

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Misc. Application No.S-34/2026

Applicants: 1. Shams-u-din son of Dittal Khan,
2. Muhammad Younis s/o Muhammad Ismail,
3. Muhammad Zafar s/o Muhammad Latif,
4. Shafi Muhammad s/o Wali Muhammad,
5. Sobdar Khan s/o Allah Bux
Through Mr. Muhammad Yaseen Khaskheli
advocate.

Respondents: The State through Mr. Neel Parkash Deputy
Prosecutor General Sindh

Date of Hearing: 15.10.2026

Date of Order: 15.10.2026

ORDER

Nisar Ahmed Bhanbhro, J: This Criminal Miscellaneous Application under Section 561-A Cr.P.C is directed against the order dated 22.12.2025 passed by the learned 2nd Additional Sessions Judge, Sanghar in Criminal Revision Application No. 38 of 2025, whereby the order dated 02.09.2025 passed by the learned Civil Judge and Judicial Magistrate, Sanghar was set aside.

2. The grievance of the applicants is that due to the uneven bed level of Toori Minor Canal RD-18+000 to RD19+500, they are unable to receive their due share of water. For this purpose, they filed an application under Section 133 Cr.P.C before the learned Civil Judge and Judicial Magistrate, Sanghar, which was allowed; however, the said order was reversed by the learned Additional Sessions Judge-II, Sanghar, on an application filed by the Secretary, Irrigation Department, Government of Sindh and the Assistant Executive Engineer, Sanghar Sub-Division.

3. Learned counsel for the applicants submits that obstruction of water constitutes a public nuisance, for which Magistrate is competent to take cognizance and the Magistrate passed well-reasoned order, which was set aside by the learned Additional Sessions Judge-II, Sanghar without any reason. He prays for the issuance of appropriate directions.

4. Learned D.P.G for the State submits that technicalities are involved in the matter, which can be resolved by the competent authorities and the provisions of Section 133 Cr.P.C do not apply to the present case. He prays for dismissal of the application.

5. I have heard learned counsel for the applicants as well as learned D.P.G for the State and have perused the record. It is the responsibility of the Irrigation Department to supply water to the Khatedars without any disruption. In case any fault occurs in Minor or Canal, they are liable to remove the same. Since the applicants are unable to receive water to irrigate their lands due to the uneven bed level of Toori Canal, through which they are scheduled to receive water. The matter squarely falls within the domain of the Irrigation Authorities to resolve and the competent officer of the Irrigation Department is empowered under Section 26 of the Sindh Irrigation Act, 1879 to resolve such grievances. Learned Additional Sessions Judge-II, Sanghar rightly held that the grievance of the applicants does not come within the ambit of Section 133 Cr.P.C, but at the same line it is the fundamental right of the applicants to irrigate their lands without any obstruction and it is the responsibility of department to resolve the grievance of the applicants.

6. For the foregoing reasons, this Criminal Miscellaneous Application stands disposed of. However, the Secretary, Irrigation Department, Government of Sindh and the Director, Nara Canal Area Water Board, Mirpurkhas are directed to look into the grievance of the applicants and resolve it within a period of two (02) months from the date of receipt of this order.

JUDGE