

THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA

Criminal Misc. Application No. S-298 of 2026

[Jan Mohammad & another Vs. SHO, P.S Kot Shahoo & others]

Applicants : Through Mr. Ashfaq Hussain Abro,
Advocate

The State : Through Mr. Aitbar Ali Bullo, Deputy
Prosecutor General, Sindh along with
SIP Riazat Ali of P.S Kot Shahoo

Respondent No.2 : Through Mr. Tarique Ali Chandio,
Advocate

Date of Hearing : 12-10-2026

Date of Order : 12-10-2026

ORDER

ARBAB ALI HAKRO, J:- Through the instant application under Section 561-A Cr.P.C., read with Sections 435 and 439 Cr.P.C., the applicants have challenged the order dated 21.08.2026 passed by the learned 1st Additional Sessions Judge/MCTC, Ex-Officio Justice of Peace, Shikarpur, in Criminal Miscellaneous Application No. 1223 of 2026, whereby the concerned police were directed to record the statement of respondent No. 2 and, if the commission of a cognizable offence is disclosed, to proceed in accordance with law and register the FIR.

2. Briefly, the case of Respondent No.2, as set out in the application before the learned Justice of Peace, is that on 06.08.2026 at about 06:00 a.m., the proposed accused, duly armed, allegedly entered her house situated at Village Drighpur, Taluka Khanpur, District Shikarpur, maltreated the inmates, and took away three goats, five tolas of gold ornaments, thirty tolas of silver ornaments, and cash amounting to Rs.170,000/-. It was further alleged that Muhammad Ishaq was forcibly abducted in a police

mobile and that his dead body was subsequently found in a fish pond within the jurisdiction of P.S. Napar Kot. Respondent No.2 alleged that despite approaching the SHO, P.S. Kot Shahoo, for registration of the FIR, no action was taken, whereupon she approached the learned Justice of Peace by filing an application under Sections 22-A and 22-B, Cr.P.C.

3. Learned Justice of Peace, after hearing the parties and examining the available record, including Roznamcha Entry No.5 dated 06.08.2026, passed the impugned order dated 21.08.2026, directing the concerned police to record the statement of respondent No.2 and, if it disclosed the commission of cognizable offences, to register the FIR in accordance with law, and further directing an independent and impartial investigation and the obtaining of the post-mortem report of deceased Muhammad Ishaq.

4. Learned counsel for the applicants contended that the learned Justice of Peace overlooked Roznamcha Entry No.5, kept at P.S. Napar Kot on the day of the incident at the instance of the brother of the deceased, which attributed the death to their enemies and to drowning in a fish pond; that the post-mortem report also points to drowning; that respondent No.2 approached the learned Justice of Peace after five days, could not identify the proposed police accused, and that the deceased and his family members are proclaimed offenders.

5. Conversely, learned counsel for respondent No.2 and learned Deputy Prosecutor General supported the impugned order.

6. Heard and perused. Without dilating upon the question of maintainability, it suffices to say that, even if the instant application is treated as competent, it fails on the merits. The officer in charge of a police station is bound to record information disclosing a cognizable offence without first inquiring into its truth, the safeguard against a false report being

Section 182, P.P.C.¹ Any divergent version of the same occurrence is to be recorded under Section 161 Cr.P.C. and examined by the investigating officer from all angles. No one is to be arrested merely because he is nominated in the FIR.² In a case where police officials were the proposed accused, the Supreme Court restored the order of the Justice of Peace and disapproved of interference by this Court under Section 561-A, Cr.P.C., holding that the Justice of Peace is only to see whether a cognizable offence is made out, that this Court cannot act as a fact-finding forum and that registration of an FIR does not imply guilt.³

7. The allegations of armed entry, removal of property, and abduction of Muhammad Ishaq, whose dead body was recovered the same day, plainly disclose cognizable offences. Even so, the learned Justice of Peace has not directed the registration of the FIR outright, but only if the statement of respondent No.2 discloses a cognisable offence, which is what Section 154 Cr.P.C. itself requires. The pleas of the applicants regarding Roznamcha Entry No.5, the post-mortem report (in which the cause of death has been kept provisional pending histopathological examination), the non-identification, the delay, and the antecedents of the deceased all call for an appraisal of competing versions, which is the domain of investigation and trial, not of this Court under Section 561-A, Cr.P.C. The impugned order is otherwise balanced. The investigation has been entrusted to an officer unconnected with P.S. Kot Shahoo, both versions are to be examined, and no nominated person is to be arrested merely because of his nomination. I find no illegality or abuse of process in it.

8. However, it is clarified that if an FIR in respect of the death of Muhammad Ishaq has already been registered, the version of respondent

¹ *Muhammad Bashir v. Station House Officer, Okara Cantt.* PLD 2007 SC 539.

² *Mst. Sughran Bibi v. The State* PLD 2018 SC 595.

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

No.2 shall be recorded under Section 161 Cr.P.C. in that case, instead of a second FIR.⁴

9. The instant application is, therefore, **dismissed**. The observations made above are tentative and shall not prejudice either party during investigation or trial.

JUDGE

Zulfiqar

⁴ *Sughran Bibi* (n.2 above).