

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Crl. Miscellaneous Application No.S-194 of 2025

Present: Justice Jawad Akbar Sarwana

Applicant : Imdad Ali Shah s/o Zain-ul-Abdin Shah,  
Through Mr. Ahsan Gul Dahri, Advocate

RespondentNo.1 : S.S.P, Shaheed Benazirabad  
Respondent No.2 : DSP, Complaint Cell, Shaheed  
Benazirabad

Respondent No.3 : SHO, PS Qazi Ahmed  
Respondent No.10 : The State  
Through Ms. Safa Hisbani, A.P.G

Respondent No.4 : Mehboob Jatoi s/o Ghulam Hyder Jatoi  
Respondent No.5 : Mashooq Jatoi s/o Ghulam Hyder Jatoi  
Respondent No.6 : Soomar Zardari s/o Zaffar Zardari  
Respondent No.7 : Bhalo Zardari s/o Soomar Zardari  
Respondent No.8 : Naeem Dahri s/o Wali Muhammad Dahri  
Through Mr.Muhammad Hashim Laghari,  
Advocate

Respondent No.9 : Asif Ali Shah s/o Qurban Ali Shah. **Nemo.**

Date of hearing : 27.11.2025

Date of decision : 02.12.2025

**O R D E R**

**JAWAD AKBAR SARWANA, J.:** The applicant/complainant, Imdad Ali Shah, is aggrieved by the Order dated 15.03.2025 passed by the learned Additional Sessions Judge-II/Ex-Officio Justice of Peace, Shaheed Benazirabad, in Criminal Miscellaneous Application No.564/2025. According to counsel for the applicant/complainant, Imdad Ali Shah, is/was the victim of an alleged dacoity, which involving about six (06) accused, allegedly, aiding, abetting and acting in concert with each other, depriving him of his articles/belongings described in the first paragraph of the impugned Order, which includes one CD-70 Motorcycle of Honda company, which is still missing. Counsel contends that there is/was information available on record for the Ex-Officio Justice of Peace to trigger the provisions of Section 22-A(6)(i) & (iii) Cr.P.C. and pass directions to the police authorities to record the statement of the applicant, but he did not do so. Instead, the Ex Officio

Justice of Peace dismissed the applicant/complainant's cr. misc. application.

2. The defence taken by the counsel for the private respondents/proposed accused is that there is an ongoing dispute between the applicant/complainant and the proposed accused, who are related parties, and there are several FIRs registered against the applicant/complainant and his family. He further contended that no event had ever occurred, as alleged, on 05.01.2025, and even if it did, the respondents/proposed accused had nothing to do with it, notwithstanding that the incident allegedly took place on 05.01.2025, and the applicant/complainant approached the Ex-Officio Justice of Peace belatedly after almost two (2) months in March 2025.

3. In rebuttal counsel for the applicant/complainant submitted that after the incident on 05.01.2025, initially, the local police allegedly misguided the applicant when he approached P.S. Jamal Shah for registration of his FIR and he was told to lodge the complaint before P.S. Kazi Ahmed, which is at a distance of 08 kilometers from P.S. Jamal Shah. Additionally, when he approached the P.S. Jamal Shah, the SHO declined to register the FIR until he submitted registration documents of the motorcycle but the same documents were not available with the applicant/complainant as the matter was pending with the Excise & Taxation Department. He contended that he eventually submitted the same to the SHO, but the FIR was still not registered. As a result, he wrote a letter to the SSP on 21.01.2025, but the SSP merely forwarded it to the same SHO, who did not register the FIR. Thus, the applicant was not responsible for any delay in response.

4. Heard Counsel and perused the record. The Ex-Officio Justice of Peace passed the impugned order dated 15.03.2025, dismissing the need to record the applicant/complainant's statement by the police authorities. In this connection, he also referred to FIR No. 40/2025, filed on 01.02.2025, but the said FIR related to an altogether different incident and awarded only police protection to the applicant/accused. The Ex-Officio Justice of Peace has not discussed the information regarding the missing motorbike. Clearly, this motorbike remains missing to date, and there is also an allegation of dacoity, which the impugned Order does not address. In my opinion, even at the most

tentative level, there is/was no doubt that information available for the consideration of the Ex-Officio Justice of Peace to call for the recording of a statement of the applicant, but he side-stepped the same.

5. During the course of arguments, parties have placed on record several FIRs in support of their submissions. There are two FIR Nos.05/2025 and 84/2025, which were registered by the private respondents/proposed accused on 22.03.2025 and 24.03.2025, respectively, for two separate incidents which took place on the same date, i.e. 21.03.2025, but are separated by only one hour. There appears to be another FIR, namely FIR No.01/2025, lodged against the applicant/complainant concerning an alleged incident dated 03.01.2025, and another FIR No.84/2025 allegedly filed on 01.02.2025 in relation to some other incident on 05.01.2025 (different from the one alleged by the applicant/complainant). The crux of the matter is that the information shows that there is clearly an enmity between the parties. Yet, notwithstanding the foregoing, there is still the case of a missing motorbike belonging to the applicant/complainant, alleged to have been stolen in a dacoity, which remains missing and calls for the recording of a statement of the applicant, on this score too.

6. In view of the above discussion, and the facts and circumstances of the case, the above-titled cr. misc. application is allowed, and the impugned Order dated 15.03.2025 is set aside. The concerned police authority is directed to record the statement of the applicant/complainant, and if any cognizable offence is made out, then to register the same in the book u/s 154 Cr.P.C. Needless to mention here that no arrest shall be made unless tangible evidence comes on the police file. After investigation, if the case/FIR is found to be false, the concerned authority may initiate proceedings u/s 182 PPC against the applicant/complainant.

5. The Criminal Miscellaneous Application is allowed in the above terms.

**JUDGE**