

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

***Criminal Miscilionious Application No. S-282 of 2026.
(Hussain Bux vs SHO FIA and others)***

Date	Orders with Signature of Judge
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1. *For order on office objection.*
2. *For hearing of main case.*

28-09-2026.

Mr. Muhammad Imran Jatoi, Advocate for the applicant
M/s Muhammad Afzal Jagirani and Noor Ahmed Lashari,
Advocates for the proposed accused No.1 to 3 & 5.
Mr. Riaz Ahmed Khoso, Deputy Attorney General, along
with Mehtab Akhtar, S.I. F.I.A, Composite Circle, Larkana.
Proposed accused are in attendance.

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Ali Haider 'Ada' J.- Through this Criminal Miscellaneous Application, the applicant has assailed the order dated 06.08.2024, passed by the learned Additional Sessions Judge-V/Ex-Officio Justice of Peace, Shikarpur, in Criminal Miscellaneous Application No.417 of 2026, whereby the application filed by the present applicant under Sections 22-A and 22-B, Cr.P.C. was dismissed.

2. The applicant moved an application under Sections 22-A and 22-B, Cr.P.C., alleging that his cousin, namely Ghulam Sarwar, had died in police custody and that the proposed accused were responsible for his custodial death; therefore, appropriate proceedings were sought against them.
3. Learned counsel for the applicant submitted that the deceased had died in the custody of the proposed accused and that police officials were allegedly involved in the occurrence. It is further contended that, in view of the nature

of the allegations, the matter fell within the domain of the Federal Investigation Agency (FIA) and was required to be duly investigated by the competent agency.

4. On the other hand, learned counsel for the proposed accused submitted that the allegations did not reflect the true state of affairs. It is contended that the deceased was involved in FIR No.11 of 2024, registered at Police Station Khanpur, and had died during an encounter with the police. According to learned counsel, the allegation of custodial death was subsequently raised merely as a means of taking revenge, whereas the actual circumstances of the deceased's death were those of an encounter.

5. Learned Deputy Attorney General submitted that, pursuant to issuance of notice by the learned Justice of Peace, a report was obtained from the FIA. The FIA conducted the requisite inquiry, recorded statements and thereafter submitted its report before the learned Justice of Peace. He submitted that the inquiry process had thus been undertaken by the competent agency and, after completing the requisite formalities, the FIA Composite Circle, Larkana, had formed its opinion in the matter.

6. Heard and perused.

7. Firstly, a perusal of the **Torture and Custodial Death (Prevention and Punishment) Act, 2022**, makes it clear that the Federal Investigation Agency (FIA) is the competent authority to deal with matters falling within the scope of the said Act. **Section 2(f)** of the Act defines the term “**custody**”. For ready reference, the same is reproduced herein below:

2. Definition.--(1) In this Act, there is anything repugnant in the subject or context,

(f) "custody" includes all situations where a person is detained or deprived of his liberty by any person, including a public official or by any other person working in an official capacity irrespective of the legality of the nature and any place of such detention.

8. Now, the relevant aspects of the case are that, under the Act of 2022, upon receipt of any complaint supported by reliable evidence or information regarding the commission of an offence, such complaint is required to be entertained and investigated in terms of Section 5 of the Act.

9. However, it is within the exclusive domain of the FIA to determine, upon investigation, whether an offence under the Act has been made out. **Section 2(h)** of the Act defines "**custodial death**" as the death of a person directly or indirectly caused by, and attributable to, acts of torture committed upon the deceased while in custody. For ready reference, the same is reproduced hereinbelow:

(h) "custodial death" means the death of a person while in custody, directly or indirectly caused by and attributable to acts of torture committed upon the deceased while in custody;

10. Now, from all aspects of the case, on the one hand, there is the version of the police that the deceased died in an encounter, whereas, on the other hand, the aggrieved party has alleged that the deceased died as a result of custodial death. In this regard, directions were sought for recording the statement before the learned Justice of Peace; however, the record reflects that the FIA had already invoked its jurisdiction upon the complaint submitted by the present applicant, which is available at page No.81 of the record. Therefore, there was no necessity for invoking the jurisdiction of the learned Justice of Peace in respect of the same matter, particularly when the FIA had already entertained the

complaint and no failure on the part of the agency to exercise its jurisdiction is established.

11. In view of the foregoing facts and circumstances, no interference with the impugned order is warranted. A parallel remedy cannot be invoked in respect of the same grievance when the competent agency has already assumed jurisdiction and the remedy so available has already been availed. Reliance is placed upon **A.R. Khan v. P. N. Boga through Legal Heir (PLD 1987 Supreme Court 107)**, **Trading Corporation of Pakistan v. Devan Sugar Mills Limited and others (PLD 2018 Supreme Court 828)** and **Mir Mujib-ur-Rehman Muhammad Hassani v. Returning Officer, PB-41 Washuk and others (PLD 2020 Supreme Court 718)**.

12. Accordingly, the instant application, being devoid of any ground for interference, is hereby dismissed.

JUDGE