

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**Crl. Misc. Application No.S-119 of 2024**  
*(Mumtaz Jutt Vs. SSP Vs. SSP Khairpur & others)*

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case.

**14-03-2025.**

Mr. Ateeq-ur-Rehman Soomro, Advocate for the applicant.  
Mr. Abdul Hafeez Bandhani, Advocate for proposed accused.  
Syed Sardar Ali Shah Rizvi, Additional P.G for the State.

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**ALI HAIDAR “Ada”, J.-.** The applicant assails the order Dated 13-02-2024, passed by learned Vth Additional Sessions Judge/Ex-Officio Justice of Peace, Sukkur, whereby his application u/s 22-A (6) (i) & 22-B Cr.P.C was turned down, in his application stated that the proposed accused had felled three trees of TARI from his land on 23-12-2023 and such incident was addressed to Police Functionaries but all in vain. The applicant approached before Justice of Peace and after dismissal prefers this Criminal Misc: application.

2. Learned counsel for the applicant contends that learned Ex-Officio Justice of Peace only on the police report dismissed his application as he reported such incident to SSP Sukkur through application and such application was also marked to Respondent No. 2, but his grievance was not redressed. He further contends that he sustained huge loss by the act of proposed accused, therefore he intends to register the FIR.

3. On the other hand learned counsel for the proposed accused submits that no any alleged incident was committed by the hands of proposed accused, actually the land of proposed accused is adjacent to

the land of brother of applicant namely Manzoor Jutt and due to usurp the land area the applicant initiated frivolous litigation, further he submits that the applicant with unclean hands approached before Court, as before SSP Sukkur he showed land property of Survey No. 87 of deh Begmaji while in application u/s 22-& B Cr.P.C, he showed another number which is Survey No. 199 of Deh Begmaji; which revealed that he has no knowledge that from which part of land the alleged offence, if any, was committed, lastly prays for dismissal of instant application.

4. Learned Additional P.G for the State pointed out that incident which was mentioned in application u/s 22-A, B Cr.P.C is unwitnessed as the names of the witnesses were not transpired to support the version of the applicant. He further submits that actually the police report is very much clear on the stance that three months ago some trees were cut down by proposed accused from their own land while the brother of the applicant namely Manzoor Jutt claimed that his trees were also cut down, so, on the intervention of Nek Mard, he received entire amount through private Faisla, as neither such Manzoor Jutt is witness in application nor he sworn any kind of affidavit in order to support the version of applicant; further pointed out that as per police report the brother of the applicant is owner of the land which is adjacent to the land of proposed accused and he settled his issue through private Faisla, but now the applicant malafidely approached with ulterior motives.

5. Heard arguments and perused the material available on record.

6. The powers of Ex-Officio Justice of Peace is actually to support the administration of criminal justice system and such power be exercised with prudent mind. In support reliance be placed in case of

**Munwar Alam Khan Vs. Qurban Ali Malano & others (2024 SCMR**

**985)** it is held by the Apex Court 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 Section 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 mechanical manner for issuing directions to the police to lodge an FIR, conduct investigation in the matter and prosecute the accused. It is 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 case reported as **Rai Ashraf and others v Muhammad Saleem Bhatti and others (PLD 2010 SC 691)**, **Trustees of the Port of Karachi Vs. Muhammad Saleem (1994 SCMR 2213)** and **The State vs Mushtaque Ahmed (PLD 1973 SC 418)**.*

7. As well, In case of Jameel Ahmed Butt and another v. The State through Prosecutor General Sindh and two others (2014 P.Cr.L.J 1093) it is held that;

*“There are instances of misuse of provision of section 22-A, Cr.P.C, and, therefore, it is the duty of the Court that such misuse should be taken care of and such application should not be lightly entertained in a mechanical manner for direction to the police to register a statement of complainant and start prosecuting the alleged accused persons. In forming this view, I find support from the judgment reported as **Imtiaz Ahmed Cheema V. SHO, Police Station Dharki, Ghotki (2010 YLR 189)**.*

8. In present case, the brother of applicant settled his dispute as reported by Respondent No. 2/concerned SHO, such fact is neither controverted by applicant nor was any ground taken in instant Crl. Misc. Application that police malafidely or in collusion with proposed accused prepared false report before Ex-Officio Justice of Peace. The brother of applicant Manzoor Jutt is not a witness to support the version of applicant while as per report he is owner of land who settled his dispute and even the properties of the parties are adjacent to each other with no distinct boundaries and making it difficult to distinguish between them, so perusal of record shows that there is no intention for

commission of any offence for the reason that guilty of intention is always important ingredient of offence, as "*actus non facit reum nisi mens sit rea, the act is not guilty until the mind is guilty*" such legal maxim unequivocally supports this stance.

9. In view of foregoing reasons, this Criminal Misc: Application is dismissed and the order of Learned Justice of Peace is hereby maintained.

**J U D G E**

Nasim/P.A

