THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Miscellaneous Application No.S-474 of 2026

Applicants	:	Mouzzam Ali & another through Mr. Hamayoon alias Soorat Ali Khan, Advocate.
Respondent No.4	:	Mehrb Ali in in person.
The State	:	Through Mr. Muhammad Raza Katohar, Deputy P. G.
Date of Hearing	:	**21-09-2026**
Date of Order	:	**21-09-2026**

O R D E R

TASNEEM SULTANA, J.- Through the instant Criminal Miscellaneous Application under Section 561-A, Cr.P.C., applicants Mouzzam Ali Lohar and Shahnawaz Kalhoro, being proposed accused, have called in question the order dated 10.07.2026 passed by the learned Additional Sessions Judge-I/Ex-Officio Justice of Peace, Ghotki, in Criminal Miscellaneous Application No.1259 of 2026, whereby the SHO, Police Station A-Section, Ghotki, was directed to record the statement of respondent No.4, Mehrab Ali Gadani, under Section 154, Cr.P.C., and register an FIR if a cognizable offence was disclosed.

2. The relevant facts are that respondent No.4 filed an application under Section 22-A(6)(i), Cr.P.C., stating that on 18.06.2026, at about 11:00 a.m., he accompanied a delegation of office-bearers of the District Bar Association, Ghotki, headed by its President, Shahnawaz Waseer, to the office of the Director, Sindh Irrigation and Drainage Authority, at SCARP Colony, Ghotki, to raise grievances regarding shortage and distribution of irrigation water in Gaji Lower Minor and adjoining distributaries. He alleged that the proposed accused, including the present applicants, had deliberately withheld irrigation water and diverted it for the benefit of influential persons, causing damage to crops and agricultural lands and hardship to cultivators. He further alleged that the proposed accused threatened, forcibly dragged and humiliated members of the delegation and wrongfully confined him and other office-bearers in the

office for about one and a half hours, whereafter they were released upon the arrival of other advocates. According to him, the visit was recorded through videos and photographs. He maintained that despite approaching the police authorities, his statement was not recorded and no FIR was registered.

3. During the proceedings, reports were obtained from the police. The report dated 29.06.2026 submitted by the Incharge, Complaint Redressal Centre, Ghotki, referred to the report of the SHO and described the matter as a dispute concerning the supply and distribution of irrigation water. Thereafter, a further report was sought from DSP Anwar Shaikh, who inspected the site on 04.07.2026 and submitted his report dated 10.07.2026.

4. Learned counsel for the applicants contended that the impugned order was passed without proper consideration of the allegations and the material available on record; that the applicants are officials of the Irrigation Department performing duties relating to the regulation and distribution of irrigation water; that the dispute arose from complaints regarding shortage of water and the applicants had been implicated to pressurize them; that the police reports did not substantiate the alleged occurrence; that the DSP's report did not attribute theft of water or collusion to the applicants, yet the learned Ex-Officio Justice of Peace proceeded on that basis; that the applicants' position and the material concerning water supply were not properly considered; and that they were not afforded a proper opportunity of hearing. He, therefore, prayed that the impugned order be set aside.

5. Conversely, the learned Deputy Prosecutor General and respondent No.4, appearing in person, supported the impugned order and sought dismissal of the instant application.

6. Heard. Record perused.

7. The powers exercised by an Ex-Officio Justice of Peace under Section 22-A(6), Cr.P.C., are quasi-judicial and require due application of mind, as explained by the Honourable Supreme Court in *Younas Abbas and others v. Additional Sessions Judge, Chakwal and others* (PLD 2016 SC

581). In *Syed Qamber Ali Shah v. Province of Sindh and others* (2024 SCMR 1123), the Honourable Supreme Court explained that the function of the Justice of Peace is to examine whether the facts narrated in the application disclose a cognizable offence, without undertaking a detailed inquiry into their truth or assuming the role of an investigating agency. The judgment also cautions against the exercise of jurisdiction under Section 561-A, Cr.P.C., on presumptive findings concerning the merits of the accusation.

8. It appears from the record that the dispute originated from complaints regarding shortage and distribution of irrigation water in Gaji Lower Minor and adjoining distributaries. Respondent No.4 and other members of the delegation visited the office of the Director, SIDA, to seek restoration of water supply to the affected agricultural lands. The applicants maintained that they were discharging their official duties relating to the regulation and distribution of irrigation water and denied the allegations made against them. The report dated 29.06.2026 submitted by the Incharge, Complaint Redressal Centre, Ghotki, described the matter as an administrative dispute concerning water supply and, referring to the SHO's report, stated that the alleged occurrence had not taken place. The same report, however, recorded that neither party appeared before the inquiry officer.

9. DSP Anwar Shaikh inspected the site on 04.07.2026 and submitted his report dated 10.07.2026. He found that the quantity of water in the distributary was very low and the surrounding lands had not yet been cultivated. Water was, however, present in the watercourse shown by respondent No.4, and it was stated that it had arrived a few days earlier. The report further disclosed that farmers at the head of the distributary were using motor pumps to irrigate their lands because of the low water level, affecting the supply to tail-end cultivators. The photographs forming part of the record also show water flowing in the watercourse. These circumstances reflect the grievance concerning the availability and distribution of irrigation water, but do not, by themselves, establish that the applicants deliberately withheld or diverted it for the benefit of influential persons.

The DSP did not attribute the installation or operation of the motor pumps to the applicants or report that they assisted the farmers in extracting water. The photographs establish the presence of water when taken; they do not determine whether the supply was sufficient or regular throughout the period complained of.

10. As regards the allegation of wrongful confinement, respondent No.4 asserted that he and other members of the delegation were confined at the SIDA office for about one and a half hours and were released upon the arrival of other advocates. In his application, he expressly stated that the entire visit, meeting and interaction had been recorded and that the photographs and videos would be produced before the Court. However, no such material supporting the alleged confinement was placed on record. The photographs available on record concern water flow. He also claimed to have made repeated complaints and approached the police authorities. No complaint submitted to the SHO or higher police authorities before filing the application is available on record. Viewed in the context of the irrigation dispute and the material discussed above, these circumstances do not provide a sufficient basis for the direction sought under Section 22-A(6), Cr.P.C.

11. In view of the above facts and circumstances, the instant Criminal Miscellaneous Application was allowed vide short order dated 21.09.2026, whereby the impugned order dated 10.07.2026 passed by the learned Additional Sessions Judge-I/Ex-Officio Justice of Peace, Ghotki, in Criminal Miscellaneous Application No.1259 of 2026, was set aside, and the application under Section 22-A(6)(i), Cr.P.C., was dismissed. These are the reasons for the said short order.

J U D G E

Ahmad