

THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. App. No. S -741 of 2025

[Abdul Hakeem Kolachi v. SHO P.S A-Section Ghotki and others]

Applicant by : Mr. Alam Sher Khan Bozdar, Advocate

Respondents by : M/s Anwar Ali Lohar, Advocate and Aftab Ahmed Shar, Additional Prosecutor General

Date of Hearing : 28.09.2026

Date of Decision : 28.09.2026

ORDER

ARBAB ALI HAKRO, J.-Through this Criminal Miscellaneous Application under section 561-A Cr.P.C., the applicant assails the order dated 21.11.2025 (the impugned order), passed by the learned Additional Sessions Judge-II/Ex-officio Justice of Peace, Ghotki (hereinafter referred to as 'the Justice of Peace') in Crl. Misc. Application No. 2102 of 2025, whereby his application under section 22-A(6)(i) Cr.P.C., seeking a direction to the SHO, Police Station A-Section Ghotki (respondent No.1) to record his statement under section 154 Cr.P.C., was disposed of with the observation that he may take recourse on the basis of the police report or avail the remedy of a private complaint.

2. Briefly, the case of the applicant is that on 04.10.2025 at about 08:30 a.m., when he, his brothers Haji Ahmed and Luqman and nephew Ahsan Ali were on their way to Ghotki, the proposed accused (respondents Nos. 2 to 8), armed with iron rods, lathis and a pistol, intercepted them near Ghulam Muhammad Sugar Mill over a dispute regarding landed property and caused injuries to Haji Ahmed and Ahsan Ali. Respondent No. 1 issued a letter for medical treatment but declined to record the FIR. The Justice of Peace, relying upon Mst. Farhiha Ahmaree,¹ referred the matter to the SSP Ghotki. On the report of the SDPO Ghotki that the occurrence had in fact taken place at the house of one Nisar Ahmed Kolachi within the limits of Police Station Jarwar

¹ Mst. Farhiha Ahmaree v. Station House Officer and 2 others 2025 YLR 875.

and that the applicant had shown a different venue, declined the direction; hence this application.

3. Learned counsel for the applicant contends that injured Haji Ahmed sustained Ghayr-jaifah Hashimah, a cognizable offence under section 337-F(v) PPC and that the Justice of Peace, instead of confining himself to the question of whether a cognizable offence was disclosed, decided the truth of the allegation on the basis of a police inquiry.

4. Conversely, learned counsel for the proposed accused supports the impugned order and contends that the applicant has concealed the actual occurrence, for which FIR No. 314 of 2025 has been lodged by Nisar Ahmed Kolachi at Police Station A-Section Ghotki against the applicant's side. The proposed accused, Muneer Ahmed and Adam, are witnesses in that case, and the venue has been changed to overcome the bar of a second FIR.

5. Learned Additional Prosecutor General submits that the matter may be decided in accordance with the law.

6. Heard and perused the record. The final medico-legal certificate No. 1256, dated 21.10.2025, issued by the Taluka Hospital, Ghotki, shows that the injured Haji Ahmed sustained a fracture of the right proximal tibia, declared as Ghayr-jaifah Hashimah, which is punishable under section 337-F(v) PPC with imprisonment for up to five years, besides daman. The report of the DSP Complaint Redressal Centre, Ghotki, itself treats this injury as a cognizable offence. The information thus discloses a cognizable offence.

7. The scope of section 22-A(6)(i) Cr.P.C. is no longer res integra. In Muhammad Bashir,² the Supreme Court held that neither the officer in charge of a police station nor anyone else has the authority to refuse to record an FIR where the information discloses a cognizable offence or to conduct an inquiry into its correctness. The only jurisdiction of an Ex-officio Justice of Peace is to examine whether the information discloses a cognizable offence and, if it does,

² Muhammad Bashir v. Station House Officer, Okara Cantt. and others PLD 2007 SC 539.

to direct the SHO to record the FIR “without going into the veracity of the information in question, and no more”. The same view was reiterated in Syed Qamber Ali Shah,³ a case arising from an order of the Justice of Peace, Ghotki in respect of the same police station, wherein it was held that the Justice of Peace is not to scrutinise the case minutely or render findings on merits, nor to assume the role of an investigating agency and that the remedy of a direct complaint cannot match the mechanism of section 154 Cr.P.C., save in exceptional circumstances.

8. The impugned order rests entirely on the report of the SDPO, prepared from the statements of the proposed accused, and pronounces the applicant’s version to be “orchestrated”. Such a finding on the truth of the allegation fell outside the jurisdiction of the Justice of Peace, who could not decline the direction on “a mere report by a police officer”. The consent of counsel to the reference could not confer a jurisdiction which the law does not vest. The report, even otherwise, is not free from doubt, as it places the clash at 17:00 hours on 04.10.2025, whereas the injured were referred by the same police station through letter No. 1924 of the same date and reached the Taluka Hospital Ghotki at 11:45 a.m. These are matters for investigation.

9. The objection based on the bar of a second FIR is also misconceived. In Mst. Sughran Bibi,⁴ the Supreme Court held that no separate FIR is to be recorded for a new version of the same incident; it is to be recorded and investigated in the case already registered. The applicant’s information, on its face, relates to a different place, time and set of assailants, none of whom is the complainant of FIR No. 314 of 2025; whether both versions relate to one occurrence is a matter for investigation. The Supreme Court further clarified in Abdul Rehman Malik⁵ that Sughran Bibi does not bar the recording of an FIR on the premise that the accusation is false. As to the apprehension of false

³ Syed Qamber Ali Shah v. Province of Sindh and others 2024 SCMR 1123.

⁴ Mst. Sughran Bibi v. The State PLD 2018 SC 595.

⁵ Abdul Rehman Malik v. Synthia D. Ritchie and others 2020 SCMR 2037.

implication, registration of an FIR does not, by itself, warrant arrest and the law provides its own check under section 182 PPC and section 173 Cr.P.C.⁶

10. For the foregoing reasons, this Criminal Miscellaneous Application is allowed. The impugned order is set aside, and respondent No. 1, SHO, Police Station A-Section, Ghotki, is directed to record the statement of the applicant under section 154 Cr.P.C. and, if a cognizable offence is made out, to register the FIR and investigate in accordance with law, from all angles. The proposed accused shall not be arrested unless tangible material connecting them with the offence is collected. If the information is found false, the police shall be at liberty to proceed against the applicant under section 182 PPC. The observations made herein are tentative and shall not influence the investigation or the trial. A copy of this order shall be sent to the SSP, Ghotki, and respondent No. 1 for compliance.

J U D G E

Naveed Ali

⁶ Muhammad Bashir (n.2 above); Mst. Sughran Bibi (n.5 above).