

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

Criminal Misc: Application No. S-408 of 2023
Shahban Labano v. SSP, Shikarpur & others.

Date	Orders with signature of Judge
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1. For orders on office objections 'A'.
2. For hearing of main case.

18-06-2026.

Mr. Shakeel Ahmed G. Ansari, Advocate for Applicant.

Mr. Nazir Ahmed Bangwar, Deputy Prosecutor General.

Ali Haider 'Ada' J:- Through this criminal miscellaneous application, the applicant has assailed the order dated 31.10.2023 passed by the learned Sessions Judge/Justice of Peace, Shikarpur, whereby his application filed under Sections 22-A and 22-B, Cr.P.C. was dismissed. Through the said application, the applicant sought directions for registration of an FIR on the allegation that the proposed accused had caused injuries to him and his family members, which allegations were supported by medical evidence in the shape of final medical certificates.

2. Learned counsel for the applicant contended that the contents of the application, coupled with the medical evidence available on record, prima facie disclose the commission of cognizable offences. He submitted that the applicant himself, his wife Mst. Pathani, his daughter Hafsa, aged about 18 years, baby Asma, and other family members sustained injuries at the hands of the proposed accused. According to the learned counsel, despite the availability of medical certificates corroborating the occurrence, the learned Sessions Judge/Justice of Peace dismissed the application merely on the ground that a dispute regarding inherited property existed between the

parties, which consideration falls beyond the scope of proceedings under Sections 22-A and 22-B, Cr.P.C.

3. A perusal of the record further reveals that notices were issued to the proposed accused on 11.12.2023; however, despite service, they failed to appear before this Court and did not join the proceedings. Their conduct prima facie reflects deliberate avoidance of the process of the Court.

4. Learned Deputy Prosecutor General, while supporting the applicant's stance, submitted that the medical evidence available on record prima facie supports the allegations levelled by the applicant. He further argued that where information discloses the commission of a cognizable offence, it is the statutory right of the aggrieved person to have his version recorded and considered in accordance with Section 154, Cr.P.C.

5. Heard and perused the available record.

6. It is by now a settled principle of law that while exercising jurisdiction under Sections 22-A and 22-B, Cr.P.C., the Justice of Peace is required only to examine whether the material placed before him prima facie discloses the commission of a cognizable offence. At such stage, the Justice of Peace is not required to undertake a deeper appreciation of evidence or determine the truthfulness or otherwise of the allegations.

7. The impugned order reveals that the learned Sessions Judge/Justice of Peace, Shikarpur, declined to issue directions primarily on the ground that a dispute regarding inherited property existed between the parties. Such reasoning, in the facts of the present case, does not appear to be legally sustainable. The existence of a civil or property

dispute between the parties does not, by itself, exclude the possibility of commission of a criminal offence. Rather, such a dispute may constitute a motive for the occurrence alleged by either side. Therefore, at this preliminary stage, the Court is not required to delve into the merits of the allegations or to determine the ultimate veracity thereof. The only question requiring consideration is whether the material available on record prima facie discloses the commission of a cognizable offence. In this regard, reliance is placed upon the judgment rendered in ***Syed Qamber Ali Shah v. P.O. Sindh (2024 SCMR 1123)***.

8. For the foregoing reasons, the impugned order dated 31.10.2023 passed by the learned Sessions Judge/Justice of Peace, Shikarpur is hereby set aside. Consequently, the instant application is allowed with directions to the Station House Officer, Police Station Daim Malik, to record the statement of the applicant and examine the material produced by him. If, upon such examination, the information discloses the commission of a cognizable offence, the concerned S.H.O. shall proceed strictly in accordance with Section 154, Cr.P.C. and the law applicable thereto.

J U D G E