

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

Criminal Miscellaneous Application No.S-274 of 2025

(Din Muhammad & others Vs. SHO, P.S, Hassan Wahan & 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.3678/2025 (Stay Application).

20.10.2025.

Mr. Arif Ali Kalhoro, Advocate for the applicants.

Mr. Mansoor Ali Dahani, Advocate for the respondent No.3.

Mr. Nazir Ahmed Bhangwar, Deputy Prosecutor General.

ORDER

Ali Haider 'Ada':- Through the instant application, the applicants have assailed the order dated 28.07.2025, passed by the learned Additional Sessions Judge-IV / Justice of Peace, Larkana, whereby the application filed by respondent No.3 under Sections 22-A and 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 preferred the present proceedings.

2. The respondent No.3, in her application, alleged that the present applicants committed robbery at her residence by stealing solar panels, electric water motors, batteries, a motorcycle, buffaloes, a cow, ten sheep, four goats, and other household articles. Upon receiving her application, the learned Justice of Peace called for a report from the concerned police officials, who submitted their report accordingly. Thereafter, the learned Justice of Peace allowed the application and directed the SHO concerned to record the statement of respondent No.3 and to lodge an F.I.R. in accordance with law.

3. Learned counsel for the applicants contends that respondent No.3 has filed the present complaint with mala fide intention, acting as a front person to protect her brother, who is nominated as an accused in Crime No.02/2025, wherein applicant No.1 is the complainant. It is argued that the said crime pertains to the murder of the son of applicant No.1, allegedly committed by the brother of respondent No.3 and his associates. To shield themselves from

prosecution and to pressurize the complainant party, a concocted story has been fabricated, resulting in the filing of a false application before the learned Justice of Peace. Learned counsel for the applicants further submits that the instant proceedings have been initiated only to put pressure upon the applicant party so as to compel them to withdraw from pursuing the murder case of the young son of applicant No.1, in which the brother of respondent No.3 and others stand nominated as accused. He submits that the learned Justice of Peace failed to appreciate these material aspects and, without applying a judicious mind, passed the impugned order, thereby providing undue advantage to the actual culprits. Hence, the impugned order is liable to be set aside.

4. Conversely, learned counsel for respondent No.3 argues that a cognizable offence of robbery has indeed been committed, as various valuable articles and livestock were stolen from her house. He submits that the learned Justice of Peace has rightly passed the impugned order in accordance with law. In support of his contention, he has filed copies of purchase bills under cover of a statement, showing that some of the allegedly stolen property was lawfully acquired by respondent No.3.

5. Learned Deputy Prosecutor General supports the impugned order, contending that the learned Justice of Peace, after applying a judicious mind to the facts and record, has passed a speaking order. He submits that respondent No.3 has rightly invoked the jurisdiction of the Justice of Peace for the recording of her statement and for necessary action in accordance with law.

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

7. Perusal of the record reveals that the son of applicant No.1 was murdered, and F.I.R. No.02 of 2025 was registered against the brother of Respondent No.3, namely Qalandar Bux, along with other relatives. Furthermore, Respondent No.3 failed to produce any cogent or convincing evidence in support of her allegation regarding the theft of articles. The purchase bills produced through her counsel were found to be in the names of different persons and did not correspond with the items mentioned in her application. Therefore, it is evident on the face of the record that the application filed by Respondent No.3 was misconceived and that she approached the Court with unclean hands.

8. It is a well-settled principle of law that the Ex-Officio Justice of Peace, while exercising powers under Sections 22-A(6) and 22-B, Cr.P.C., is not required to act merely as a post office for mechanically directing the registration of an FIR on every application received. The authority under these provisions must be exercised with care, proper application of mind, and judicial discretion. The role of the Ex-Officio Justice of Peace is quasi-judicial in nature. It is his duty to examine the contents of the application, consider the police reports and other material available on record, and determine whether the facts actually disclose a cognizable offence or whether the complaint has been filed with mala fide intent to harass or misuse the process of law. Where the circumstances show that the application is frivolous or based on ulterior motives, the Justice of Peace should not mechanically direct the registration of an FIR. Reliance in this regard is placed on the case of **Muhammad Saleem and 5 others v. Station House Officer Police Station City Sibi and 3 others (2022 PCr.LJ 167)**, as further supported by the judgment of the Honourable Supreme Court in **Munawar Alam Khan v. Qurban Ali Malano and others (2024 SCMR 985)**.

9. It is the bounden duty of the Courts to carefully examine such applications through proper judicial scrutiny to determine whether the applicant has approached the Court with clean hands and bona fide intention, or whether the application is tainted with mala fide motives. Support is drawn from the case of **Imtiaz Ahmed Cheema, SHO vs. SHO Police Station Dharki, Ghotki and 2 others (2010 Y L R 189)**, as this Court held that:

"I have heard the learned counsel and perused the record. The provisions of section 22-A, Cr.P.C have been misused in a number of cases. 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. As per the record reflects that it was tainted with malice. I do not want to comment upon the conduct of the complainant, however it will be open to complainant to file direct complaint against the applicant if so advised and observations made in these proceedings will not come in the way of the complainant. The proposed complaint it filed will be decided on its own merits. This impugned order for the aforesaid reasons is set aside and Criminal Miscellaneous Application is allowed in the above terms."

10. For the foregoing reasons and discussion, it has come on record that the application filed by respondent No.3 for registration of F.I.R. is misconceived and devoid of merit. Accordingly, the instant Criminal Miscellaneous Application is allowed; the impugned order Dated 28.07.2025, passed by the Additional Sessions Judge-IV/Ex-officio Justice of Peace in Criminal Misc. application No. 1112 of 2025 is set aside; and the application filed by respondent No.3 under Sections 22-A and 22-B, Cr.P.C, is hereby dismissed.

JUDGE