

ORDER SHEET

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Misc Application No.S-478 of 2026.

DATE	ORDER WITH SIGNATURE OF JUDGE
	For orders on office objections. For hearing of main case. For hearing of M.A No.6523/26.

30.09.2026.

M/s Syed Jan Muhammad Bukhari and Jaleel Ahmed Memon, Advocates for Applicant.

Ms. Sana Memon, Assistant Prosecutor General, Sindh.

JAWAD AKBAR SARWANA, J.:- Muhammad Mazhar son of Muhammad Yaqoob, applicant/proposed accused No.1, is aggrieved by the order dated 27.06.2026 passed by the 1st Additional Sessions Judge/Ex-Officio Justice of Peace, Shaheed Benazirabad in Cr. Misc. Application No.2065 of 2026 filed by the complainant/respondent No.1 (Arslan Ahmed son of Ikram Ahmed), who, as per the Memo of the Cr. Misc. Application filed before the Ex-Officio Justice of Peace, has identified himself as an Advocate.

2. The complainant/proposed accused no.1 (Advocate) and his Counsel are not in attendance today in spite of prior notice. This Cr. Misc. Application was instituted before this (High) Court on 03.08.2026, when notices were issued to the respondents, and the impugned order dated 27.06.2026 was also suspended till the next date of hearing. Thereafter, on 31.08.2026, Syed Khalid Ali, Advocate, on behalf of respondent No.1 (Arslan Ahmed, Advocate), entered appearance and requested time. As the applicant /proposed accused No.1's Counsel undertook to provide a copy of the memo during the course of the day, the matter was adjourned. Thereafter, when the case came up on 22.09.2026, respondent No.1 (Arslan Ahmed, Advocate) was present in court in person, received a copy of the instant lis, and once again, for the second time, requested time. With the parties' consent, the matter was adjourned for hearing today at 09:00 a.m. However, as mentioned above, respondent No.

1/complainant is not in attendance, nor has any intimation been received on behalf of the said respondent No.1/complainant (Advocate) and/or his Counsel. In the circumstances, I have proceeded to decide this matter with the assistance of counsel for the applicant/proposed accused No.1 and A.P.G. and based on the information available on record.

3. Learned counsel for the applicant/proposed accused No.1 has argued that the Ex Officio Justice of Peace could not have granted the respondent/complainant the relief beyond the prayer clause; and that the relief granted to him as articulated in paragraph-11 of the impugned order dated 27.06.2026 and onwards is beyond the scope of Sections 22-A & B Cr. PC., hence not maintainable, and liable to be struck off.

4. Learned A.P.G. has contended that the contents of paragraph-11 of the impugned order are well beyond the jurisdiction of an Ex-Officio Justice of Peace, and that such grievances of respondent No.1/complainant should be agitated before the Constitutional Bench, as the relief sought concerns action of government agency.

5. Heard learned counsel for the applicant/proposed accused no.1 and learned A.P.G.

6. The Cr. Misc Application No.2065 of 2026 was filed on 04.05.2026 before the Ex-Officio Justice of Peace by the respondent No.1/complainant and as per paragraph No.4 of the memo of the said Cr. Misc Application, an alleged incident took place on 26.02.2026 involving the respondent no.1 family and the applicant/proposed accused no.1. According to the documents available after the incident of 26.02.2026, the respondent No.1/complainant proceeded with the matter before the Ombudsman Sindh, and, in this connection, as also discussed in paragraphs nos.4 & 5 of the Memo, the proceedings culminated in the order passed by the Ombudsman Sindh dated 10.03.2026. It appears that two (2) months later, respondent no.1/complainant filed the complaint before the Ex-Officio Justice of Peace.

7. The Ex-Officio Justice of Peace has well set out the reasons for the dismissal of the Cr. Misc. Application, which I have found no reason to disturb and/or disagree with. The applicant/proposed accused no.1 has also not challenged paragraph 10 of the Impugned Order. Indeed, paragraph 10 of the Impugned Order is well within the contours and provisions of Sections 22-A and 22-B Cr.P.C. However, I cannot say the same for paragraph 11 and subsequent paragraphs in the Impugned Order. It is not understood how, after dismissing the cr. misc. application, the Ex-Officio Justice of Peace could proceed to direct a government agency as he did in paragraph 11 and onwards. Clearly, such directions are not within the framework of Sections 22-A and 22-B Cr.P.C. and the same are struck down/set aside.

8. It is pertinent to mention here that the respondent no.1/complainant has so far not challenged the Impugned order dated 27.06.2026 dismissing the Cr. Misc Application. Presumably, respondent no.1/complainant has no grievance against its dismissal.

9. Given the above reasons, the impugned Order dated 27.06.2024 is sustained up to paragraph 10, and the directions given in paragraphs 11, 12, and 13 are hereby recalled/set aside. The position between the parties shall stand as on 27.06.2026 up to paragraph 10 alone. The impugned Order stands modified in these terms.

9. Counsel for the applicant/proposed accused no.1 submits that the Ex-Officio Justice of Peace has commenced execution of the impugned order when this list was instituted and prior to the High Court's Stay on 03.08.2026. Accordingly, all proceedings after 27.06.2026 are recalled and set aside.

10. This Cr. Misc. Application is allowed in the above terms along with all pending application(s), if any.

JUDGE