

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA

Criminal Miscellaneous Application No.S-150 of 2025

(Muhammad Yaseen Shah & another Vs. Abdul Waheed & Ors)

DATE	ORDER WITH SIGNATURE OF JUDGE
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01. For orders on office objection.
02. For hearing of main case.
03. For hearing of M.A.No.2340/2025 (Stay Application).

20.10.2025.

Syed Fida Hussain Shah, Advocate for applicants.
Mr. Nazir Ahmed Bhangwar, Deputy Prosecutor General.
Abdul Waheed, Respondent No.1 in person.

ORDER

Ali Haider 'Ada':- Through the instant application, the applicants have assailed the order dated 05.05.2025, passed by the learned Additional Sessions Judge-V /Ex-officio Justice of Peace, Larkana, whereby the application filed by respondent No.1 under Sections 22-A & 22-B, Cr.P.C. was allowed. In the said application, the present applicants were shown as proposed accused; therefore, being aggrieved by such order, they have filed the present proceedings.

2. The brief facts, as narrated by respondent No.1, are that he, along with the proposed accused, was sitting at a hotel and having tea, as they were on friendly terms and also old neighbours. After some conversation, respondent No.1 left the hotel for personal work, unintentionally leaving behind his mobile phone. Upon returning, he found that the mobile phone was missing. On inquiry from the applicants, they denied having taken the same. Respondent No.1 approached the S.S.P. Larkana for redressal of his grievance, but when no action was taken, he filed an application before the learned Justice of Peace, Larkana, and succeeded in obtaining an order for recording his statement under Section 154, Cr.P.C.

3. Learned counsel for the applicants contends that the allegations levelled against them are false and have been maliciously foisted, as there is no element of truth in the same. He further submits that the applicants are poor persons, having no involvement in any such alleged offence. It is added

that during the proceedings before the learned Justice of Peace, the concerned police official submitted a report in favour of the applicants, confirming that no such incident had taken place.

4. Conversely, respondent No.1, who appeared in person, submits that he bears no mala fide intention to falsely implicate the applicants; however, according to him, they breached his trust by taking away his mobile phone. He further submits that despite approaching the S.S.P. Larkana, no effective action was taken, compelling him to file the application before the learned Justice of Peace, Larkana, to seek legal recourse for recovery of his mobile phone.

5. Learned Deputy Prosecutor General supports the impugned order, arguing that the learned Justice of Peace, after applying a judicious mind to the facts and material placed before him, has passed a speaking and well-reasoned order. He adds that the applicants have failed to point out any illegality or irregularity therein, whereas respondent No.1 has rightly invoked the jurisdiction of the learned Justice of Peace for seeking direction to the police for recording his statement under Section 154, Cr.P.C, in order to ascertain the correct facts.

6. Heard arguments of the learned counsel for the parties and perused the material available on record.

7. Prima facie, the case of respondent No.1 rests upon the allegation that his cellular phone was stolen by the present applicants. It further appears that despite moving an application before the higher police authorities for redressal of his grievance, the concerned S.S.P. did not take any effective or positive action. Consequently, having been left with no alternate remedy, respondent No.1 was constrained to invoke the jurisdiction of the learned Justice of Peace. Conversely, learned counsel for the applicants has mainly argued that the applicants have been falsely implicated in the matter; however, he has failed to demonstrate any mala fide or ill will on the part of respondent No.1, nor has he denied the existence of previous cordial relations between the parties.

8. On the face of it, a cognizable offence appears to have been made out, whereupon the police authorities are under a legal obligation to record the statement of respondent No.1 and to make earnest efforts to ascertain the true facts by adopting all necessary investigative measures in accordance with the

Mobile Device Identification, Registration and Blocking Regulations, 2017. It is a settled principle of procedural law that the process of investigation can only be set in motion after registration of the F.I.R., which forms the foundation for invoking the investigative jurisdiction of the police under Chapter XIV of the Code of Criminal Procedure.

9. It is a well-settled proposition of law that whenever the Officer Incharge of a Police Station receives information regarding the commission of an offence, he is, in the first instance, required to determine whether the offence disclosed falls within the ambit of a cognizable or a non-cognizable offence. The Investigating Officer plays a pivotal role in the administration of the criminal justice system, and the preparation of a fair, transparent, and impartial investigation report carries substantial significance and legal consequences upon the outcome of a criminal case. A tainted or biased investigation not only undermines the process of justice but also becomes a serious impediment in the fair administration thereof. In this regard, reliance is placed upon the case of **Syed Qamber Ali Shah v. Province of Sindh and others (2024 SCMR 1123)**.

10. Keeping in view the foregoing facts and circumstances, the instant Criminal Miscellaneous Application, being devoid of merit, is hereby dismissed. Consequently, the order passed by the learned Justice of Peace, whereby the application under Sections 22-A and 22-B, Cr.P.C. was allowed, is upheld and maintained.

JUDGE