

IN THE HIGH COURT OF SINDH, CIRCUIT COURT MIRPURKHAS

Criminal Miscellaneous Application No.S-319 of 2025

Applicant : Jabir Hussain son of Fida Hussain Lahori
Through Mr. Malik Bux Mari Advocate.

Respondent Nos.1, 2 & 4 : The State,
Through Mr. Ghulam Abbas Dalwani,
DPG, Sindh.

Respondent No.3 : Mst. Sughra wife of Ghulam Nabi
Through Mir Ghulam Mustafa Bagrani
Advocate.

Date of hearing : 31.07.2026

Date of Order : 31.08.2026

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Jabir Hussain invokes the inherent jurisdiction of this court, calling in question order dated 19.05.2025 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Shahdadpur, in Criminal Miscellaneous Application No.898 of 2025, whereby the application filed by respondent No.3 under sections 22-A and 22-B, Cr.P.C. was allowed and the Station House Officer, Police Station Shahdadpur, was directed to record her statement in terms of section 154, Cr.P.C., and to proceed in accordance with law. The controversy arises out of a deeply disturbing incident in which respondent No.3 alleged that her brother, namely Abdul Latif, was done to death through a concerted and armed assault allegedly involving police officials and private persons, whereafter the local police refused to register her version and to take lawful action against the persons nominated by her.

2. The material brought on record shows that respondent No.3, in her application before the learned Justice of Peace, asserted that she is the real sister of deceased Abdul Latif. According to her version, certain private persons had developed hostility towards the deceased and had extended threats that, if he did not leave the village, he would be

implicated in false cases and eliminated at the hands of the police. It was further alleged that, on 07.05.2025, in the early morning, some of the private proposed accused visited the houses of other nominated persons and, after deliberation, formed a conspiracy for securing the killing of Abdul Latif through the agency of police personnel. The applicant before the learned Court below maintained that bribery was allegedly offered to police officials and that, in pursuance of such conspiracy, both private and official proposed accused proceeded towards the place where the deceased was present.

3. The gravamen of respondent No.3's allegations was that, on 07.05.2025 at about 10:00 a.m., Abdul Latif was present at the house of his maternal uncle, namely Shaman Bagrani, where the complainant party and some witnesses were also present, when the proposed accused, including police personnel and private individuals, arrived on vehicles and motorcycles, armed with firearms, entered the house without warrant or lawful authority, and confronted the deceased. It was specifically alleged that, despite the deceased expressing willingness to surrender if any case or complaint existed against him, the applicant, who was then serving as SHO, drew his pistol and fired a straight shot hitting the deceased in the chest, while other armed companions resorted to aerial firing. The narration further disclosed that, upon the approach of villagers, the assailants fled from the place of occurrence and, in the course of such retreat, left behind a motorcycle and certain police shoes at the spot.

4. The version advanced before the learned Justice of Peace further recited that the injured Abdul Latif was immediately taken to SIMS Hospital, Shahdadpur, where the Medical Officer declared him dead on account of firearm injury. According to respondent No.3, she and other relatives thereafter approached Police Station Shahdadpur and requested issuance of police papers for post-mortem as well as registration of a criminal case against the nominated persons, but the local police declined to issue the requisite letter and also refused to record her report. It was then stated that a protest sit-in was held on the main road near SIMS Hospital, which continued for several hours, whereafter local police functionaries assured the family that post-mortem formalities would be facilitated and lawful proceedings would be initiated. The dead body was then subjected to post-mortem examination, and, according to the application, a provisional report was issued while the final analysis remained pending.

5. The further grievance of respondent No.3 was that, after the burial and conclusion of mourning ceremonies, she again approached Police Station Shahdadpur for registration of FIR regarding the murder of her brother, but respondent No.2 therein allegedly refused to lodge the same and also threatened that, unless the complaint was withdrawn, the complainant side and its family members would be implicated in false cases. She additionally alleged that false cases were later instituted against witnesses and relatives of the deceased. On such assertions, she invoked the jurisdiction of the learned Justice of Peace under sections 22-A and 22-B, Cr.P.C. for redress of her grievance.

6. The record further reflects that the proposed accused, including the present applicant, contested the said application. Their stance before the learned Court below was that the allegations levelled by respondent No.3 were false, concocted, and actuated by mala fide. It was claimed that the present applicant was posted as SHO, Police Station Darya Khan @ Maqsoodo Rind, and that, on 07.05.2025, while on patrol duty, he received information regarding registration of FIR No.16 of 2025 under sections 392/34, P.P.C., in which it had been disclosed that the wanted accused Abdul Latif and another had taken shelter in the house of one Shaman Ali Bagrani along with looted articles. Acting upon such information, the applicant and subordinate staff allegedly conducted a lawful raid. Their plea was that, during the operation, the deceased Abdul Latif, being a desperate criminal and proclaimed offender, resisted arrest, threatened the police party, and, in the melee, fired upon himself in order to escape apprehension, while villagers surrounded the police party and created disorder, compelling their retreat. It was also claimed that, pursuant to that incident, FIR No.127 of 2025 under sections 353, 506(2), 147, 148, 149, 403 and 504, P.P.C. had already been registered at Police Station Shahdadpur and that the occurrence stood covered by the said crime report.

7. The learned Justice of Peace, after calling for reports and hearing the parties, allowed the application of respondent No.3. The relevant order reveals that the learned Court below found that the allegations contained in the application disclosed the commission of cognizable offences, particularly in view of the ocular account, the provisional post-mortem report, the asserted presence of the proposed accused at the place of occurrence, and the alleged refusal of the local police to record the version of the complainant party. The learned Justice of Peace also observed that the defence plea set up by the proposed accused, namely that the

deceased had committed suicide during the raid, could not be conclusively examined at that stage, the jurisdiction under section 22-A, Cr.P.C. being limited in nature.

8. Learned counsel for the applicant has assailed the impugned order with vehemence. He has argued that the learned Justice of Peace acted beyond jurisdiction by entering into disputed questions of fact, by according undue weight to the allegations of respondent No.3, and by ignoring the police reports and surrounding circumstances. According to him, the occurrence had already been reported by the police through FIR No.127 of 2025, therefore the direction to record the version of respondent No.3 and to proceed under section 154, Cr.P.C. in effect amounts to permitting a second FIR concerning the same occurrence, which is barred by law. He submitted that the proper remedy for respondent No.3, if at all, was to get her version recorded during investigation of the earlier case or to resort to a private complaint under section 200, Cr.P.C. He further maintained that the impugned order was passed mechanically, without due application of mind, and in disregard of settled law laid down by the Honourable Supreme Court of Pakistan.

9. Conversely, learned counsel appearing for respondent No.3 supported the impugned order and submitted that the allegations narrated before the learned Justice of Peace unmistakably disclosed commission of cognizable offences, including murder, house trespass, criminal intimidation and abuse of authority by police personnel acting in collusion with private persons. He contended that the learned Justice of Peace was not required to determine the truth or falsity of the accusations, nor to conduct a roving inquiry into the defence set up by the present applicant. His submission was that the police had refused to record the complainant's version, despite specific allegations of a grave and heinous offence, and such refusal itself justified exercise of jurisdiction under sections 22-A and 22-B, Cr.P.C. It was further urged that allegations of fake encounter, custodial abuse, or killing through police excess are matters requiring impartial criminal law process and cannot be stifled at the threshold merely because the police have projected a rival narrative through an earlier FIR.

10. The learned Deputy Prosecutor General, while addressing the Court, submitted that the principal issue requiring determination is whether, in the backdrop of an earlier FIR lodged by the police in respect of the same transaction, the learned Justice of Peace could lawfully direct the recording of respondent No.3's statement under section 154, Cr.P.C.

He further submitted that, irrespective of the answer to that question, this Court is fully competent to ensure that the allegations of respondent No.3 are not buried under the weight of official influence and that an impartial investigation is conducted in accordance with the mandate of law.

11. I have heard learned counsel for the parties and have gone through the record with anxious consideration. The facts of the case, as emerging from the application of respondent No.3, the police stance, the reports placed before the learned Court below, and the impugned order, present a grim picture of a violent death in circumstances where the police version and the complainant's version are irreconcilably opposed. On the one hand, the official narrative portrays the occurrence as an aftermath of a lawful police raid conducted for apprehension of wanted offenders, culminating in self-inflicted death by the deceased. On the other hand, respondent No.3 alleges a premeditated conspiracy, abuse of official power, unlawful entry into a private house, and deliberate shooting of her brother by police personnel acting in concert with private persons.

12. At this juncture, it is necessary to restate the principles settled by the Honourable Supreme Court of Pakistan concerning registration of FIR and the role of the Justice of Peace. In PLD 2007 SC 539¹, it was authoritatively held that where information conveyed to the officer incharge of a police station discloses commission of a cognizable offence, no authority vests in the SHO or in any other person to refuse recording of FIR, nor can the police hold an inquiry into the correctness or falsity of such information before recording it. The object of section 154, Cr.P.C. is to set the criminal law into motion; veracity, authenticity and ultimate truthfulness are matters to be tested during investigation. The Apex Court further clarified that the proper safeguard against false reporting is not refusal to register a case, but legal consequences flowing from a false accusation under the law.

13. Likewise, in 2024 SCMR 1123², the Honourable Supreme Court reiterated that, under section 22-A, Cr.P.C., the Justice of Peace is not to punctiliously scrutinize the merits of the case or undertake a fact-finding inquiry; rather, his limited function is to examine whether, from the facts narrated in the application, a cognizable offence is made out and whether the grievance of refusal by the police requires redress. The Justice of Peace is not to assume the role of an investigating agency or prosecutor, yet he remains under a legal duty to ensure that the statutory obligation of

¹ *Muhammad Bashir v. Station House Officer, Okara Cantt. and others.*

² *Syed Qamber Ali Shah v. Province of Sindh and others.*

the police to receive information of a cognizable offence is not frustrated by arbitrariness, inertia or extraneous considerations.

14. There is, however, another equally controlling principle which cannot be ignored. In PLD 2018 SC 595³, a larger Bench of the Honourable Supreme Court settled the law that, once the first information relating to commission of a cognizable offence has been entered in the prescribed register and a case has come into existence, no separate FIR is to be recorded for any subsequent or divergent version of the same occurrence. All such subsequent, rival or cross versions are to be received, recorded and investigated by the Investigating Officer under section 161, Cr.P.C. in the very same case. The Court further emphasized that the Investigating Officer is duty-bound to discover the actual truth of the matter, to collect all relevant evidence from every possible angle, and not to commit himself prematurely to any version for or against any person.

15. When these principles are applied harmoniously to the case in hand, the legal position becomes clear. If, as asserted by the present applicant, FIR No.127 of 2025 had already been registered with respect to the same occurrence in which Abdul Latif lost his life and the police encounter version had thereby brought the case into existence, then the law laid down in *Mst. Sughran Bibi* squarely bars the registration of a second FIR on the basis of the rival version advanced by respondent No.3. In such situation, the proper legal course was not to direct lodging of another FIR in relation to the same transaction, but to ensure that the version of respondent No.3 was recorded in full, faithfully and without distortion during investigation of the existing case and that such version received objective and impartial consideration. To that extent, the impugned order cannot be sustained if it is construed as a direction for initiation of a second FIR concerning the same occurrence.

16. At the same time, the matter cannot be disposed of on that legal objection alone, for the allegations levelled by respondent No.3 are of exceptional gravity. The accusation is not of an ordinary private crime; it is of an unlawful killing allegedly perpetrated by police officials under colour of authority, in conspiracy with private individuals, followed by refusal to register the aggrieved party's version. Such allegations, if true, strike at the very heart of constitutional governance, public confidence in law-enforcement, and the guarantees of life, dignity and due process. The law

³ *Mst. Sughran Bibi v. The State*

does not permit a second FIR for the same occurrence, but it equally does not permit the investigative process to become a shield for impunity.

17. The larger Bench in Mst. Sughran Bibi made it abundantly clear that, where alternate versions surface after registration of the first FIR, the investigating officer must not remain prisoner to the version first narrated in the FIR. He is bound to probe every version, to discover the actual facts, and to submit a final report under section 173, Cr.P.C. in terms of the truth as found during investigation. This obligation assumes added and compelling significance where the very persons whose conduct is under challenge are members of the police force. In such matters, an investigation by officers subordinates to, or institutionally aligned with, the proposed accused cannot inspire public confidence, nor can it satisfy the constitutional requirement of fairness.

18. The record available before this Court reveals serious matters which ought not to be brushed aside as inconsequential. Respondent No.3 alleged the presence of eye-witnesses, unlawful entry into a dwelling house, direct firing upon the deceased, immediate transport of the injured to hospital, declaration of death by medical officer, refusal of police to issue post-mortem papers at the initial stage, public protest by the aggrieved family, and later refusal to lodge their report. The applicant, on the other hand, set up the specific plea that the deceased was a criminal fugitive who, during lawful police action, fired upon himself. The stark divergence between these two versions itself demonstrates that the matter calls for an investigation of scrupulous independence, professional competence and unimpeachable neutrality.

19. It also appears from the available material that the impugned order of the learned Justice of Peace, though rooted in concern for refusal by the police to receive the complainant's version, did not fully address the bar against multiple FIRs as settled by the larger Bench in Mst. Sughran Bibi. That omission, however, does not render the complainant remediless. The Court's duty is not merely to set aside an order on technical legal grounds, but to mould the relief in a manner that aligns the process with settled law while preserving the substance of justice.

20. For the foregoing reasons, this application is partly allowed in the following terms. The impugned order dated 19.05.2025 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Shahdadpur, is modified to the extent that no separate FIR shall be registered on the basis of the version of respondent No.3 if FIR No.127 of

2025, or any other earlier FIR, already pertains to the selfsame occurrence in which Abdul Latif lost his life. Instead, the version of respondent No.3 shall be treated as a rival version of the same occurrence and shall forthwith be recorded, in extenso and on her verbatim, under section 161, Cr.P.C. by an independent Investigating Officer. The Inspector General of Police, Sindh, is directed to transfer the investigation concerning the occurrence resulting in the death of Abdul Latif from the local police of District Sanghar to a senior, competent and independent officer not below the rank of Assistant Superintendent of Police or Deputy Superintendent of Police, preferably from a specialized investigative unit and, in any event, not subordinate to, connected with, or otherwise under the influence of any police official nominated by respondent No.3.

21. The newly designated Investigating Officer shall record, without delay, the detailed statements of respondent No.3 and all witnesses cited by her; shall collect, secure and examine all physical, forensic and medical evidence, including the provisional and final post-mortem reports, hospital record, any ballistic evidence, site inspection material, photographs, call-data or other relevant electronic record, and any articles allegedly left at the scene; shall examine the circumstances in which the earlier FIR was lodged; shall determine whether the occurrence was a genuine police action, a self-inflicted death, or a homicidal act committed by any person or persons; and shall proceed strictly in accordance with law, uninfluenced by the version first recorded by the police or by the defence advanced by the proposed accused. Upon conclusion of such investigation, a comprehensive and objective report under section 173, Cr.P.C. shall be submitted before the competent Court in accordance with law.

22. It is further clarified that, if respondent No.3 remains dissatisfied with the conduct or outcome of the investigation, she shall be at liberty to avail the remedy of a private complaint under section 200, Cr.P.C. before the competent Court, which shall independently examine such complaint in accordance with law. The protection sought by respondent No.3 and her family members, if any fresh threat or intimidation is shown to exist, shall be considered by the concerned police authorities strictly in accordance with law and without harassment to either side.

23. The Inspector General of Police, Sindh, shall ensure compliance with the directions contained herein within fifteen days from the date of this order and shall cause a compliance report to be submitted through the Additional Registrar of this Court.

24. With the above observations and directions, this Criminal Miscellaneous Application stands disposed of.

J U D G E