

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Miscellaneous Application No.S-575 of 2025

Applicant : Abdul Qayoom through Syed Sardar Ali Shah Jillani, Advocate.

Respondent No.5 : Najaf Shaikh through Mr. Saif-ur-Rehman Naich, Advocate

Respondents No.8 to 11 : Zameer Pitafi and others through Mr. Mukesh Kumar G. Karara, Advocate, on whose behalf, brief was held by Mr.Bilal Advocate.

Remaining respondents : Nemo

The State : Through Mr. Shafi Muhammad Mahar, Deputy P.G for the State.

Date of Hearing : 14-09-2026
Date of Order : 21-09-2026

ORDER

TASNEEM SULTANA, J.- Through the instant Criminal Miscellaneous Application under Section 561-A, Cr.P.C., the applicant Abdul Qayoom Qureshi has called in question the order dated 23.08.2025 passed by the learned II-Additional Sessions Judge/ex-Officio Justice of Peace, Sukkur, in Criminal Miscellaneous Application No.2184 of 2025, whereby his application under Sections 22-A and 22-B, Cr.P.C., seeking a direction to the SHO, Police Station “C” Section, Sukkur, to record his statement under Section 154, Cr.P.C, was dismissed.

2. Briefly stated, the applicant claims that he had been operating New Mehran Gasoline/CNG Station, situated opposite Muhammad Bin Qasim Park, Minara Road, Sukkur, as a dealer of Pakistan State Oil Company Limited for a considerable period. According to him, on 09.07.2025 at about 1:00 p.m., the proposed accused, including officials of Pakistan State Oil Company Limited and Sukkur Municipal Corporation, accompanied by other persons, entered the premises, broke open the locks of the rooms and offices, took control of the petrol pump and removed cash amounting to Rs.40,00,000/-, documents, petrol, CNG machinery, generators, lubricating oil and other articles. He further claims that despite approaching the concerned police authorities, his statement was not recorded, whereafter he

invoked the jurisdiction of the learned ex-Officio Justice of Peace under Sections 22-A and 22-B, Cr.P.C.

3. Learned counsel for the applicant contended that the allegations narrated by the applicant disclose commission of cognizable offences and that the learned ex-Officio Justice of Peace travelled beyond the permissible scope of jurisdiction by entering disputed questions concerning dealership, possession, title and ownership of the machinery and other articles. He further submitted that the applicant had approached the police authorities through his complaint dated 10.07.2025, which was addressed, inter alia, to the DIGP Sukkur, SSP Sukkur and SHO, Police Station “C” Section, Sukkur, and the relevant dispatch material has also been placed on record. According to him, once the information disclosed commission of a cognizable offence, its truth or otherwise was a matter for investigation and could not be determined in proceedings under Sections 22-A and 22-B, Cr.P.C.

4. In the written arguments filed on behalf of respondents No.8, 9 and 10, it has been contended that the controversy arises out of a longstanding contractual relationship between the applicant and Pakistan State Oil Company Limited. According to them, the outlet was a company-financed site established by PSO, whereas the applicant had been appointed as dealer under a Dealership Licence Agreement. It was further submitted that after expiry of the underlying leasehold rights and sealing of the outlet, the applicant defaulted in payment of outstanding dues, for recovery whereof Civil Suit No.220 of 2023 is pending; that the applicant, through his communication dated 15.04.2025, had stated that he was pursuing the lease and would clear the outstanding dues; that despite an opportunity extended through letter dated 04.06.2025, the applicant failed to regularize his obligations, whereafter his dealership was terminated on 08.07.2025; and that PSO subsequently entered into a tenancy arrangement with Sukkur Municipal Corporation on 09.07.2025, possession of the outlet was restored to PSO and Najaf Ali Shaikh was appointed as dealer. They maintained that the machinery, equipment and fixtures belonged to PSO and denied the allegations of unlawful dispossession or removal of property. According to them, the present proceedings have been initiated with mala fide intention to exert pressure upon PSO in respect of a dispute already pending before

the competent civil forum. Reliance was placed upon Jamal Khan v. Secretary Home Department (2021 SCMR 468), Rai Ashraf Versus Muhammad Saleem Bhatti (PLD 2010 Supreme Court 691), Dilber @ Dilair Vs Additional Sessions Judge Kotri (2017 P.Cr.L.J. 549), and Imtiaz Ahmed Cheema versus SHO, P.S, Dharki, Ghotki-2 (2010 YLR 189).

5. Learned Deputy Prosecutor General was also heard.

6. Heard. Record perused.

7. The record reflects that the controversy between the parties did not originate with the occurrence alleged to have taken place on 09.07.2025. Prior thereto, the applicant had instituted C.P. No. D-940 of 2025 on 19.06.2025 against, amongst others, Pakistan State Oil Company Limited and Sukkur Municipal Corporation concerning the same petrol-pump premises. In that petition, the applicant asserted his right to continue occupation and operation of the outlet and sought, inter alia, restoration and de-sealing of the premises, restraint against removal of machinery and creation of third-party interest, besides suspension/cancellation of the communication issued by PSO on 04.06.2025. The record further shows that disputes concerning the financial liabilities and rights arising from the same business relationship were also pending before different forums. Sui Southern Gas Company Limited had instituted Suit No.03 of 2022 against New Mehran Gasoline/CNG Station and the applicant for recovery of Rs.1,80,29,065/-, whereas the applicant had instituted Suit No.09 of 2023 seeking settlement/rendition of accounts. PSO had also instituted Civil Suit No.220 of 2023 for recovery of Rs.58,45,578/-. Earlier, C.P. No. D-1502 of 2020 had been disposed of on 04.10.2022, whereafter F.C. Suit No.03 of 2023 was instituted; the plaint was rejected under Order VII Rule 11, C.P.C. on 28.08.2023 and Civil Appeal No.96 of 2023 was thereafter stated to be pending. Thus, questions relating to dealership, possession and control of the outlet, as well as the financial and contractual rights and liabilities arising from the same business relationship, had already become the subject matter of civil and constitutional proceedings before the occurrence now complained of.

8. After the alleged occurrence, the applicant filed an application dated 24.07.2025 in C.P. No. D-940 of 2025 under Order I Rule 10(2) and (4)

read with Section 151, C.P.C., seeking impleadment of additional parties and amendment of the constitutional petition. Through the proposed amendment, he brought on record the events of 09.07.2025, termination of his dealership, alleged dispossession and removal of articles from the outlet, besides the subsequent demolition alleged to have taken place on 23.07.2025. The additional reliefs sought included restoration of possession, reinstatement of dealership, reconstruction of the premises, compensation and other consequential reliefs. As a subsequent development, this Court, vide order dated 23.09.2025 passed in the said constitutional petition, directed the concerned respondents to place their respective positions and documents on record and, in the meanwhile, ordered that no coercive action be taken against the petitioner. Sukkur Municipal Corporation, in its comments, has taken the position that the applicant had no municipal lease or tenancy in his favour; that C.S. Nos.C-640 and C-641 were separate municipal properties; and that the action taken on 09.07.2025 was in the background of the earlier proceedings concerning the land, including C.P. No. D-2928 of 2014. It has further stated that PSO had approached the Corporation through letter dated 24.04.2024 for restoration of the outlet and that Tenancy Agreement No.931 was subsequently executed between PSO and Sukkur Municipal Corporation on 09.07.2025.

9. The applicant, on the other hand, has placed reliance upon earlier documents concerning investment in and construction of the outlet. In CPLA No.1056-K of 2021 filed by PSO before the Honourable Supreme Court, reference was made to investment by PSO and its dealer in the outlet, stated to be approximately Rs.4 crore. The applicant has also relied upon the New Vision approval letter dated 21.05.2003, under which PSO was to provide equipment and signage, while civil and construction work was to be undertaken by the dealer in accordance with the approved plans, with a construction security deposit of Rs.200,000/- to be furnished by him. Reference has also been made to PSO communications dated 21.04.2006 and 04.06.2025, the dealership certificate dated 07.12.2020, the NOC dated 31.10.2005 and the CNG licence. He has further filed an application under Section 476, Cr.P.C., alleging that incorrect statements were made by the respondents regarding construction and ownership of the outlet and machinery. The record also contains earlier proceedings concerning the

applicant's association with and operation of the outlet, including C.P. No. S-887 of 2006 and the demarcation report prepared during those proceedings, wherein it was recorded, inter alia, that there was no encroachment over Minaret Road and the area being used for the petrol pump was identified. The applicant has also placed on record his complaint dated 10.07.2025, addressed, amongst others, to the DIGP Sukkur, SSP Sukkur and SHO, Police Station "C" Section, Sukkur, wherein the occurrence dated 09.07.2025 and the alleged removal of cash, documents, petrol, machinery and other articles were reported. The relevant dispatch/TCS material has also been produced.

10. The existence of a civil or contractual dispute does not, by itself, exclude the operation of criminal law. While dealing with an application under Section 22-A(6)(i), Cr.P.C., the ex-Officio Justice of Peace is required to see whether the facts narrated disclose commission of a cognizable offence. Such examination does not extend to testing the truthfulness of the allegations or deciding disputed questions of fact. In the case of Syed Qamber Ali Shah v. Province of Sindh and others (2024 SCMR 1123), the Honourable Supreme Court explained the scope of jurisdiction of an ex-Officio Justice of Peace under Section 22-A, Cr.P.C. and observed as under:

“6. Heard the arguments. Under section 22-A, Cr.P.C, it is not the function of the Justice of Peace to punctiliously or assiduously scrutinize the case or to render any findings on merits but he has to ensure whether, from the facts narrated in the application, any cognizable case is made out or not; and if yes, then he can obviously issue directions that the statement of the complainant be recorded under Section 154. Such powers of the Justice of Peace are limited to aid and assist in the administration of the criminal justice system. He has no right to assume the role of an investigating agency or a prosecutor but has been conferred with a role of vigilance to redress the grievance of those complainants who have been refused by the police officials to register their reports. 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, his FIR will be registered, which is beyond the comprehension, prudence, and intention of the legislature. Minute examination of a case and conducting a fact-finding exercise is not included in the functions of a Justice of Peace but he is saddled with a sense of duty to redress the grievance of the complainant who is aggrieved by refusal of a Police Officer to register his report. The offences have been categorized by the Cr.P.C. into two classes i.e., cognizable and non-cognizable. Section 154 of the Cr.P.C. lays down a

procedure for conveying information to an S.H.O. with respect to the commission of a cognizable offence, while the provisions of Section 155(1) of the Cr.P.C. articulates the procedure vis- -vis a non-cognizable offence. Both the provisions are replicated as under:”

11. In the case of Munawar Alam Khan v. Qurban Ali Mallano and others (2024 SCMR 985), the Honourable Supreme Court, while dealing with the same jurisdiction, cautioned against its mechanical exercise and observed as under:

“4. Having heard the petitioner and scanned the material available on the record, we observe that there are many precedents regarding misuse of provisions of Sections 22-A and 22-B, Cr.P.C. and it is the prime duty of the Court that such misuse be taken care of and application filed should not be lightly entertained and decided in a mechanical manner for issuing direction to the police to lodge an FIR, conduct investigation in the matter and prosecute the accused. It is a settled principle of law that each and every case is to be decided on its own peculiar facts and circumstances and inference in this regard can be drawn from the cases reported as Rai Ashraf and others v. Muhammad Saleem Bhatti and others (PLD 2010 SC 691), Trustees of the Port of Karachi v. Muhammad Saleem (1994 SCMR 2213) and The State v. Mushtaq Ahmed (PLD 1973 SC 418).”

12. The principles emerging from the above judgments are to be read together. The ex-Officio Justice of Peace cannot assume the role of an investigating agency or determine the truthfulness of the allegations; at the same time, the jurisdiction under Sections 22-A and 22-B, Cr.P.C. is not to be exercised mechanically. The nature of the controversy and the surrounding circumstances may, therefore, be noticed for the limited purpose of deciding whether a direction under Section 22-A(6)(i), Cr.P.C. is called for, without entering into disputed questions of fact or pronouncing upon the merits of either version.

13. The judgment in Jamal Khan v. Secretary Home Department (2021 SCMR 468), relied upon by respondents No.8, 9 and 10, is also relevant. In that case, the petitioner alleged that an arbitration agreement carrying his thumb impression was forged and sought registration of an FIR. The Honourable Supreme Court noticed that the parties were locked in a dispute of civil nature and, against the peculiar background of the matter, upheld refusal by the ex-Officio Justice of Peace to issue a direction for registration of an FIR, observing as under:

“4. Be that as it may, at the center of controversy is a thumb impression on an arbitration agreement being attributed to the petitioner, however, repudiated by him as forge. Report submitted by the police does not support petitioner's claim and there is consensus that both sides are locked in a dispute of civil nature. Against the above peculiar backdrop, refusal by the Justice of Peace to issue direction to the Station House Officer and non-interference by the High Court therewith do not suffer from any jurisdictional error or flaw calling for intervention by this Court. Petition fails. Leave declined.”

14. The allegations made by the applicant and the stand taken by the respondents arise from the same continuing controversy. The rival claims concerning possession, dealership and rights over the machinery and fixtures, as well as the truthfulness of the respective versions, are not matters for determination in proceedings under Sections 22-A and 22-B, Cr.P.C. In view of the nature of the controversy already discussed and the limited scope of jurisdiction under the said provisions, this Court finds no illegality or jurisdictional defect in the impugned order warranting interference under Section 561-A, Cr.P.C.

15. In view of the above facts and circumstances, the instant Criminal Miscellaneous Application is **dismissed** and the impugned order dated 23.08.2025 passed by the learned II-Additional Sessions Judge/ex-Officio Justice of Peace, Sukkur, is **maintained**.

J U D G E

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