

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Miscellaneous Application No.S-347 of 2026

[Kanhio v. Province of Sindh & others]

Mr. Muhammad Aleem Arain, Advocate for applicant.

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Date of hearing & decision: 16.10.2026

ORDER

Muhammad Humayon Khan, J.- The applicant, by way of the instant Criminal Miscellaneous Application under Section 561-A, Cr.P.C., has assailed the order dated 22.05.2026 passed by the learned 2nd Additional Sessions Judge/Ex-Officio Justice of Peace, Tando Allahyar, whereby his application (Criminal Miscellaneous Application No.295 of 2025) seeking a direction for the registration of FIR was declined.

2. The brief facts giving rise to the filing of the instant *lis* are that the applicant was engaged in the business of gold under the name & style of "Dilwani Jewelers" and claims to have been cheated by respondents No. 5 & 6 (proposed accused) belonging to the same trade community. On 04.04.2026 at about 1900 hours, the proposed accused allegedly visited his shop, extended threats to the applicant and his brother Darshan Lal, forcibly ejected the applicant, illegally occupied the shop, and took away valuable gold and silver ornaments, cash amounting to Rs. 1,000,000/-, two mobile phones, cheques, customer valuable articles, and token receipts. Having failed to prompt local police action, the applicant invoked the jurisdiction of the Ex-Officio Justice of Peace under Section 22-A(6) Cr.P.C., which met dismissal via the impugned order.

3. Learned counsel for the applicant contends that facts narrated disclose a cognizable offence as such a statutory duty was cast upon the Station House Officer to register a formal First Information Report (FIR) so as to investigate the same and his failure was amenable to interference. It is argued that the forum below failed to appreciate that the contents of the application, taken at their face value, *prima facie* disclose offences including criminal trespass, theft, criminal intimidation, and unlawful dispossession, which warranted a police investigation. It is further urged that the lower forum misdirected itself by entering into disputed questions of fact at a preliminary stage, whereas the sole test under Section 22-A(6) Cr.P.C. is whether a

cognizable offence is disclosed, therefore, prayed for setting-aside the impugned order.

4. I have heard the learned counsel for the applicant, perused the material available on record, and evaluated the legal parameters.

5. Record reveals that the police report highlights that an underlying monetary and commercial dispute exists between the parties concerning gold and silver business transactions, which is predominantly civil in character. As enunciated by the Hon'ble Supreme Court of Pakistan in cases like *Jamal Khan v. Secretary Home Department* (2021 SCMR 468), where a transaction is rooted in a civil nature dispute business, criminal processes cannot be weaponized as a shortcut to settle civil scores. The alleged high-handedness, forcible ejectment, and removal of valuables lack support from any independent eyewitness or local source from the vicinity, save for the applicant's own brother, Darshan Lal. The assertions regarding dispossession and theft are tied to disputed questions of fact that cannot be resolved summarily through coercive police investigations without proper judicial inquiry. The police report pointing toward a commercial dispute went un-rebutted as no formal objections were filed by the applicant before the lower forum.

6. While an Ex-Officio Justice of Peace is not to act as an investigator or conduct a mini-trial to test the ultimate truthfulness of allegations, he is equally under no legal obligation to issue mechanical directives for FIR registration where the allegations are inherently intertwined with pre-existing commercial/civil disputes, lack independent backing, and fail to disclose a bona fide cognizable wrong. The impugned order manifests a judicious application of mind, and no jurisdictional defect or illegality is apparent on the face of the record.

7. In view of the strained business relations between the parties, the absence of independent material, and the commercial nature of the controversy, the learned 2nd Additional Sessions Judge/Ex-Officio Justice of Peace, Tando Allahyar, was fully justified in declining the direction for the registration of an FIR. Accordingly, the instant Criminal Miscellaneous Application is dismissed in *limine*. The impugned order dated 22.05.2026 is maintained.

JUDGE