ORDER SHEET

THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Crl. Misc: Application No.S-644 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE(S)

1. For orders on office objection (s)
2. For hearing of M.A No.8441/2026 (Exemption)
3. For hearing of main case
4. For hearing of M.A No.8442/2026 (Stay)

04.11.2026

Mr.Shahid Sheraz Pathan, Advocate for the applicant
Mr.Irfan Ali Talpur, D.P.G for the State a/w SIP Muhammad Ilyas Sargani
Respondent No.3 Mubashareen Zubair is present in person

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Through this application under Section 561-A Cr.P.C., the applicant has impugned the order dated 21.09.2026, passed by learned III-Additional Sessions Judge/Ex-Officio Justice of Peace, Hyderabad, in Cr. Misc. Application No.6543 of 2026, filed by respondent No.3 under Sections 22-A & 22-B Cr.P.C.

Heard learned counsel for the applicant and perused the record. The case set up by the applicant is that the impugned order was passed without hearing him; that he contracted Nikah with respondent No.3 on 13.01.2026 with her consent, she having declared her age as 18 years; that her birth certificate is fabricated and that the story is a concoction at the instance of her parents.

Paragraph 7 of the impugned order, being its operative part, reads as under:

> ***"In view of the above discussion, and keeping in view the mandate of law, the instant application is allowed. Accordingly, the respondent No.2 Station House Officer, Police Station B-Section Latifabad, Hyderabad, is hereby directed to provide legal protection to the applicant and record her statement under Section 154 Cr.P.C. as per her verbatim, register the FIR if cognizable offence is made out, and proceed further strictly in accordance with law, however, if during investigation, the applicant is found false then proceedings U/S 182 PPC be initiated against him. The Cr. Misc. Application stands disposed of accordingly."***

The plea of non-hearing is not borne out from the record. The impugned order shows that Mr. Ali Raza, advocate, appeared for the proposed accused, produced the affidavit of freewill and the Nikahnama and his submissions are noted in paragraph 4 and dealt with in paragraph 6 thereof.

On merits, respondent No.3 has alleged that she, a minor girl was made to commit prostitution by the applicant and others. The Birth Registration Certificate placed on record shows her date of birth as 10.05.2009, entered in the year 2019, which makes her about 17 years of age. Where the information discloses a cognizable offence, the police are duty bound to register the FIR and a preliminary inquiry into its truth is not permissible, as settled by the Supreme Court. The Justice of Peace has rightly taken the same view. The applicant's pleas regarding Nikah, her age, the alleged fake birth certificate and the falsity of the allegations are disputed questions of fact; they cannot be resolved in proceedings under Section 561-A Cr.P.C and are for the investigating agency and if it comes to that the trial court.

Respondent No.3 is present in Court today. SIP Muhammad Ilyas Sargani, who has also appeared, who after recording her statement has produced the same, which is taken on record. A perusal of it shows that the allegations of sexual abuse and of being forced into prostitution against the applicant and others have been repeated. Without commenting on their merits, it suffices to say that they cannot be brushed aside and call for investigation.

The impugned order contains no adverse remark against the applicant. The direction to register the FIR is conditional upon a cognizable offence being made out and the order also protects the applicant by providing for action under Section 182 PPC should the complaint be found false. As to the prayer for restraining respondents No.1 and 2, stopping the police from lodging an FIR would amount to curtailing their statutory duty under Section 154 Cr.P.C. and interfering with the investigation, which cannot be done in exercise of the inherent jurisdiction.

In view of the above, no illegality, perversity or abuse of process is made out in the impugned order. The application is accordingly **disposed of**, with the direction to the concerned police to act strictly in accordance with law. The observations made hereinabove are tentative and shall not prejudice either side during the investigation or trial, if any. The listed applications are also disposed of.

JUDGE

AHSAN K. ABRO