

THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Miscellaneous Application No.S-620 of 2026

Applicant: Muhammad Iqbal Khan through Mr. Imtiaz Ahmed Soomro, Advocate.

Respondent No.1: SHO PS A-Section Nawabshah through Mr.Khalid Hussain Lakho, D.P.G. Sindh along with ASI Sher Muhammad PS A-Section Nawabshah, District Shaheed Benazirabad.

Respondent No.2: Nil.

Date of hearing: 12.10.2026.

Date of order: 12.10.2026.

ORDER

MUHAMMAD HUMAYON KHAN, J: - Through this Criminal Miscellaneous Application, the applicant seeks setting aside of the order dated 27.08.2026 passed by the learned 5th Additional Sessions Judge/Ex-Officio Justice of Peace, Shaheed Benazirabad, in Criminal Miscellaneous Application No. 2894 of 2026, whereby his application under Section 22-A (6) (i), Cr.P.C. for registration of an FIR against respondent No. 2 was dismissed.

2. Brief facts are that the applicant and respondent No.2 are real brothers and co-sharers in inherited property comprising six shops situated at Mohni Bazar, Nawabshah, generating rental income. The applicant alleges that respondent No.2, who collected the rent, transferred amounts from their joint bank account into his personal account without consent and withheld the applicant's alleged share. A civil suit bearing No.322 of 2025 concerning the property is pending and the learned Justice of Peace, after considering the contentions of the parties and police reports, dismissed the application for registration of an FIR.

3. Learned counsel for the applicant contends that the impugned order is illegal, arbitrary and based on misreading and non-appreciation of the material available on record. He contends that the alleged unauthorized transfer of rental proceeds, concealment of transactions and withholding of the applicant's share *prima facie* disclose cognizable offences, including criminal breach of trust and dishonest misappropriation. He further contends that the pendency of civil litigation does not extinguish criminal liability where the ingredients of a cognizable offence are disclosed; hence, the impugned order warrants interference.

4. Conversely, learned D.P.G. Sindh supports the impugned order and submits that the dispute, as presented, substantially concerns inheritance, ownership, accounting and distribution of rental income between two brothers. According to him, the police reports and the joint-account particulars, does not sufficiently demonstrate the commission of a cognizable offence warranting an immediate direction for registration of an FIR. He also points out that the applicant has not established any illegality, jurisdictional defect or material irregularity in the impugned order calling for interference under Section 561-A, Cr.P.C.

5. I have heard the learned counsel for the parties and examined the available record.

6. The inherent jurisdiction under Section 561-A, Cr.P.C. is to be exercised sparingly to prevent abuse of the process of the Court or to secure the ends of justice; it is not a substitute for a routine reappraisal of every order passed by an Ex-Officio Justice of Peace. The record reflects that the parties are brothers asserting competing interests in inherited property and its rental proceeds, while civil litigation concerning the property is already pending. The alleged transfers from the joint bank account and the stated withholding of rent have been pleaded by the applicant; however, *prima facie*, the material available before this Court does not, by itself, conclusively establish dishonest entrustment, misappropriation or the requisite criminal intention. The mere existence of a joint account and the allegation of transfers into an individual account, without adequate particulars concerning the transactions and the applicant's entitlement to the amounts claimed, are insufficient on the present record to compel the extraordinary direction sought. At the same time, pendency of civil proceedings alone cannot justify refusal of criminal action where a cognizable offence is otherwise disclosed. The question, however, is whether the impugned order suffers from such patent illegality, perversity or material irregularity as would justify interference in inherent jurisdiction. The applicant has not demonstrated any such defect warranting the setting aside of the impugned order. The allegations, in their present form and in the context of the material available, do not establish a sufficient basis for this Court to interfere with the discretionary determination of the learned Justice of Peace.

7. For the foregoing reasons, no sufficient ground for interference under Section 561-A, Cr.P.C. is made out. Consequently, the instant

Criminal Miscellaneous Application is **dismissed** and the impugned order is maintained. It is clarified that these observations are confined to the present application and shall not prejudice any civil proceedings or any lawful remedy available to the applicant.

JUDGE

Abdullah Channa/PS