

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Misc: Application No.S-748 of 2024
[Altaf Hussain Rind vs. The State and others]

1. For orders on office objection at flag 'A.'
2. For the hearing of the main case
3. For hearing of MA No.6224/2024 (S/A)

13.04.2026.

Mr. Shabbir Ali Bozdar, Advocate for the Applicant.
Mr. Pir Dino Baloch, Advocate for Respondent No.5.
Mr. Muhammad Raza Katohar, Deputy Prosecutor General
for the State.

ORDER

Ali Haider 'Ada', J:- Through the instant Criminal Miscellaneous Application, the applicant seeks quashment of the order dated 30.11.2024 passed by the learned Sessions Judge / Ex-Officio Justice of Peace, Naushahro Feroze in Criminal Miscellaneous Application No.4600 of 2024. Respondent No.5, namely Maroof Ali, filed an application under Sections 22-A and 22-B, Cr.P.C., against the present applicant and others, contending that his brother, namely Muhammad Khan, had died, and subsequently it transpired that the proposed accused had allegedly kidnapped him along with others and thereafter caused serious injuries, resulting in the commission of the alleged offence. It was further stated that a minor witness, namely Jawad, aged about 10 years, was accompanying the deceased. Upon such application, the impugned order came to be passed.

2. Learned counsel for the applicant submits that the applicant had already lodged FIR No.20 of 2017 relating to an offence involving injuries, in which Respondent No.5 has been declared a proclaimed offender. It is contended that the name of the applicant has been implicated in the present application due to prior enmity and with an ulterior motive connected to pending civil litigation between the parties. It is further submitted that no post-mortem examination of the deceased was conducted, and a valid defence is

available to the applicant that he was not present at the place of occurrence at the relevant time. The learned counsel argues that the learned Ex-Officio Justice of Peace failed to consider these material aspects and passed the impugned order without proper application of mind. He further submits that, in fact, the deceased died as a result of a road accident, which was duly recorded by the police in daily diary entries. In support of his contentions, reliance has been placed upon the cases of *Munawar Alam Khan vs. Qurban Ali Malano and others* (2024 SCMR 985) and *Mumtaz Jutt vs. Senior Superintendent of Police Sukkur and others* (2025 YLR 2230), and he seeks setting aside of the impugned order.

3. Conversely, learned counsel for Respondent No.5 submits that the occurrence is a case of brutal murder committed by the proposed accused on account of prior civil disputes, despite the fact that Respondent No.5 had succeeded in civil litigation. It is further contended that FIR No.83 of 2019 was also registered against the proposed accused at the instance of the complainant side. He submits that a cognizable offence is clearly made out from the contents of the application; therefore, the learned Ex-Officio Justice of Peace has rightly exercised jurisdiction in passing the impugned order.

4. The learned Law Officer has supported the impugned order and submits that from the bare reading of the application, a cognizable offence is disclosed; therefore, Respondent No.5 has a statutory right to have his version recorded, and it is the function of the investigating agency to ascertain the veracity of the allegations during the course of investigation.

5. Heard the learned counsel for the parties and perused the material available on record.

6. Upon perusal of the record, it transpires that Respondent No.5 has categorically stated in his application that the proposed accused

have committed offences falling within the ambit of cognizable offences; accordingly, the learned Ex-Officio Justice of Peace proceeded to pass the impugned order. It is, however, well-settled that the Ex-Officio Justice of Peace is not to assume the role of an Investigating Agency for the purpose of determining the nature of the offence or the guilt or innocence of the accused. The scope of jurisdiction under Sections 22-A and 22-B, Cr.P.C., is limited to examining whether the information placed before him discloses the commission of a cognizable offence, warranting issuance of directions for registration of the case. The reference made in the order sheet to Sections 221 and 222, Cr.P.C (PPC), further reflects that directions can be issued for setting the law into motion, but not to control or dictate the manner in which the investigation is to be conducted. The investigating agency, within the framework of law, is competent to proceed independently and cannot be restricted to act in a particular manner. In this regard, reliance is placed on the case of *Syed Qamber Ali Shah vs. Province of Sindh and others* (2025 SCMR 1123).

7. Furthermore, the plea of defence, though significant, is not to be examined at the stage of registration of the FIR. There is no legal requirement that, prior to the recording of a statement under Section 154, Cr.P.C., the defence version must be considered. If such a course were to be adopted, it would amount to pre-judging the matter and encroaching upon the domain of investigation. The role of the Investigating Officer commences after registration of the case, wherein he is required to collect evidence, including any defence put forth by the accused, and thereafter determines the outcome of the investigation strictly in accordance with the law.

8. As regards the plea of enmity, it is a settled proposition that enmity is a double-edged sword, which can be used both as a motive for the commission of an offence and as a ground for false implication. At this preliminary stage, alone, such a plea cannot be given determinative weight.

9. In view of the foregoing discussion, the instant Criminal Miscellaneous Application, being devoid of merit, is hereby dismissed along with all pending applications.

JUDGE