

**IN THE HIGH COURT OF SINDH CIRCUIT COURT
AT HYDERABAD**

Criminal Misc. Application No.S-534 of 2025

Applicant	: Muhammad Ramzan sonof Muhammad Saleh through Mr. Naeem Ahmed Rind, Advocate.
Respondent	: The State through Mr. Nazar Muhammad, A.P.G.
Proposed accused	: Niaz Ahmed and Muhammad Yousif present in person
Date of Hearing	: 12.09.2025
Date of Order	: 12.09.2025

ORDER

Jan Ali Junejo, J.- Through this Criminal Miscellaneous Application filed under Section 561-A of the Code of Criminal Procedure (Cr.P.C.), 1898, the Applicant seeks to invoke the inherent jurisdiction of this Court to set aside the order dated 15.05.2025, passed by the learned Sessions Judge/Ex-Officio Justice of Peace, Badin, whereby the application of the Applicant under Sections 22-A & 22-B, Cr.P.C. for direction to register an FIR was dismissed.

2. The genesis of this case lies in an application under Sections 22-A & 22-B, Cr.P.C. filed by the Applicant bearing Criminal Misc. Application No.786 of 2025 before the Court of Sessions, Badin. The Applicant alleged that he is the owner of certain shops constructed on his survey agricultural land. His case was that on 08.05.2025, at about 11:00 AM, the proposed accused persons, namely Niaz Ahmed, Muhammad Yousif, arrived in a red Suzuki vehicle, broke open the locks of his shops, and allegedly removed materials including cement bags, urea bags, seeds of melon and bhindi, and iron items, with a total claimed value of approximately Rs. 150,000/-. It was further alleged that the proposed accused persons then installed new locks on the shops and issued threats of murder to the Applicant and his brother, Akhtar Rustmani, if they attempted to interfere. The Applicant contended that he reported the matter to Police Station Dehi, but due to the alleged influence of the

proposed accused persons, no First Information Report (FIR) was registered. Left with no alternative remedy, he approached the Court of Sessions seeking a direction to the police for the registration of an FIR for offences including theft and criminal intimidation.

3. The learned Sessions Judge, after receiving reports from the SP Complaint Cell and the SHO of P.S. Dehi and hearing the Applicant's counsel as well as the proposed accused persons in person, dismissed the application vide the impugned order dated 15.05.2025. The learned Judge concluded that the dispute was essentially of a civil nature, pertaining to inherited property between cousins, and that no cognizable offence was made out to warrant a direction for the registration of an FIR. It is this order that forms the subject of the present challenge.

4. The learned counsel for the Applicant assailed the impugned order and argued that it is illegal, arbitrary, and a non-speaking order, having been passed without proper reasoning. He contended that the allegations, on their face, clearly disclose the commission of cognizable offences under the Pakistan Penal Code, 1860, particularly theft under Section 378 and criminal intimidation under Section 506. He further submitted that the learned Sessions Judge fell into jurisdictional error by embarking upon a mini-trial and delving into the merits of the property dispute, which is solely the domain of the investigating agency after registration of an FIR. He maintained that if the application discloses a cognizable offence, the Ex-Officio Justice of Peace is duty-bound to direct the registration of an FIR, whereas the veracity of the allegations can only be determined during investigation and trial. In support of his submissions, he placed reliance on the settled principle of law enunciated by the superior Courts, and prayed for allowing the present Criminal Misc. Application.

5. The proposed accused persons, Niaz Ahmed and Muhammad Yousif, appeared in person and opposed the petition. They submitted that they are cousins of the Applicant and the controversy essentially relates to ancestral property. According to them, the shops in question were given to them by their father, whereas the Applicant is attempting to misuse the process of the Court to exert undue pressure in a civil dispute. They contended that the allegations of theft and intimidation are frivolous and fabricated, and the present proceedings are an attempt to convert a purely civil matter into a criminal case.

6. The learned A.P.G., representing the Respondent/SHO, supported the impugned order. He argued that the learned Sessions Judge has rightly appreciated the facts and applied the correct principles of law. He

emphasized that the real dispute between the parties pertains to title and possession of immovable property, which squarely falls within the jurisdiction of the civil court. The alleged criminal acts, he added, are merely an offshoot of this civil controversy and do not warrant interference under Sections 22-A and 22-B, Cr.P.C. He, therefore, prayed for dismissal of the petition.

7. I have considered the arguments advanced by the learned counsel for the Applicant, the proposed accused appearing in person, 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 conferred upon 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 object is to provide a check against arbitrary or mala fide inaction on the part of police authorities, thereby ensuring that cognizable offences are not unlawfully stifled or suppressed. However, this jurisdiction cannot be invoked as a substitute forum for adjudicating civil rights or resolving private disputes between parties, as such matters properly fall within the domain of competent civil or criminal

courts. In the landmark case of **Rai Ashraf and others v. Muhammad Saleem Bhatti and others (PLD 2010 SC 691)**, the Honourable Supreme Court of Pakistan was pleased to enunciate the guiding principle by observing that: *“In the case in hand, respondent No.1 has more than one alternate remedies as alleged by him in the application that he had secured restraining order against the petitioners from the civil Court, therefore, Additional Sessions Judge/Ex-Official Justice of the Peace observed that respondent No.1 had to avail appropriate remedy for violation of status quo before the civil Court under the provisions of C.P.C. vide Order XXXIX, Rules 3 and 4, C.P.C. It is also admitted fact that there is a dispute qua the property in question between the parties as alleged by the petitioners and observed by the Courts below. It is a settled law that constitutional jurisdiction is discretionary in character which is to be exercised after proper application of mind with cogent reasons and same should not be exercised arbitrarily. The learned High Court had erred in law to exercise discretion in favour of the respondent No.1 without realizing that the respondent No.1 had filed application before the Additional Sessions Judge/Ex-Officio Justice of the Peace to restrain the public functionaries not to take action against him in accordance with the LDA Act 1975, Rules and Regulations framed thereunder, therefore, respondent No.1 had filed petition with mala fide intention and this aspect was not considered by the learned High Court in its true perspective”*.

9. Applying the aforementioned principles to the facts of the instant case, the following critical aspects emerge: a) It is an admitted position that the Applicant and the proposed accused persons are close cousins. This familial context is crucial in assessing the nature of the dispute. b) The Applicant claims ownership through a sale deed, while the proposed accused persons assert their rights based on ancestral inheritance. The learned Sessions Judge correctly noted that the Applicant's response to the accused's claim of ancestral ownership was evasive and not specifically rebutted. This squarely places the matter within the realm of a civil dispute over title and possession. c) The allegations of breaking locks, removing materials, and installing new locks cannot be viewed in isolation. When these acts are perpetrated in the context of a pre-existing dispute where the accused bona fide believe they have a right to the property, the element of *mens rea* or criminal intention necessary for offences like theft becomes highly doubtful. The act may, at best, constitute a trespass or a breach of civil rights, for which civil remedies are available.

10. The learned Sessions Judge/Ex-Officio Justice of Peace did not commit any error by examining the context of the allegations. The duty of a Justice of Peace is not to act as a mere post office but to ensure that its extraordinary powers are not misused. By calling for police reports and hearing the parties, the learned Judge conducted a necessary preliminary inquiry to ascertain whether a cognizable offence was *prima facie* disclosed or whether the application was a camouflaged attempt to criminalize a civil dispute. His finding that the dispute is essentially civil is a logical and legal inference from the material on record.

11. Consequently, the contention advanced by learned counsel for the Applicant that the learned Sessions Judge was bound to direct registration of an FIR without examining the context is misconceived. The petition under Sections 22-A and 22-B, Cr.P.C. is, in fact, a clear attempt to employ criminal proceedings as a shortcut for settling a property dispute, an approach consistently deprecated by the superior Courts.

12. For the reasons elaborated above, this Court is of the firm view that the learned Sessions Judge committed no illegality, jurisdictional error, or perversity in passing the impugned order. The order is a reasoned one, based on a correct appreciation of the law and facts. No grounds for interference under the narrow scope of Section 561-A, Cr.P.C. are made out. Accordingly, this Criminal Miscellaneous Application is dismissed. It is, however, clarified that this judgment shall not prejudice the rights of the Applicant to seek appropriate reliefs before a competent court of civil jurisdiction. These are the detailed reasons for the short order announced on 12.09.2025.

JUDGE