

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No. 825 of 2025

Applicant : Mst. Najma Bibi
D/o. Muhammad Ali
Through Mr. Sohail Ahmed Memon,
Advocate

Respondents : The State & Other
Through Ms. Seema Zaidi,
Addl. P. G. Sindh a/w
Inspector Zulfiqar Ali of PS Gizri,
Inspector Adnan Asmat on behalf of
SHO of PS Defence
and SI-Asghar Kango, SHO of PS
Gizri

Date of hearing : 07.05.2026.

Date of Order : 07.05.2026.

ORDER

Jan Ali Junejo, J:-- Through this Cr. Miscellaneous Application filed under Section 561-A Cr.P.C, the applicant has assailed order dated 09.09.2025 passed by the learned Additional Sessions Judge-XII, Karachi South, whereby he has dismissed the application of the applicant to register the F.I.R against the proposed accused persons.

2. The facts, as narrated by the applicant are that on 18.08.2025 at about 04:41 hours, the applicant received a phone call from her daughter namely Ayesha through the mobile phone of their neighbour, namely Shazia, bearing cell No.0336-6833543, who informed the applicant that four persons in police uniform and two persons in civilian dress, including three women in civilian clothes, had forcibly trespassed into their house. At that time, the housemaids namely Sania, Kashaf, and mother kashaf namely Khalida were present in the house. It is alleged that the SHO P.S. Gizri and SHO P.S. Defence were in police uniform, and the SHO directed his subordinates to collect the gold and cash lying in the

house. It is further alleged that the SHO P.S. Gizri took away 30 tolas of gold and cash amounting to Rs.20,00,000/-, along with other valuable articles, laptops, and mobile phones belonging to the applicant's daughters, and handed the same over to the persons in civilian dress. They also allegedly took away certain important documents, ATM cards, and passports. Thereafter, the said persons searched the house and intimidated the applicant's daughter with dire consequences in case any complaint was made. It is further alleged that the proposed accused Shakir took out a pistol from his shalwar and pointed the same at the head of the applicant's daughter Ayesha, while claiming himself to be an official of ISI, and threatened that if any action was taken against them, he would kill the applicant's daughter.

3. Thereafter, finding no other way, the applicant filed the application u/s 22-A & B, Cr.P.C in the Court of Sessions Judge, Karachi South which was later transferred to the learned Additional Sessions Judge-XII, Karachi South, vide impugned order dated 09.09.2025 dismissed the said application, hence this application.

4. Learned counsel for the applicant has contended that the applicant is a victim of highhandedness of proposed accused as they, in collusion with each other, trespassed the house of the applicant and taken away 30 tola gold and cash Rs.20,00,000/- and other valuable articles. The application, in the first instance, approached respondent No. 4 for registration of FIR of a cognizable offence but he did not pay any heed to the genuine grievances of the applicant and totally denied to register the FIR of the cognizable offence against the proposed accused; that the impugned order is against the law, facts and is liable to be set-aside; that if the FIR is not registered, the criminals involved will be encouraged to try again; that learned Ex-Officio Justice of Peace was required to direct concerned SHO to register the case rather than decide the matter on merits. He further submits that respondent No. 4 knowingly and deliberately did not register the FIR of the applicant who narrated him the facts of the cognizable offence as stated above, though the

SHO was duly bound to register FIR of the applicant into the book u/s 154 Cr.P.C, against the proposed accused because they have committed a cognizable offence; that section 22-A & B Cr.P.C empowers the learned trial Court to issue directions to police concerned on complaint regarding non-registration of criminal case. He further submits that proposed accused have committed an offence, therefore they are liable to be dealt with in accordance with law. He has, therefore, prayed that the respondent No. 1 be directed to register the FIR against the proposed accused persons who have committed a cognizable offence.

5. On the other hand, learned A.P.G for the State fully supported the impugned order and opposed the present application.

6. Having heard the learned counsel for the applicant as well as learned A.P.G. and having perused the record with their assistance, it appears from the comments submitted by Respondent No.4/SHO, P.S. Gizri that FIR No.440/2025 under Section 9(1)(3)(b) of the Sindh Control of Narcotic Substances Act, 1997 was registered against the applicant at P.S. Gizri on 19.08.2025. It further appears that the applicant was arrested on spy information regarding the sale of narcotics and upon her search through LPC, 570 grams of Charas was allegedly recovered from her possession, whereafter the said FIR was lodged and investigation was entrusted to P.I. Ghulam Mustafa Shar of the Investigation Wing. The comments further disclose that during inquiry, statements of area residents were also recorded, according to which the character of the applicant was found to be doubtful and she was allegedly involved in the business of selling narcotics. It is further stated that the applicant had already been released on bail in the said case and, with a view to pressurize the police officials and continue her alleged illegal activities, she has leveled false and baseless allegations against them. From the material available on record, it appears that the applicant has not produced any tangible evidence in support of the alleged incident; accordingly, the learned Ex-Officio Justice of Peace dismissed her

application. Prima facie, it further appears that the applicant has approached this Court without coming with clean hands and the instant application has been filed merely to prolong and drag the matter.

7. There are many precedents/instances regarding misuse of provisions of Section 22-A & B, Cr.P.C and it is the basic duty of the Court that such misuse be taken care of and such an application should not be treated lightly and decided in a mechanical manner for issuing directions to police for lodging the F.I.R, conducting investigation and prosecuting the alleged accused. I am fortified in my view in the light of the principle laid down in the case of *Imtiaz Ahmed Cheema v. SHO P.S Dharki, Ghotki* (2010 YLR 189) wherein it has been observed that:-

“The provisions of Section 22-A & B 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 provisions of Section 22-A Cr.P.C. The courts in mechanical manner should not allow applications under section 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.”

8. Learned single bench of this Court has taken similar view while placing reliance on aforesaid decision/verdict in the case of **Jamil Ahmed Butt & another v. The State through Prosecutor General, Sindh and 2 others** (2014 P.Cr.L.J 1093).

9. Likewise, the jurisdiction vested in an Ex-Officio Justice of Peace under Sections 22-A and 22-B, Cr.P.C. is supervisory in nature and of an extraordinary character. Its essential object is to provide a safeguard against arbitrary, capricious, or mala fide inaction on the

part of the police, thereby ensuring that information relating to cognizable offences is not unlawfully suppressed or stifled. In the case of **Munawar Alam Khan v. Qurban Ali Mallano and others (2024 SCMR 985)**, the Honourable Supreme Court of Pakistan was pleased to hold 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 Sections 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 a mechanical manner for issuing direction to the police to lodge an FIR, conduct investigation in the matter and prosecute the accused".

10. It is the duty of the Justice of Peace that while scanning averments of application for registration of F.I.R, he must apply his judicial mind being a Senior Judicial Officer and adjudge the entire set of allegations cautiously. Justice of Peace is not bound to issue direction to police in each and every case to record the statement of complainant if apparently no cognizable offence is made out or complaint is tainted with malice and based on ulterior motives, he can call for a report from SHO concerned to examine the authenticity of the allegations leveled against the defending party. Justice of Peace should also keep in his mind the aspect that any direction issued unnecessarily or in routine manner may cause humiliation, harassment and mental agony to the proposed accused and it would take years to conclude the trial of the case arisen out of any FIR.

11. For what has been discussed above, it appears that the applicant has failed to make out any case for taking cognizance of offence and no illegality has been committed by the learned trial court / Justice of Peace while passing the impugned order. Resultantly, instant Criminal Miscellaneous Application is dismissed.

JUDGE