

THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No.522 of 2025

Applicant : Altaf Hussain son of Abdul Majeed
@ Taji through Mr. Ashfaq Rafiq
Janjua, Advocate

Respondent No.1 : Mst. Saima wife of Sadaqat through
Mr. Sh. M. Suleman, Advocate

The State : Through Ms. Seema Zaidi,
Additional Prosecutor General,
Sindh

Date of hearing : 24.11.2025

Date of decision : 24.12.2025

ORDER

Jan Ali Junejo, J.- Instant Criminal Miscellaneous Application has been filed under section 561-A Cr.P.C. seeking the setting aside of the order dated 12.06.2025 (hereinafter referred to as the "*Impugned Order*") passed by learned Illrd Additional Sessions Judge/Ex-Officio Justice of Peace, Karachi South, whereby the application under sections 22-A and 22-B Cr.P.C. moved by Respondent No.1 was allowed and direction was issued to the SHO, Police Station Chakiwara, Karachi to record statement of the complainant and lodge FIR, if cognizable offence was disclosed.

2. Respondent No.1 filed an application before learned Ex-Officio Justice of Peace alleging harassment, criminal intimidation, threats with weapon, abusive language and coercion at the hands of Applicant, who is the former son-in-law of Respondent No.1. It was specifically alleged that the Applicant demanded handing over of his ex-wife, brandished weapon, extended death threats and claimed police patronage. Learned Justice of Peace, upon calling police report and considering the averments, was satisfied that allegations disclosed commission of cognizable offence and therefore directed the SHO to record statement and proceed in accordance with law. The Applicant, aggrieved thereof, invoked inherent jurisdiction of this Court alleging: that order was passed mechanically; that no prior application was made to police; that respondent is a habitual litigant; that criminal cases are already pending between parties; that police inquiry report indicated falsehood of allegations.

3. Learned counsel for the Applicant contends that the learned Justice of Peace failed to exercise jurisdiction in accordance with law. He argues that the Justice of Peace did not properly examine the veracity and credibility of the allegations levelled in the application moved under Section 22-A and 22-B, Cr.P.C., and proceeded mechanically without undertaking the essential judicial scrutiny. He further argues that the Justice of Peace did not duly consider the police report, which, according to the Applicant, clearly negated the commission of any cognizable offence and warranted the dismissal of the complaint. He also contends that the order was passed without providing the Applicant an opportunity of hearing, thereby violating the principles of natural justice. It is further argued that directing registration of FIR in the present facts constitutes a clear abuse of process of law and is being used as a tool to harass and pressurize the Applicant in view of the pending civil litigation between the parties. He accordingly prays that the impugned order be set aside by this Court in exercise of its inherent jurisdiction.

4. Conversely, learned counsel for Respondent No.1 and the learned Additional Prosecutor General oppose the application and fully support the impugned order. They submit that the allegations disclosed in the complaint prima facie constitute a cognizable offence, and therefore the Justice of Peace rightly exercised jurisdiction under Section 22-A, Cr.P.C. They contend that the order is lawful, well-reasoned, and strictly in accordance with the settled principles governing the issuance of directions for registration of FIR. They further argue that the Justice of Peace has not directed registration of an FIR blindly or mechanically but has explicitly conditioned such direction on the police finding that a cognizable offence is made out. They maintain that at this initial stage, when the matter is still within the investigative domain, this Court ought not to interfere in the investigative process, particularly when premature interference would fetter the statutory powers of the Investigating Agency.

5. I have considered the arguments advanced by the learned counsel for the Applicant, the learned counsel for Respondent No.1, as well as the learned A.P.G. for the State, and have also examined the material available on record. The jurisdiction of this Court under Section 561-A, Cr.P.C., is exceptional in nature and its scope is narrowly circumscribed. It is an inherent power to be exercised sparingly, cautiously, and only in situations where such intervention is necessary to prevent an 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”*.

6. The Justice of Peace is empowered to issue appropriate discretionary directions to the police; to ensure that an FIR is registered where the information prima facie discloses the commission of a cognizable offence; and to direct the police to act strictly “in accordance with law”, without mandating registration in every case. The impugned order itself expressly states: *“...if cognizable offence is made out, lodge FIR...”*. Thus, the order does not suffer from any illegality, arbitrariness, or excess of jurisdiction. It is further clarified that the impugned order is not an unconditional directive for registration of an FIR; rather, it is expressly contingent upon the police forming an opinion, based on the information received, that a cognizable offence is disclosed. The learned Ex-Officio Justice of Peace has categorically directed that only if such an offence is made out shall the SHO proceed in accordance with law. This directive is wholly consistent with Section 154, Cr.P.C., which imposes a mandatory duty upon the SHO to register an FIR once information disclosing a cognizable offence is received. In such circumstances, the police officer has no authority to refuse registration on the basis of administrative opinion, personal assessment, or preconceived doubts regarding veracity. Conversely, where the information does not disclose a cognizable offence, the SHO is required to act strictly in accordance with the legal framework governing non-cognizable matters, including resort to Section 155, Cr.P.C. Therefore, the impugned order merely enforces statutory compliance. It neither confers any undue advantage upon the complainant nor does it

create any legal prejudice against the Applicant. It simply directs the police to perform their legal duty, nothing more, and nothing less.

7. The SHO's report denying receipt of the application is merely an administrative communication; it is not determinative of the complainant's right to seek legal recourse and cannot override allegations made on oath before a competent forum. The Justice of Peace was fully empowered to differ from the contents or conclusions of the inquiry report. Likewise, the existence of civil or criminal disputes between the parties does not justify the rejection of a complaint, permit any form of preventive interference, or extinguish the complainant's right to seek registration of an FIR. Each allegation is required to be assessed on its own merits, independently of any collateral litigation. The impugned order neither declares the Applicant guilty nor directs his arrest, nor does it amount to a pre-judgment of the matter. It simply reserves discretion with the police to act in accordance with law. Consequently, no irreparable injury or prejudice has been caused to the Applicant. The law mandates that the police must investigate once information discloses the commission of a cognizable offence.

8. This Court holds that the impugned order is lawful, well-reasoned, and within the bounds of jurisdiction. No abuse of the process of the Court has been demonstrated, nor has any miscarriage of justice been established. The present petition, in effect, seeks premature interference in the investigative process, which is neither warranted nor permissible in the circumstances.

9. For the foregoing reasons, this Criminal Miscellaneous Application under Section 561-A, Cr.P.C., is hereby dismissed. The impugned order dated 12.06.2025, passed by the learned Illrd Additional Sessions Judge / Ex-Officio Justice of Peace, Karachi South, is maintained. It is further clarified that the observations made herein are tentative in nature; the investigation shall proceed independently; and the trial Court shall decide the matter strictly on its own merits, uninfluenced by any observation contained in this order. These are the detailed reasons for the Short Order dated 24.11.2025.

JUDGE

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