to secretly and wrongfully confine a person) and other allied provisions. The victim Zain-ul-Abidin is a minor boy aged 15 years, and his alleged kidnapping by the proposed accused persons constitutes a serious cognizable and non-bailable offence. The denial of registration of FIR on the ground that it is a counterblast is wholly unjustified and against the settled principles of law. Learned counsel has submitted that the existence of a prior FIR registered by the proposed accused against the applicant side cannot be a ground to refuse registration of a fresh FIR. Both FIRs can coexist, and it is for the investigating agency to ascertain the truth. By dismissing the application on the ground of counterblast, the learned Justice of Peace has usurped the functions of the investigating officer, which is impermissible in law. It is also argued that the applicant has been deprived of his fundamental right of access to justice, fair trial, and due process guaranteed under Articles 4, 9, and 10-A of the Constitution of the Islamic Republic of Pakistan. The State is constitutionally bound to protect the life, liberty, and security of its citizens, and denial of FIR registration in a case of kidnapping amounts to a breach of these constitutional rights.

4. On the other hand, learned counsel for the proposed accused No.1 has contended that the applicant has lodged this application with malafide intention and ulterior motives. It is submitted that the proposed accused No.1, Abdullah Chachar, is a journalist who had reported on social media regarding the involvement of the applicant's brother Amanullah in criminal activities. Two FIRs bearing Crime No.114/2025 under Sections 365 and 395 PPC at Police Station Ubauro, District Ghotki, and Crime No.34/2025 under Sections 363, 324, 402, and 399 PPC at Police Station Belo Mirpur, District Ghotki, had been registered against Amanullah. After the proposed accused uploaded posts on social media regarding these cases, the applicant party became annoyed and started posting blasphemous and defamatory content against the proposed accused No.1 on social media. Consequently, the proposed accused No.1 registered FIR bearing Crime No.23/2025 under Sections 20, 24, and 26 of the Prevention of Electronic Crimes Act, 2016, read with Section 109 PPC, at Police Station NCCIA Sukkur against the nephew of the applicant, Zain-ul-Abidin, and others. Learned counsel has submitted that the present application is a counterblast to the aforesaid FIR and has been filed with the sole intention of pressurizing the proposed accused and obstructing the course of justice. An inquiry was conducted by DSP Counter Terrorism Department, Sukkur, Abdul Qudoos Kalwar, wherein it was found that the applicant party failed to provide any tangible evidence of the alleged kidnapping. CCTV footages from the surrounding areas and from the Toll Plaza Rohri were examined, and no Vigo vehicle was found to have crossed from the area at the relevant time. Furthermore, the Call Data Records (CDRs) of the proposed accused No.1 and No.2 revealed that they were at different locations and not in contact with each other at the time of the alleged incident. Learned counsel for the proposed accused No. 2 has also adopted similar arguments and has relied upon the case of *Munawar Alam Khan v. Qurban Ali Mallano and others* (2024 SCMR 985), wherein the Honorable Supreme Court held that where an application

under Section 22-A CrPC is tainted with malafide and is filed as a counterblast to an earlier FIR, the Justice of Peace is justified in dismissing the same.

5. The learned Deputy Prosecutor General has supported the impugned order and has submitted that the inquiry conducted by the police revealed that the allegations made by the applicant are false and fabricated. The applicant failed to produce any witness or solid evidence in support of his claim of kidnapping. The CCTV footages and CDRs contradict the version of the applicant. In such circumstances, the learned Justice of Peace rightly dismissed the application.

6. Having heard the learned counsel for the parties at considerable length and having perused the record with utmost care and attention, this Court is of the considered view that the impugned order passed by the learned Justice of Peace suffers from manifest illegality and misconception of law, and the same is liable to be set aside.

7. The primary question that falls for determination in the present case is whether the learned Justice of Peace was justified in dismissing the application under Sections 22-A(6)(i) and 22-B CrPC on the ground that the application was a counterblast to an earlier FIR registered by the proposed accused. At the outset, it is essential to understand the scope and ambit of the powers vested in the Justice of Peace under Section 22-A of the Criminal Procedure Code. Section 22-A was inserted in the Code vide Criminal Law (Second Amendment) Ordinance, 2005, with the object of providing an effective remedy to an aggrieved person whose complaint of commission of a cognizable offence is not entertained by the police. The provision is aimed at ensuring that every person who has information regarding the commission of a cognizable offence has access to the machinery of criminal justice system. Section 22-A(6)(i) CrPC reads as follows:

*"(6) If the Justice of Peace after examining the applicant and collecting such evidence as he considers necessary, finds that there is sufficient ground for proceeding, he may—*

- (i) *direct the officer in-charge of the police station to record the statement of the applicant under section 154 and investigate the case in accordance with law."*

8. A plain reading of the aforesaid provision makes it abundantly clear that the function of the Justice of Peace is not to conduct a full-fledged inquiry or to assume the role of an investigating officer. The Justice of Peace is required to examine the applicant and collect such evidence as he considers necessary only for the limited purpose of determining whether there is sufficient ground for proceeding, that is to say, whether the information disclosed by the applicant makes out a cognizable case or not. The Honorable Supreme Court of Pakistan in the landmark judgment of *Syed Qamber Ali Shah v. Province of Sindh and others* (2024 SCMR 1123) has elaborately dealt with the scope of powers of the Justice of Peace under Section 22-A CrPC. In the said case, the petitioner had filed an application before the Justice of Peace seeking registration of FIR. The Justice of Peace, after examining the matter, directed the SHO to record the petitioner's statement and register the FIR. However, the Sindh High Court set aside the order of the Justice of Peace on the ground that the High Court, after examining the material on record, was of the view that no cognizable offence was made out. The matter was carried to the Supreme Court, which observed as follows:

*"The role of the Justice of Peace is administrative in nature and is confined to ensuring that the procedural requirements of law are complied with. The Justice of Peace is not required to scrutinize the merits of the case or to render findings on the veracity of the allegations. If the information disclosed by the applicant prima facie discloses the commission of a cognizable offence, the Justice of Peace must direct the police to register the FIR. The question as to whether the allegations are true or false is a matter of investigation, and it is for the investigating officer to probe into the matter and submit a report under Section 173 CrPC. Neither the Justice of Peace nor the High Court in exercise of jurisdiction under Section 561-A CrPC should assume the role of an investigator or an adjudicator."*

9. The Honourable Supreme Court further held:

*If the Justice of Peace will assume and undertake a full-fledged investigation and enquiry before the registration of FIR, then every person will have to first approach the Justice of Peace for scrutiny of his complaint, and only after clearance will his FIR be registered, which is beyond the comprehension, prudence, and intention of the legislature."*

10. The principles laid down in the case of *Syed Qamber Ali Shah* (supra) are directly applicable to the facts of the present case. The learned Justice of Peace, instead of confining himself to the limited question of whether the information disclosed by the applicant makes out a cognizable offence, embarked upon a detailed inquiry into the merits of the case. The learned Justice of Peace examined the police reports, the inquiry report submitted by the DSP CTD, the CCTV footages, and the CDRs, and came to the conclusion that the allegations made by the applicant are false and that the application was filed as a counterblast to the FIR registered by the proposed accused. In doing so, the learned Justice of Peace exceeded his jurisdiction and assumed the role of an investigator, which is impermissible in law. It is a settled principle of law that upon receipt of information regarding the commission of a cognizable offence, the officer in-charge of the police station is bound to record the same in the prescribed form under Section 154 Cr.P.C. The Station House Officer has no discretion to refuse registration of FIR if the information discloses a cognizable offence. The veracity or otherwise of the information is not to be tested at the stage of registration. It is only during the course of investigation that the truth or falsity of the allegations is to be ascertained. The Honorable Supreme Court of Pakistan has repeatedly held that every information disclosing the commission of a cognizable offence must be recorded in the form of an FIR, regardless of its truth or falsity. The said principle has been enunciated in several judgments including case of *Muhammad Bashir versus SHO Okara & others* (PLD 2007 SC 539).

11. In the present case, the applicant has alleged that his nephew Zain-ul-Abidin, a minor boy aged 15 years, was kidnapped by the proposed accused persons. Subsequently, the detainee after his recovery from police station by the learned Magistrate, recorded his statement on 17<sup>th</sup> November, 2025 before the Additional Sessions Judge-V, Sukkur wherein he stated that on 21<sup>st</sup> August 2025, he was kidnapped by six persons including Abdullah Chachar (armed with a pistol) near Grid Station VIP Gate, Pano Akil. He was blindfolded, confined in a room, and his left leg was chained with an iron chain. He was shifted to different locations during the nearly three-month detention. On 15<sup>th</sup> November 2025, he was recovered by the learned Judicial Magistrate from Police Station Mubarakpur on a Cr. Misc. Application u/s 491 Cr.P.C. filed by applicant Saifullah. The allegations, if taken at their face value, clearly disclose the commission of a cognizable offence punishable under Section 365, 342 PPC coupled with other penal provisions.

12. Story does not end here, medical examination by the Senior Medical Officer, Taluka Hospital, Pano Akil, corroborated the minor's version, noting physical injuries including severe swelling and inflammation to the left leg resulting from the application of iron chains. Departmental action followed promptly. By Order No. OB/418/2025 dated 17.11.2025, the Senior Superintendent of Police, Sukkur, suspended four police officials associated with Police Station Mubarakpur for gross misconduct and failure to discharge their lawful duties. Show cause notices dated 19.11.2025 were also issued to the said officials under relevant disciplinary rules. The matter has attracted the attention of the press and the public, emphasizing the gravity and notoriety of the incident, and further underscoring the imperative for judicial scrutiny. The subsequent developments entirely undermine the dismissal of the prayer by the learned Ex-Officio Justice of Peace. The judicial recovery of the abducted minor from inside police premises, under the conditions reported, is powerful corroboration of the applicant's original complaint. The application of the legal maxim *falsus in uno*,

*falsus in omnibus* applies; the findings of the prior inquiry lose credibility pursuant to these developments. The conduct of duty-bearers manifestly departs from minimum standards of care and legality. The learned Justice of Peace ought to have directed the SHO to record the statement of the applicant under Section 154 Cr.P.C and register the FIR. However, instead of doing so, the learned Justice of Peace dismissed the application on the ground that it was a counterblast to the FIR registered by the proposed accused. Now, the question arises as to whether the existence of a prior FIR registered by the proposed accused against the applicant party can be a ground to refuse registration of a fresh FIR. This Court is of the considered view that the answer to the said question must be in the negative. The law does not prohibit the registration of subsequent FIR regarding another event committed by the rival party at different place. It is for the investigating agency to probe into both the FIRs and ascertain the truth. The Court cannot, at the stage of registration, refuse to direct registration of FIR on the ground that it is a counterblast or that it is motivated by malafide. Such questions are to be examined during the course of investigation and trial.

13. The case of *Munawar Alam Khan v. Qurban Ali Mallano and others* (2024 SCMR 985), relied upon by the learned counsel for the proposed accused, is distinguishable on facts. In the said case, both the parties belonged to the legal fraternity and were contesting bar elections on a yearly basis against each other. Animosity amongst them was an admitted fact. One of the parties was successful in seeking a direction for lodging an FIR from the trial court, whereas another FIR was also lodged against the petitioner in a similar context by some advocates of the accused/respondents' group. The trial court, after taking into consideration all material aspects of the matter, rightly dismissed the application under Sections 22-A(6)(i) and 22-B CrPC on the ground that the same was tainted with malafide. The said order was upheld by the High Court, and the Supreme Court declined to interfere. However, in the present case, the situation is entirely different. The

applicant has alleged that his minor nephew has been kidnapped. Kidnapping of a minor is a serious cognizable and non-bailable offence. The State has a constitutional obligation to protect the life and liberty of its citizens, more so when the victim is a minor. The applicant has made specific allegations against the proposed accused persons. Whether the allegations are true or false is a matter of investigation. However, at the stage of registration of FIR, the Court cannot refuse to direct registration on the ground that the application is a counterblast. The ratio decidendi of the judgment in the case of *Syed Qamber Ali Shah (supra)* is that the Justice of Peace must not assume the role of an investigator. The Justice of Peace is required only to examine whether the information disclosed by the applicant makes out a cognizable case. If it does, the Justice of Peace must direct the police to register the FIR. In the present case, the allegations made by the applicant, if taken at their face value, clearly disclose the commission of a cognizable offence. Therefore, the learned Justice of Peace ought to have directed the SHO to register the FIR.

14. This Court is also mindful of the fact that the proposed accused No. 1 had registered an FIR against the applicant party under the Prevention of Electronic Crimes Act, 2016. However, the existence of that FIR cannot be a ground to refuse registration of the present FIR. Both FIRs can coexist. It is for the investigating agency to probe into both the cases and ascertain the truth. If, during the course of investigation, it is found that either of the FIRs has been lodged with malafide intention, appropriate action can be taken in accordance with law. However, at the stage of registration, the Court cannot refuse to direct registration of FIR on such grounds.

15. Learned counsel for the proposed accused has also relied upon the case of (2025 SCMR 1435). However, upon examination of the said judgment, this Court finds that the same is not applicable to the facts of the present case. The principles laid down in the case of *Syed Qamber Ali Shah (supra)* are directly on

point and are binding upon this Court. Furthermore, this Court takes judicial notice of the fact that the applicant and his family members have been making persistent efforts to get the FIR registered. They have approached various police officials and have also staged protests. Despite all their efforts, the police have refused to register the FIR. In such circumstances, the applicant has every right to approach the Justice of Peace under Section 22-A CrPC. The dismissal of the application by the learned Justice of Peace on the ground of counterblast amounts to denial of justice. This Court is also of the view that the inquiry report submitted by the DSP CTD cannot be a basis for refusing registration of FIR. The said inquiry report is in the nature of a police report, and it cannot override the statutory obligation of the police to register an FIR upon receipt of information regarding the commission of a cognizable offence. Moreover, the inquiry report itself states that the applicant party has not yet provided any tangible evidence except their statements. However, at the stage of registration of FIR, the applicant is not required to provide tangible evidence. It is sufficient if the information disclosed by him makes out a cognizable case.

16. In view of the aforesaid discussion and in light of the principles laid down by the Honourable Supreme Court in the case of *Syed Qamber Ali Shah (supra)*, this Court is of the considered view that the impugned order dated 26<sup>th</sup> September, 2025 passed by the learned Additional Sessions Judge, Pano Akil, is contrary to law and is liable to be set aside.

17. For the reasons stated hereinabove, this Criminal Miscellaneous Application is allowed. The impugned order dated 26<sup>th</sup> September, 2025 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Pano Akil, in Criminal Miscellaneous Application No.2834 of 2025 is hereby set aside. Respondent No. 4, the Station House Officer, Police Station Pano Akil, is hereby directed to record the statement of the applicant Saifullah son of Abdul Ghani at his verbatim in accordance with law. If the information disclosed by the applicant

makes out a cognizable offence, the Station House Officer shall register the First Information Report under Section 154 of the Criminal Procedure Code against the proposed accused persons and proceed to investigate the matter in accordance with law. It is made clear that this Court has not expressed any opinion on the merits of the case. It is for the investigating officer to probe into the matter and ascertain the truth. If, during the course of investigation, it is found that the allegations are false or that the FIR has been lodged with malafide intention, appropriate action shall be taken in accordance with law. The Station House Officer, Police Station Pano Akil, shall comply with the directions contained in this order without further delay on receipt of certified copy of this order. Let a copy of this order be sent to the Deputy Inspector General of Police, Sukkur Range, for information and necessary compliance/action.

**J U D G E**