

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Appl. No. S-32 of 2026

Applicants : 1) Aqif Ahmed Channa  
2) Faiq Fawad  
3) Osama  
All three sons of Ameer Bux Channa  
4) Khairunisa w/o Ameer Bux Channa  
5) Sitara Shireen  
6) Iqra,  
Both daughters of Ameer Bux Channa  
Through Mr. Muhammad Ali Napar, Advocate

Respondent No.4 : Mst. Saima Aliya d/o Abdul Ghani, Surhio Siddiqui  
Through Mr. Ali Gul Abbasi, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 26.02.2026  
Date of order : 06.03.2026

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.**— Applicants Aqif Ahmed Channa and two others, have invoked the inherent jurisdiction of this Court under Section 561-A Cr.P.C, calling in question the order dated 12.01.2026, passed by the learned Additional Sessions Judge-I/Ex-Officio Justice of Peace, Sukkur, in Criminal Misc. Application No.4079/2025. The impugned order, issued under Sections 22-A(6)(i) and 22-B Cr.P.C, directed the concerned SHO, Police Station Airport, Sukkur, to record the statement of respondent No.4 (Mst. Saima Aliya) in pursuance of Section 154 Cr.P.C, and to proceed in accordance with law regarding registration of an FIR against the present applicants.

2. The stance taken by Respondent No.4, namely Mst. Saima Aliya, is that she was lawfully married to applicant No.1 on 05.11.2022 and, during the subsistence of marriage, was subjected to persistent cruelty, mental torture, and physical violence at the hands of the present applicants, including her husband, mother-in-law, and other family members. It is

alleged that during her pregnancies, the applicants conspired to cause miscarriage by deliberate acts, including placing slippery oil on the bathroom floor, depriving her of proper medical care and nutrition, and subjecting her to brutal physical assault, which ultimately resulted in the death of the fetus in her womb. She further asserts that despite approaching the concerned SHO, Police Station Airport, Sukkur, and other senior police officials for registration of an FIR, no action was taken. Consequently, she filed an application under Sections 22-A & 22-B Cr.P.C before the learned Additional Sessions Judge-I/Ex-Officio Justice of Peace, Sukkur, which culminated in the passing of the impugned order dated 12.01.2026, directing the concerned SHO to record her statement under Section 154 Cr.P.C and proceed in accordance with law.

3. It is a settled principle of law that the jurisdiction vested in the learned Ex-Officio Justice of Peace under Sections 22-A(6) (i) and 22-B Cr.P.C is intended to ensure that a complainant is not deprived of her statutory right to have a cognizable offense registered when the concerned police authorities fail to act. Nonetheless, such jurisdiction must be exercised cautiously, keeping in mind the veracity of the allegations, the presence of supporting evidence, and the bona fide intentions of the applicant. In the instant matter, the applicants contend that the respondent No.4 has approached the Court with malafide intentions, having previously filed civil litigation and suppressed material facts, including her second marriage, in order to malign the proposed accused. Therefore, while the protective jurisdiction exists, it cannot be invoked in a mechanical or indiscriminate manner without careful scrutiny of the circumstances and the documentary evidence presented.

4. Learned counsel for the applicants contended that the learned Additional Sessions Judge-I/Ex-Officio Justice of Peace, Sukkur, erred in

law and fact by mechanically allowing the Criminal Misc. Application No.4079/2025 filed by Mst. Saima Aliya without due scrutiny of the material and circumstantial evidence. He argued that respondent No.4, being the ex-wife of applicant No.1, Aqif Ahmed Channa, had, after divorce, contracted a second marriage, the details of which were intentionally and malafidely suppressed in her application, demonstrating that she did not come with clean hands. Learned counsel further submitted that respondent No.4, had previously filed a suit for defamation and a subsequent civil appeal, both of which were silent on the alleged miscarriage and were dismissed, reflecting an afterthought and ulterior motive. He emphasized that the reports submitted by the DSP Complaint Cell Sukkur and the concerned SHO did not substantiate the allegations, and that the respondent No.4, had deliberately fabricated medical records from a remote area to create a false narrative. Learned counsel further contended that during the marital tie, applicant Aqif Ahmed provided due care and attention to the respondent No.4, ensuring that she received necessary medical treatment whenever required. He argued that the allegations claiming miscarriage caused by negligence or deliberate harm by the applicants are medically and factually unsustainable. In support, he referred to obstetric ultrasound reports from Sukkur C.T & Infertility Centre, prepared by Consultant Interventional Radiologist Dr. Rabender Kumar Talib, which clearly documented a live intrauterine pregnancy with normal fetal activity and amniotic fluid. The reports, dated 5 June 2023 and 5 August 2023, also revealed the presence of uterine fibroids (largest measuring 40 x 30 mm) located at the posterior wall and fundus, a condition recognized as a high-risk factor for pregnancy complications including miscarriage, fetal demise, malpresentation, and placental dysfunction. Learned counsel emphasized that these medical findings establish a natural, pre-existing medical cause for the pregnancy

loss, independent of any alleged actions or negligence by the applicants. He further submitted that the respondent Mst. Saima Aliya's claims of miscarriage being caused by deliberate physical or mental harm lack any corroborative medical or scientific evidence and are thus contrary to the documented medical history. Therefore, learned counsel maintained that the impugned order dated 12.01.2026, allowing registration of FIR under Sections 22-A(6)(i) and 22-B Cr.P.C, ignored both the absence of a *prima facie* cognizable offence and the critical medical evidence, violated principles of natural justice, and caused unwarranted harassment to the applicants, including his elderly mother and siblings. In light of these circumstances, he urged that the impugned order is illegal, unlawful, and liable to be set aside.

5. Learned counsel for Respondent No.04, namely Mst. Saima Aliya, and learned DPG for the State, on the other hand, opposed the instant Criminal Misc. Application and contended that the impugned order passed by the learned Additional Sessions Judge-I/Ex-Officio Justice of Peace Sukkur is entirely justified and in accordance with law. It is submitted that the respondent Mst. Saima Aliya has provided a detailed account of the alleged offences committed by the proposed accused, including specific dates, times, and the nature of the misconduct, which disclose cognizable offences under the Pakistan Penal Code. Learned counsel emphasized that the proposed accused, namely Aqif Ahmed Channa, Faiq Fawad, Osama, Khairunnisa, Sitara Shireen, and Iqra, in collusion with one another, subjected Mst. Saima Aliya to severe physical and mental abuse, caused the miscarriage of her pregnancies, and expelled her from the matrimonial home despite her fragile health condition, as supported by medical evidence from Dr. Shami Tanwari and Dr. Sunita of Sukkur C.T & Infertility Centre. It is further contended that respondent Mst. Saima Aliya approached the

concerned police authorities for registration of the FIR, but due to inaction, she was compelled to file Cr. Misc. Application before Ex-Officio Justice of Peace. Learned counsel submitted that the serious allegations are corroborated by documentary and medical evidence, and merely denying the allegations or raising questions about malafides cannot defeat the statutory right of the respondent Mst. Saima Aliya under Section 154 Cr.P.C. Lastly, it is contended that the applicants have failed to provide any tangible evidence to rebut the respondent's claims, and in the interest of justice, the directions issued for registration of the FIR should be upheld, while the impugned order be maintained.

6. I have given my anxious consideration to the respective submissions advanced by learned counsel for the parties and have carefully examined the record made available before this Court. It is by now a well-settled proposition of criminal jurisprudence that the jurisdiction conferred upon an Ex-Officio Justice of Peace under Sections 22-A(6)(i) and 22-B Cr.P.C. is essentially supervisory and remedial in nature, meant to ensure that a citizen is not deprived of the statutory right flowing from Section 154 Cr.P.C. when the police authorities refuse to record information relating to a cognizable offence. However, this jurisdiction is not intended to be exercised mechanically or as a matter of routine, nor is it designed to convert the office of Justice of Peace into a forum for indiscriminate registration of criminal cases.

7. The legal framework governing the exercise of such jurisdiction has been authoritatively explained by the Honorable Supreme Court in *Muhammad Bashir v. SHO Okara*, wherein it has been held that the Justice of Peace must first satisfy himself that the information placed before him discloses the commission of a cognizable offence. The object of the provision is not to allow the criminal process to be invoked for purposes of

harassment or for settling personal scores arising out of matrimonial or civil disputes.

8. In the present case, the allegations levelled by respondent No.4 essentially revolve around alleged cruelty, physical assault, and deliberate acts purportedly causing miscarriage during the subsistence of marriage. However, upon examination of the contents of the application moved before the learned Justice of Peace, it becomes evident that the allegations are largely general and omnibus in nature and do not attribute any specific overt act to each of the proposed accused which could reasonably demonstrate the intentional causation of miscarriage or any other cognizable offence within the contemplation of the Pakistan Penal Code.

9. It is also noteworthy that the record reveals prior civil litigation between the parties, including a defamation suit and subsequent civil appeal, wherein the allegations now forming the basis of the criminal proceedings were conspicuously absent. The emergence of such allegations at a later stage, without adequate explanation, prima facie lends credence to the contention of the applicants that the criminal process has been sought to be invoked as a retaliatory measure following the matrimonial discord between the parties.

10. Furthermore, the documentary material placed on record, including the medical reports relied upon by the parties, primarily indicates the existence of pregnancy and subsequent medical complications. Such material, however, does not prima facie demonstrate that the alleged miscarriage occurred as a direct consequence of any deliberate act attributable to the applicants. Whether the unfortunate loss of pregnancy occurred due to natural medical causes or due to any criminal act is essentially a matter requiring proper medical and investigative inquiry, and cannot be presumed merely on the basis of general allegations.

11. The learned Justice of Peace, while passing the impugned order, appears not to have undertaken the necessary judicial scrutiny to determine whether the application disclosed the essential factual ingredients of a cognizable offence. Instead, the direction for registration of FIR was issued in a mechanical manner without addressing the absence of specific allegations and without considering the surrounding circumstances indicating the existence of a matrimonial dispute between the parties. Such exercise of jurisdiction, in the considered view of this Court, falls outside the cautious limits within which the powers under Sections 22-A and 22-B Cr.P.C. are intended to operate.

12. For the reasons discussed above, Cr. Misc. Application No. S-32 of 2026 is hereby allowed. The impugned order dated 12.01.2026 passed by the learned Additional Sessions Judge-I/Ex-Officio Justice of Peace, Sukkur, in Criminal Misc. Application No.4079/2025 is set aside. The applicants are relieved from the directions issued therein, and no further action is to be taken against them in pursuance of the said order.

**J U D G E**