

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Miscellaneous Application No.S-469 of 2024

Applicants : (i) Nisar Ali & (ii) Fatah Kalhoro
through Mr. Riaz Ali Shaikh, Advocate.

Private Respondent No.5 : Panah Ali (Nemo).

The State & Official Respondents No.2 to 4 : Through Mr. Muhammad Raza Katohar,
Deputy Prosecutor General.

Date of Hearing : 28-09-2026

Date of Order : 08-10-2026

O R D E R

TASNEEM SULTANA, J.- Through the instant Criminal Miscellaneous Application under Section 561-A, Cr.P.C., applicants Nisar Ali and Fatah have called in question the order dated 22.08.2024 passed by the learned Sessions Judge/Ex-Officio Justice of Peace, Naushahro Feroze, in Criminal Miscellaneous Application No.3083 of 2024, whereby the application filed by respondent No.5, Panah Ali, under Sections 22-A and 22-B, Cr.P.C. was allowed and the SHO, Police Station Bhiria City, was directed to record his statement and register an FIR.

2. Briefly stated, respondent No.5 approached the learned Ex-Officio Justice of Peace alleging that on 25.09.2023, at about 1:00 p.m., while he, his wife Mst. Sachal, his son Muhammad Mithal, Raziq Dino and other house inmates were present at their house, the applicants along with other proposed accused, armed with hatchets and lathis, entered the house, issued threats in connection with pending disputes and assaulted them. It was alleged that applicant Nisar Ali caused a hatchet blow to Mst. Sachal on her right lower leg, while co-accused Kashif caused a hatchet blow on her left forearm. According to respondent No.5, Mst. Sachal was thereafter taken to Police Station Bhiria City and then for medical treatment. He further maintained that despite approaching the police for registration of the case, 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 applicants contended that the impugned order was passed without proper consideration of the material available on

record; that longstanding disputes and litigation existed between the parties; that applicant No.1 had earlier approached the learned Ex-Officio Justice of Peace against respondent No.5 and others and the present proceedings were initiated as a counterblast; that the police report did not substantiate the version put forward by respondent No.5; that the learned Ex-Officio Justice of Peace failed to properly consider the surrounding circumstances and the background of the dispute; and that the impugned order, having been passed without proper application of mind, is liable to be set aside.

4. Conversely, learned Deputy Prosecutor General supported the impugned order and submitted that the facts narrated by respondent No.5 disclosed commission of a cognizable offence; that medical material was available on record; that the existence of previous disputes between the parties did not, by itself, exclude operation of the criminal law; and that the truthfulness or otherwise of the allegations could not be finally determined in proceedings under Sections 22-A and 22-B, Cr.P.C.

5. Heard. Record perused.

6. The powers exercised by an Ex-Officio Justice of Peace under Section 22-A(6), Cr.P.C. are quasi-judicial and require due application of mind, as explained by the Honourable Supreme Court in *Younas Abbas and others v. Additional Sessions Judge, Chakwal and others* (PLD 2016 SC 581). In *Syed Qamber Ali Shah v. Province of Sindh and others* (2024 SCMR 1123), the Honourable Supreme Court explained that, at this stage, the relevant consideration is whether the facts narrated disclose commission of a cognizable offence. The Ex-Officio Justice of Peace is not required to determine the truthfulness of the allegations through a detailed inquiry or assume the functions of an investigating agency. At the same time, as observed by the Honourable Supreme Court in *Munawar Alam Khan v. Qurban Ali Mallano and others* (2024 SCMR 985), jurisdiction under Sections 22-A and 22-B, Cr.P.C. is not to be exercised mechanically. The surrounding circumstances may, therefore, be noticed to the extent necessary for determining whether a direction under Section 22-A(6)(i), Cr.P.C. is called for, but such examination cannot extend to resolving disputed questions of fact or pronouncing upon the correctness of either version before investigation.

7. It appears from the record that respondent No.5 gave a specific account of the occurrence and attributed roles to the proposed accused. The allegation was not confined to a vague assertion of previous hostility but included a definite date, time and place of occurrence, the manner in which the proposed accused allegedly entered the house, the threats attributed to them and the injuries said to have been caused. Medical material was also available on record. The facts narrated, viewed as a whole, disclosed commission of a cognizable offence. At that stage, the learned Ex-Officio Justice of Peace was not required to determine whether the occurrence had actually taken place in the manner alleged, whether the injuries were sustained in the manner stated by respondent No.5, or whether the defence version was more probable. Those questions required collection and examination of evidence and could not appropriately be determined while dealing with an application under Sections 22-A and 22-B, Cr.P.C.

8. The record further shows that litigation between the parties was already pending. Applicant No.1 had also approached the learned Ex-Officio Justice of Peace through Criminal Miscellaneous Application No.3025 of 2024 against respondent No.5 and others in relation to another incident, and that application was likewise allowed on 22.08.2024. The comments submitted before this Court by the police authorities further reflect that the parties are related and disputes concerning landed property and domestic matters exist between them. Medical material concerning injuries claimed by both sides is also available. These circumstances reflect previous hostility and competing allegations between the parties, but do not by themselves furnish sufficient ground to interfere with the impugned direction once the information placed before the learned Ex-Officio Justice of Peace disclosed a cognizable offence. Whether the application filed by respondent No.5 was a counterblast to the earlier proceedings initiated by applicant No.1, whether the occurrence took place in the manner alleged, and what effect is ultimately to be attached to the previous disputes, pending litigation and the material produced by either side are matters to be examined during investigation on the basis of the evidence collected. Determination of those questions at this stage would necessarily involve an assessment of disputed facts falling within the domain of investigation and, where necessary, trial. The learned Ex-Officio Justice of Peace, therefore, did not determine the guilt of the applicants or finally accept the allegations

of respondent No.5 as proved; he confined the direction to registration of the case upon finding that the facts narrated disclosed a cognizable offence. In the circumstances appearing from the record, no illegality, material irregularity or jurisdictional defect is found in the impugned order warranting interference by this Court under Section 561-A, Cr.P.C.

9. In view of the above facts and circumstances, the instant Criminal Miscellaneous Application is **dismissed** and the impugned order dated 22.08.2024 passed by the learned Sessions Judge/Ex-Officio Justice of Peace, Naushahro Feroze, is **maintained**.

J U D G E

Ahmad