

## IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Appln. No. S-207 of 2025

Applicant : Abdul Karim son of Gaman Khan, Mangnejo  
(In Person)

Respondents : The State & others  
Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 03.10.2025  
Date of order : 03.10.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.—** Abdul Karim in person preferred instant misc. application under Section 561-A of the Criminal Procedure Code, 1898, seeking to set aside the order dated 25<sup>th</sup> March, 2025 passed by the learned Additional Sessions Judge/Justice of Peace, Gambat, whereby his application under Section 22-A CrPC for registration of FIR was dismissed.

2. Facts of this matter emanates from the applicant's complaint regarding an alleged incident that occurred on 11<sup>th</sup> March, 2025 at Survey No.442 in village Taj Muhammad, Taluka Sobhoderi, District Khairpur, where an old Imam Bargah is situated on what the applicant claims to be his ancestral land. According to the applicant's version, the proposed accused persons, including Amjad Ali, Hafeez, Aamir Ali (all sons of Lal Bux), Hyder Ali son of Ramzan, Muzafar Ali, Waseem Ali, and Naseem Ali (all sons of Hyder Ali), along with Syed Gada Hussain Shah and three unknown persons, allegedly came with weapons including hatchets, guns, and lathis to forcibly occupy the Imam Bargah. The applicant alleged that when he protested against their actions of raising walls and making a street through the Imam Bargah, the accused persons attacked him with intent to murder, with Hyder Ali making aerial gunfire and Amjad Ali causing hatchet blow to his left hand finger, while others beat him with *lathis*. The applicant further alleged that when he approached Police Station Sobhoderi on the evening of 11<sup>th</sup> March, 2025 to register an FIR, the Station House Officer refused to record his complaint, compelling him to approach the learned Additional Sessions Judge/Justice of Peace, Gambat under Section 22-A Cr.P.C. The learned Justice of Peace, after issuing notices to the respondents and calling for a report from the DSP Complaint Cell, dismissed the application vide order dated 25<sup>th</sup> March, 2025, finding that the matter involved a civil dispute between close relatives regarding a street and that no cognizable offence was made out.

3. Background history of this court, emanates that learned Additional Sessions Judge/Justice of Peace reveals a careful examination of the facts and circumstances. The DSP Complaint Cell, SSP Office Khairpur, submitted a detailed report after conducting an inquiry wherein both parties were heard. The report disclosed that on 24<sup>th</sup> March, 2025; the applicant appeared and supported his application, while the proposed accused Hyder Bux and Naseem Ali Mangnejo also appeared and categorically denied the allegations. The proposed accused explained that there exists a street beside the boundary wall of the Imam Bargah leading to their houses, and during heavy rainfall, the boundary wall had collapsed, necessitating reconstruction work for separation of their street. They further disclosed that the applicant became annoyed with the reconstruction work and filed the application with fabricated contents with the intention to get the street leading to their houses closed.

4. During the course of arguments before this Court, the applicant, appearing in person, vehemently contended that the learned Additional Sessions Judge/Justice of Peace erred in dismissing his application without properly considering the real facts and circumstances. The applicant argued that the impugned order was based on presumptions and was completely against law and facts, asserting that the respondents had committed cognizable offences but the learned Judge passed the order in a hasty manner without assigning cogent reasons. The applicant maintained that he had no other remedy except to approach this Court and sought directions for registration of the FIR against the proposed accused persons.

5. On the contrary, learned Deputy Prosecutor General, appearing for the State, supported the impugned order and submitted that the learned Additional Sessions Judge/Justice of Peace had correctly appreciated the facts and circumstances after conducting the necessary inquiry through the DSP Complaint Cell. The learned DPG argued that the matter was essentially a civil dispute between relatives regarding a street adjoining the Imam Bargah, and no cognizable offence was established through the inquiry conducted by the competent authority.

6. Upon careful examination of the record, the inquiry report, and the applicable legal principles, this Court finds that the learned Additional Sessions Judge/Justice of Peace exercised his jurisdiction correctly and in accordance with established legal precedents. The most significant aspect of this case is the comprehensive inquiry conducted by the DSP Complaint Cell,

which revealed the true nature of the dispute. The inquiry established that the parties are close relatives who have a dispute over a street that leads to the houses of the proposed accused, and the alleged incident arose when the proposed accused commenced reconstruction of the boundary wall of the Imam Bargah that had collapsed due to heavy rainfall. The legal framework governing applications under Section 22-A Cr.P.C has been extensively interpreted by the Superior Courts of Pakistan, with particular emphasis on preventing misuse of these provisions. The Honorable Supreme Court of Pakistan in *Munawar Alam Khan v. Qurban Ali Mallano and others* (2024 SCMR 985) has categorically observed that "it is the prime duty of the Court that such misuse be taken care of and an application filed under 22-A, 22-B, Cr.P.C 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". The Court emphasized that caution must be exercised by the Justice of Peace, and such applications should not be entertained mechanically. Furthermore, this Court in case law reported in 2014 P.Cr.L.J 1093 Karachi has held that "caution to be exercised by the Justice of Peace - Court was duty bound to take care of such misuse - Application under Section 22-A CrPC should not be entertained lightly in a mechanical manner for direction to the police to register statement of complainant and start prosecuting the alleged accused persons - Such caution was even more necessary when the alleged offence was serious in nature, which might create a law and order situation in the area".

7. The distinction between civil disputes and criminal offences is fundamental to the proper administration of justice. The Supreme Court has consistently held that criminal law cannot be used as a tool to resolve civil disputes or to pressurize parties in property or family matters. In the present case, the inquiry conducted by the DSP Complaint Cell clearly established that the dispute is purely of a civil nature, arising from disagreement between relatives regarding the reconstruction of a boundary wall and access to a street. The proposed accused have a legitimate concern about access to their houses through the street adjoining the Imam Bargah, and their reconstruction work on the collapsed boundary wall cannot be characterized as a criminal act without evidence of malafide intent. The doctrine emphasizes that if a civil remedy is available and is, in fact, adopted, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process. While this principle applies to quashing of criminal

proceedings, the same rationale applies with equal force to applications under Section 22-A Cr.P.C, where courts must carefully scrutinize whether the allegations disclose a genuine criminal offence or merely represent an attempt to criminalize civil disputes. The evidence on record demonstrates several factors that support the conclusion that this matter involves a civil dispute rather than criminal conduct. First, the parties are admittedly close relatives who have ongoing disputes regarding property and access rights. Second, the proposed accused provided a reasonable explanation for their actions, namely the reconstruction of a collapsed boundary wall to separate their street from the Imam Bargah property. Third, the applicant failed to produce any reliable evidence such as medical certificates or police reports to substantiate his allegations of physical assault. Fourth, the timing of the application, filed only after the proposed accused commenced reconstruction work, suggests that the criminal allegations are being used to prevent legitimate construction activity.

8. The principle enunciated in *Younas Abbas and others v. Additional Sessions Judge Chakwal and others* (PLD 2016 SC 581) is particularly relevant, where the Supreme Court upheld the validity of Section 22-A Cr.P.C while emphasizing that the powers granted thereunder are quasi-judicial in nature and must be exercised with due care and caution. The Court held that the Justice of Peace must apply his judicial mind, examine the records, hear the parties, and then issue appropriate directions, rather than mechanically ordering registration of FIRs. Moreover, the jurisprudence developed by the Superior Courts consistently emphasizes that the primary object of Section 22-A CrPC is to provide relief to genuine victims of police inaction in registering FIRs for cognizable offences, not to provide an alternative forum for civil disputes or to pressurize opposing parties. The provision was introduced to address situations where police refused to register FIRs in genuine criminal cases, particularly those involving the poor and downtrodden who lacked the resources to approach High Courts through writ petitions.

9. In the present case, the inquiry conducted by the DSP Complaint Cell was thorough and impartial, providing both parties an opportunity to present their versions. The conclusion reached by the investigating authority that the matter involves a civil dispute between relatives regarding a street is supported by credible evidence and reasonable explanations provided by the proposed accused. The learned Additional Sessions Judge/Justice of Peace

correctly relied upon this inquiry report and the established legal precedents to dismiss the application. The applicant's contention that the impugned order was passed in a hasty manner without considering real facts is belied by the record, which shows that proper notice was issued to all parties, an inquiry was conducted by the competent authority, and both sides were afforded adequate opportunity to present their cases. The learned Judge's reliance upon the Supreme Court's guidance in case of *Munawar Alam Khan* and other relevant precedents demonstrates a careful application of established legal principles rather than hasty decision-making.

10. Furthermore, the nature of the allegations, even if taken at face value, does not clearly establish the commission of cognizable offences with the requisite criminal intent. The alleged actions of the proposed accused in reconstructing a boundary wall and creating access to their houses, while possibly giving rise to civil disputes regarding property rights, do not prima facie constitute criminal conduct unless accompanied by clear evidence of malafide intent to commit offences such as criminal trespass, assault, or criminal intimidation. The Court also notes that the applicant's failure to produce any corroborative evidence such as medical certificates for the alleged injuries, independent witness statements, or photographic evidence of the alleged damage, despite claiming to have suffered hatchet blows and lathi injuries, further undermines the credibility of the criminal allegations. In cases involving alleged physical assault, the production of medical evidence is crucial to substantiate the claims, and its absence raises serious questions about the genuineness of the allegations.

11. Moreover, the applicant's assertion that the proposed accused threatened him with murder and made aerial gunfire, if true, would have attracted immediate police attention and investigation, yet no such immediate complaint or police intervention was reported. The delay in approaching the police until the evening of the alleged incident, coupled with the failure to seek immediate medical attention for the claimed injuries, creates doubt about the veracity of the allegations.

12. This case exemplifies the growing concern regarding the misuse of provisions under Section 22-A Cr.P.C to criminalize civil disputes and property disagreements. The Superior Courts have repeatedly cautioned against such misuse, recognizing that it not only burdens the criminal justice system with frivolous cases but also denies justice to genuine victims of crime who require urgent intervention. The learned Additional Sessions

Judge/Justice of Peace correctly applied the principle established by the Supreme Court that applications under Section 22-A Cr.P.C must be scrutinized carefully to distinguish between genuine cases requiring police intervention and civil disputes disguised as criminal complaints. The comprehensive inquiry conducted through the DSP Complaint Cell provided an adequate factual foundation for this determination. This Court observes that the proper administration of justice requires that criminal law be reserved for genuine criminal conduct, while civil disputes must be resolved through appropriate civil remedies. The attempt to use criminal proceedings to gain advantage in property disputes or to pressurize opposing parties in civil matters undermines the integrity of the criminal justice system and must be discouraged through careful judicial scrutiny.

13. In view of the above, the impugned order appears to be in accordance with law and settled judicial principles. The learned trial court exercised its discretion soundly, ensuring that the petitioner's rights are protected without allowing the criminal justice process to be misused for personal vendetta or civil disputes. Application stands dismissed with above observation.

**J U D G E**