

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Miscellaneous Application No.S-135 of 2025

Applicant: Mst. Mariyam w/o Ali Asghar
Through Mr. Meer Muhammad Nohri advocate.

Respondents: 1. The State.
2. S.S.P, Tharparkar @ Mithi.
3. SHO/DSP PS Vijutu Taluka Mithi.

Proposed accused: 1. Inspector Mushtaque Malik, SHO P.S Vijutu.
2. Inspector Mubarak Rajar,
Incharge CIA Tharparkar.
3. Inspector Zulfiqar Hyderi, SHO P.S Chelhar.
4. Majid Kaimkhani, DSP Mithi.
5. 30 unknown police constables.
Respondents and proposed accused through
Mr. Neel Parkash, DPG.

Date of hearing: 11.07.2025.

Date of Order: 11.07.2025.

ORDER

Jan Ali Junejo, J. – Through the instant Criminal Miscellaneous Application filed under Section 561-A Cr.P.C., the applicant Mst. Mariyam seeks setting aside of the Order dated 19.05.2025 (hereinafter referred to as the “*Impugned Order*”) passed by the learned Sessions Judge/Ex-Officio Justice of Peace, Tharparkar @ Mithi in Criminal Miscellaneous Application No. 208 of 2025, under Section 22-A and B Cr.P.C, vide which the said application was dismissed.

2. The brief facts giving rise to the instant Criminal Miscellaneous Application are that the applicant filed an application under Sections 22-A and B, Cr.P.C., alleging that an FIR bearing Crime No. 10/2025, under Section 302, P.P.C., was registered at Police Station Vijuto against her brother-in-law and others. She further asserted that on 09.05.2025 at around 10:00 p.m., the proposed accused, accompanied by four police mobiles, a tractor, and a crane, allegedly demolished her house and removed all household articles lying therein. Aggrieved by this incident, the applicant approached the learned Sessions Judge/Ex-Officio Justice of Peace, Tharparkar at Mithi, seeking directions for the registration of an FIR against the proposed accused and for

protection of her legal rights. After obtaining reports from the concerned respondents and hearing arguments, the learned Sessions Judge/Ex-Officio Justice of Peace dismissed the application vide order dated 19.05.2025. Dissatisfied with this decision, the applicant has invoked the jurisdiction of this Court through the present Criminal Miscellaneous Application.

3. Learned counsel for the applicant argued that the impugned order is contrary to law and facts and is liable to be set aside. He contended that the learned Ex-Officio Justice of Peace failed to appreciate that the averments in the application prima facie disclosed the commission of a cognizable offence, warranting a direction to Respondent No.3/SHO for registration of an FIR. He submitted that the learned Justice of Peace had erroneously based his decision solely on the police reports while ignoring the material placed on record by the applicant. According to him, the Justice of Peace ought to have formed an independent opinion based on the applicant's assertions and should have directed the recording of her statement, instead of relying entirely on the police version. He emphasized that the acts attributed to the proposed accused clearly constitute a cognizable offence, and that no such offence should be allowed to go unaddressed. In support of his submissions, he placed reliance on the cases of ***Mst. Farhiha Ahmaree v. Station House Officer and others (2025 YLR 875)*** and ***Syed Qamber Ali Shah v. Province of Sindh and others (2024 SCMR 1123)***. He also submitted photographs and newspaper clippings in an attempt to substantiate the occurrence of the alleged incident. Lastly, he prayed for the impugned order to be set aside.

4. Learned Deputy Prosecutor General opposed the application and supported the impugned order. He contended that while the photographs produced by the applicant depict damaged structures, no police official is identifiable in any of them. He further submitted that the application under Sections 22-A and B, Cr.P.C., was filed with mala fide intent, primarily to shield the applicant's relatives who are facing serious charges in the murder case

registered as FIR No. 10/2025 under Section 302, P.P.C. The learned DPG emphasized that the proposed accused had appeared before the lower court and categorically denied any involvement in the alleged incident. Instead, they asserted that the police had intervened solely to protect the applicant from an angry mob. In conclusion, he prayed for the dismissal of the present Criminal Miscellaneous Application as being devoid of merit.

5. I have carefully considered the arguments advanced by the learned counsel for the applicant as well as the learned Deputy Prosecutor General, and have meticulously examined the material available on record, including the impugned order and the police reports submitted before the learned Sessions Judge/Ex-Officio Justice of Peace. It is an undisputed fact that FIR No. 10 of 2025, under Sections 302, 506(2), 147, 148, 149, and 114, P.P.C., was registered at Police Station Vijuto concerning the murder of Soomro, son of Photo Bheel. Notably, among the nominated accused are Arshad Ali and Akram, who are close relatives of the present applicant. This background is crucial in assessing the credibility and intent behind the applicant's present allegations. The applicant's principal grievance is that police officials, accompanied by four mobile vans, a tractor, and a crane, demolished her house and removed household articles. In support, she has placed on record certain photographs and newspaper clippings. However, as rightly pointed out by the learned Deputy Prosecutor General, none of the photographs show the presence of any police personnel, nor do they conclusively establish police involvement in the alleged incident. Moreover, the proposed accused appeared in person before the learned Sessions Judge/Ex-Officio Justice of Peace and categorically denied the allegations, claiming that police intervention, if any, was solely to protect the applicant from an agitated mob. The learned Sessions Judge/Ex-Officio Justice of Peace rightly assessed the overall circumstances and observed that the applicant's plea appeared to be a counterblast, possibly aimed at deflecting attention from or interfering with the ongoing investigation in the

aforementioned murder case. This inference finds support in both the timing of the application and the absence of any direct or cogent evidence against the police officials allegedly involved. It is a settled principle of law that while the jurisdiction under Sections 22-A and B, Cr.P.C., empowers the Justice of Peace to direct the registration of an FIR in cases involving cognizable offences, such discretion must be exercised judiciously and not in a routine or mechanical manner. When indications of mala fide intent or the potential to derail a pending investigation are apparent, the Court must exercise greater caution. The Courts are under a corresponding duty to guard against the misuse of this remedy, and should not lightly entertain applications that may interfere with legitimate law enforcement processes. In the present case, no sufficient material has been brought on record to justify the issuance of such directions. Hence, the findings of the learned Sessions Judge/Ex-Officio Justice of Peace do not suffer from any legal infirmity or perversity. Courts should not entertain applications under Sections 22-A and B, Cr.P.C. in a mechanical or perfunctory manner. It is incumbent upon the Court to apply its judicial mind to determine whether the applicant has approached with clean hands or whether the application is tainted with malice or an ulterior motive. Unless such scrutiny is exercised, the practice may have serious implications for police officials who, while discharging their lawful duties, could be unfairly targeted or discouraged. The law must be interpreted and applied in a manner that ensures its protection is extended fairly and uniformly to all, including law enforcement personnel acting within the bounds of their authority. Reliance in this regard is placed on the case of ***Imtiaz Ahmed Cheema, S.H.O. v. S.H.O., Police Station Dharki, Ghotki and 2 others (2010 YLR 189)***, wherein it was held by this Court that: “*The wisdom of legislature was not that any person who in discharging of duties takes an action against the accused would be subjected to harassment by invoking provision of section 22-A, Cr.P.C. The Courts in mechanical manner should not allow application under sections 22-A & B and should apply its mind as to whether the applicant has approached the Court with clean hands or it is tainted with malice. Unless such practice*

is discharged, it would have far reaching effect on the police officials who in discharge of duties take actions against them. The law has to be interpreted in a manner that its protection extends to everyone. I am therefore, of the opinion that order of the Sessions Judge was passed in mechanical manner and the applicant approaching the Sessions Judge". It is also important to note that the applicant is not left remediless. As rightly observed by the learned Sessions Judge, she is at liberty to seek redress by filing a direct complaint under Section 200, Cr.P.C., wherein she may produce evidence and have her allegations adjudicated upon through a proper judicial process. In similar circumstances, the Honourable Supreme Court of Pakistan, in the case of ***Munawar Alam Khan v. Qurban Ali Mallano and others (2024 SCMR 985)***, held that: *"Having heard the petitioner and scanned the material available on the record, we observe that there are many precedents regarding misuse of provisions of Sections 22-A and 22-B, Cr.P.C. and it is the prime duty of the Court that such misuse be taken care of and application filed should not be lightly entertained and decided in a mechanical manner for issuing direction to the police to lodge an FIR, conduct investigation in the matter and prosecute the accused. It is a settled principle of law that each and every case is to be decided on its own peculiar facts and circumstances and inference in this regard can be drawn from the cases reported as Rai Ashraf and others v. Muhammad Saleem Bhatti and others (PLD 2010 SC 691), Trustees of the Port of Karachi v. Muhammad Saleem (1994 SCMR 2213) and The State v. Mushtaq Ahmed (PLD 1973 SC 418)".*

6. In light of the foregoing, this Court finds no illegality or infirmity in the impugned order dated 19.05.2025 passed by the learned Sessions Judge/Ex-Officio Justice of Peace. The application under Sections 22-A and B Cr.P.C. was rightly dismissed, and the instant Criminal Miscellaneous Application, being devoid of merit, is accordingly dismissed.

JUDGE

