

ORDER SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Cr. Misc. Application No. S-136 of 2026
[Abdullah v. SSP Sanghar & Others]

Counsel of Applicant : Syed Shafique Ahmed Shah, Advocate a/w applicant.

Counsel of Respondents: Mr. Dhani Bakhsh Mari, APG a/w SHO PS Sinjhor.

Date of Hearing : 02.10.2026

Date of Order : 02.10.2026

ORDER

Muhammad Humayon Khan, J.: Through this Criminal Miscellaneous Application under section 561-A Cr.P.C., the applicant, Abdullah, calls in question the order dated 07-04-2026 passed by the learned 2nd Additional Sessions Judge/Ex-Officio Justice of Peace, Sanghar, in Criminal Miscellaneous Application No.575 of 2026, whereby his application under section 22-A(6)(i) Cr.P.C. for registration of an FIR concerning the alleged disappearance of store material from the Sinjhor Field of Oil and Gas Development Company Limited (OGDCL) was dismissed. The controversy is whether the allegations should remain unattended after the impugned order itself identified possible criminal misappropriation within the domain of the Federal Investigation Agency (FIA), or whether the complaint should be transmitted to that Agency for a lawful, time-bound enquiry and consequential action.

2. The relevant background, in chronological sequence, is that the applicant is serving as Senior Admin Officer at OGDCL's Sinjhor Field, District Sanghar. According to the memo of application, on 13-10-2025 an Engine Mechanic Engineer requested the store officials to supply spark plugs for replacement. Upon checking the store, the officials reported that the required plugs were missing. Further verification allegedly disclosed a shortage of 343 spark plugs of different companies, valued by the applicant at Rs.26,000,000/-. The matter was reported to the Field Manager and higher authorities, and a departmental enquiry was initiated concerning Mehrab Shah, Store Incharge, and Abdul Ghafoor,

Material Officer. The applicant states that the Field Manager authorized him and Zahid Ali, Security Supervisor, to initiate legal proceedings.

3. The applicant alleges that the SHO, Police Station Sinjhor, declined to register an FIR, whereafter he approached the learned Ex-Officio Justice of Peace. The impugned order records the police position that, despite notice and attempts to contact him, the applicant did not appear before the police enquiry officer. It further refers to the presence of private security personnel, Rangers, CCTV surveillance and controlled access through a single gate at the field. Relying on these arrangements, the learned Ex-Officio Justice of Peace considered theft by unknown outsiders unlikely and observed that the matter could instead concern misappropriation by officials entrusted with the store material, attracting sections 409 and 34 PPC and falling within the domain of FIA. The application was dismissed on 07-04-2026.

4. The police account reproduced in the impugned order mentions Rs.26,400,000/- as the value of the missing material, whereas the memo states Rs.26,000,000/-. Neither figure can be adopted as an established loss at this stage. The quantity, description, ownership and value of the material, the date of the last reliable stock verification and the period during which any shortage occurred require examination against the original record. Likewise, the departmental enquiry and the designation of the two officials do not amount to findings of criminal responsibility.

5. The applicant's grievance, as disclosed by his application, is that disappearance of valuable company property requires examination by a competent investigating agency and cannot be rejected merely because the identity of the person responsible or the precise mode of removal is yet to be determined. Mr. Syed Shafique Ahmed Shah, Advocate, appears for the applicant. Mr. Dhani Bakhsh Mari, learned A.P.G, appears for the respondents along with the SHO, Police Station Sinjhor. I have heard and perused the record. The points requiring determination are: first, the extent of interference warranted with the impugned

order; secondly, the statutory basis and procedure for referring the allegations to FIA; and thirdly, the directions necessary to secure meaningful compliance without deciding the guilt of any individual.

6. In *Younas Abbas and others v Additional Sessions Judge, Chakwal and others PLD 2016 SC 581*, the Honourable Supreme Court held that the functions of an Ex-Officio Justice of Peace under section 22-A(6) Cr.P.C. are quasi-judicial and require examination of the record and application of mind. Such orders remain amenable to judicial review. The authority applies here because the impugned order must be assessed by reference to its reasons and the statutory remedy sought. The present jurisdiction is invoked to correct that order and provide an effective lawful disposition of the complaint; it is not being exercised to conduct the enquiry or prescribe its ultimate result.

7. In *Muhammad Bashir v. Station House Officer, Okara Cantt. and others PLD 2007 SC 539*, the Honourable Supreme Court explained the mandatory character of section 154 Cr.P.C. where information discloses a cognizable offence and rejected an ordinary SHO's assumption of authority to decide the truth or falsity of the accusation before recording it. The principle is relevant to the reasoning based on the security arrangements: such arrangements do not adjudicate the allegation of missing stock. At the same time, the present referral must follow the special statutory procedure governing FIA enquiries and the permissions applicable to public servants. The enquiry directed below derives from that special framework and is not an endorsement of an unrestricted preliminary trial of every police complaint.

8. The need for a reasoned and confined exercise of jurisdiction is also illustrated by *Rai Ashraf and others v Muhammad Saleem Bhatti and others PLD 2010 SC 691*. That decision concerned a disputed property matter, available alternative remedies and an unjustified exercise of constitutional discretion. It cautions against resolving contested facts or facilitating misuse of the criminal process through a mechanical direction. The present matter concerns an alleged,

identifiable shortage of company inventory. Accordingly, the relief is confined to statutory examination of that allegation, rather than an unconditional direction to prosecute the officials named in the departmental proceedings.

9. FIA's competence must be determined from the Federal Investigation Agency Act, 1974, read with its Schedule and the applicable rules. Section 3 provides for enquiry into and investigation of scheduled offences, including the relevant attempts, conspiracies and abetment. Section 5 confers the prescribed police powers for enquiry or investigation. Section 409 PPC appears in the Schedule. However, the inclusion of an offence in the Schedule is not a substitute for establishing the connection with matters concerning the Federal Government that the Act requires. Section 2(e) also extends the statutory definition of a public servant to employees of a corporation, body or organization set up, controlled or administered by or under the authority of the Federal Government.

10. In *Director General, FIA and others v Kamran Iqbal and others* 2016 SCMR 447, the Honourable Supreme Court held that a nexus with the Federal Government is necessary when FIA invokes its jurisdiction over scheduled PPC offences; a purely private business dispute does not acquire a federal character merely because a scheduled section is mentioned. That rule must govern the present referral. OGDCL's federal governmental connection provides the basis for referring the reported loss at its installation to FIA for examination. The Agency must nevertheless identify and record the applicable jurisdictional basis, the status of the persons concerned and any governing notification before proceeding against them. A referral by this Court cannot confer a jurisdiction which the statute withholds.

11. The same limits are reflected in *Universal Cables Industries Limited v Federation of Pakistan through Secretary, Ministry of Interior, Islamabad and 3 others* PLD 2020 Sindh 601 and *Dr. Ashfaq Ahmed Tunio and others v Federal Investigation Agency and others* 2019 SBLR Sindh 1. These decisions require observance of FIA's statutory remit and the prescribed permissions and reject proceedings unsupported by a lawful jurisdictional foundation. Their application

here is direct: this order supplies a complaint for examination, not an exemption from the Act or the rules. The enquiry must concern the reported inventory shortage and connected conduct supported by material, rather than an indefinite scrutiny of unrelated affairs or persons.

12. There is no legal basis for treating FIA as wholly beyond the reach of appropriate directions under section 22-A(6) Cr.P.C. In *Makhdoomzada Syed Mushtaq Hussain Shah v Additional Sessions Judge, Islamabad and 6 others* PLD 2013 Islamabad 26, the Islamabad High Court recognized FIA as a police authority for that purpose. The Court noted that an enquiry had been conducted under the judicial direction before the criminal case was registered and found that FIA's prescribed procedure had not been violated. The decision is particularly relevant because the proceedings there also involved allegations under section 409 PPC. It supports the enquiry-first course adopted here, subject to lawful permissions and an independent assessment of the material.

13. In *National Bank of Pakistan and another v The State and 4 others* PLD 2021 Lahore 670, the Lahore High Court held that the expression police authorities in section 22-A(6) Cr.P.C. includes FIA officials and that the jurisdiction extends to complaints concerning neglect, failure or excess in the discharge of their functions. The decision supports an effective direction to address the present complaint and a requirement to report the action taken. It also recognizes that the special enactment prevails where its provisions conflict with the general procedure. Accordingly, accountability for compliance and observance of the statutory approval process must operate together.

14. In *Munir Ahmad Bhatti v Director, FIA Cyber Crime Wing, Lahore and 3 others* PLD 2022 Lahore 664, the Lahore High Court reaffirmed FIA's status as a police authority and explained that an appropriate direction depends upon the circumstances; registration of an FIR is not the inevitable order in every application. Although that case arose in the cybercrime context, its discussion of FIA's character and the distinction between enquiry and investigation is relevant here. Its

cybercrime-specific rules are not being applied to this matter. The appropriate relief in the present case is a focused enquiry under the FIA Act and the 2002 Rules, followed by the action the material and law warrant.

15. The distinction is also recognized in *Adamjee Insurance Company Ltd. v Assistant Director, Economic Enquiry Wing 1989 P.Cr.LJ 1921*, where a Division Bench of this Court described enquiry under section 5 of the FIA Act as the first step towards investigation and held that absence of an FIR did not, by itself, render initiation of the enquiry illegal. The Court also required definite allegations before persons or businesses were subjected to such proceedings. Here, the alleged loss of specified spark plugs at an identified installation supplies the subject of the enquiry. Its existence, extent and criminal character remain to be verified; the present direction does not authorize an unfounded or unlimited probe.

16. In *Muhammad Bilal Nawaz v Director General, Federal Investigation Agency and others PLD 2024 Lahore 584*, the distinction between enquiry and investigation was again examined, together with the requirement that FIA's powers remain subject to applicable statutory safeguards. That decision concerned restriction of a bank account, a relief which is neither sought nor ordered here. Its relevant principle is that preliminary fact-finding and consequential investigative action have distinct purposes and that the legal basis for a coercive measure must be separately satisfied. FIA shall therefore obtain and preserve relevant material through lawful means; this order itself is not a warrant for arrest, attachment or seizure.

17. Rule 3 of the Federal Investigation Agency (Inquiries and Investigations) Rules, 2002 permits initiation of an enquiry or investigation on the Agency's own initiative or upon receipt of a complaint or oral or written information, subject to rules 4 and 5. Rule 5 provides for prior permission of the prescribed competent authority for an enquiry against a public servant and for registration of a criminal case, according to the applicable status or equivalent grade. Rule 5(4) requires reasons to be recorded when the competent authority

decides not to initiate an enquiry or register a case. FIA must ascertain the relevant employment status and obtain the permission which the law requires. Receipt and processing of the complaint and immediate steps to obtain the requisite permission shall not be postponed on the pretext that the applicant must reproduce his allegations in a fresh complaint.

18. The limits of judicial intervention must equally be observed. In *Shahnaz Begum v The Hon'ble Judges of the High Court of Sind and Baluchistan and another* PLD 1971 SC 677 and *Brig. (Retd.) Imtiaz Ahmad v Government of Pakistan through Secretary, Interior Division, Islamabad and 2 others* 1994 SCMR 2142, the Honourable Supreme Court emphasized the separate statutory functions of the courts and investigating agencies and disapproved the Court assuming the role of investigator. Those authorities do not justify leaving a complaint without a lawful decision. They require that, while correcting the impugned order and ensuring performance of statutory duties, this Court leave collection and evaluation of material to the competent agency. Compliance scrutiny shall concern performance of the directions and the reasoned decision taken, not judicial control of investigative conclusions.

19. Turning to the substance of the allegation, criminal breach of trust requires more than a difference between a stock register and the material found in a store. In *Shahid Imran v The State and others* 2011 SCMR 1614, the Honourable Supreme Court distinguished entrustment of money or property from a payment or investment under a contractual arrangement. In *Rafiq Haji Usman v Chairman, NAB and another* 2015 SCMR 1575, it reiterated the need to establish entrustment and dishonest dealing and cautioned against using criminal proceedings to settle an ordinary contractual dispute. Although those decisions arose in different factual settings, their explanation of section 405 PPC applies to the present allegation: FIA must examine actual custody or dominion over the material and facts indicating dishonest use, disposal, conversion or misappropriation.

20. More recently, in *Muhammad Amjad Naeem v The State* 2025 SCMR 1130, the Honourable Supreme Court reaffirmed the two essential elements of criminal breach of trust: entrustment or dominion over property in the requisite capacity, followed by dishonest breach of that trust. Applied here, the store records, receipt and issue vouchers, custody arrangements and explanations of the persons concerned must be examined together. For section 409 PPC, the relevant capacity in which the property was entrusted must also be established. The description of a person as Store Incharge or Material Officer may identify a line of enquiry; it does not, by itself, establish dishonest misappropriation or justify inclusion of that person in an FIR.

21. The security arrangements relied upon in the impugned order do not answer these questions. Controlled entry may bear upon access and opportunity, but does not exclude unauthorized removal by an authorized entrant, dishonest diversion, manipulation of records or another explanation which the enquiry may disclose. Conversely, absence of an external breach does not prove an offence by the custodians. The relevant comparison is between material actually received, lawfully issued or consumed, transferred or returned, and physically available. The enquiry must distinguish an established shortage from duplication, erroneous entries, authorized consumption and other accounting explanations before attributing criminal conduct.

22. In *Mst. Sughran Bibi v The State* PLD 2018 SC 595, the Honourable Supreme Court held that the informant's version is not to be accepted unreservedly as the whole truth and that the investigating officer must examine all versions and discover the actual facts without prematurely committing himself for or against any person. It also explained that nomination in an FIR does not, by itself, warrant immediate arrest. These principles apply to the manner in which any ensuing investigation is conducted and inform the fairness of the preliminary enquiry. FIA must consider the explanations and relevant material furnished by the custodians and other concerned persons, while remaining free to draw a lawful conclusion from the record.

23. The applicant's reported non-appearance before the police enquiry officer calls for an express direction to cooperate. It does not establish that the stock was intact or that no offence occurred. *Muhammad Bashir* also explains that recording information of an offence is not merely discretionary equitable relief for a complainant; an alleged crime concerns the State. If the applicant again fails to attend upon lawful notice, FIA shall record the notice, service and default and assess the complaint on the other available material. The enquiry shall not be closed merely because one witness is unavailable, without addressing whether the company records and other evidence permit a reasoned determination.

24. The departmental enquiry record is relevant material and must be obtained. Its pendency is not a determination that the alleged conduct is exclusively departmental, nor is its eventual conclusion a substitute for FIA's independent assessment of any scheduled cognizable offence. The authorities concerning entrustment require scrutiny of the underlying material. If the records disclose only an accounting or administrative lapse, that finding must be explained. If they disclose dishonest dealing with entrusted property within FIA's jurisdiction, the existence of departmental proceedings cannot supply a reason for withholding the action required by criminal law.

25. In these circumstances, the impugned order is deficient to the extent that, having identified possible misappropriation and the competent federal agency, it dismissed the application without making an effective provision for the complaint to be examined by that agency. The ends of justice require correction of that deficiency. The substantial quantity and value alleged, the need to secure the underlying records and the lapse of time since discovery justify a definite timetable and responsibility for compliance. They do not justify a finding of guilt or an FIR unsupported by the statutory conditions. The application is accordingly allowed to the following extent, and the impugned order dated 07-04-2026 stands modified in these terms.

(i) The Deputy Director, FIA, exercising territorial jurisdiction over District Sanghar shall receive and process the complaint forthwith and cause a focused enquiry into the alleged disappearance of 343 spark plugs and any directly connected store material at OGDCL's Sinjhor Field. The competent FIA office at Nawabshah shall act through the officer lawfully assigned the matter. The concerned Director shall personally supervise compliance, obtain the permissions required under the FIA Act and the 2002 Rules, and ensure that statutory applications for approval are promptly placed before the competent authority. Where approval lies beyond the Director's competence, he shall promptly refer and pursue it through the Director General, FIA. This order does not dispense with any statutory permission.

(ii) The memo of this Criminal Miscellaneous Application, together with its annexures, shall be treated as the applicant's written complaint. No separate complaint repeating the same allegations shall be insisted upon as a condition for receiving or processing it. FIA may obtain a signed confirmation, record the applicant's statement and require particulars or supporting documents lawfully needed for the enquiry or registration of an FIR.

(iii) Within seven (7) days of receipt of this order, the concerned Director shall submit an initial compliance statement through the Additional Registrar of this Court, identifying the competent FIA office, the assigned officer, the complaint or enquiry number, the jurisdictional basis and the permissions obtained or sought. If any permission remains pending, the statement shall identify the competent authority, the date of reference and the action taken to secure its decision. An internal movement of the file shall not restart or suspend the period prescribed by this Court.

(iv) OGDCL, through its competent management, the Field Manager and Security Officer, having custody of the relevant records, shall forthwith preserve the original stock registers, purchase orders, receipt and issue vouchers, consumption and maintenance records, transfers, returns, physical verification reports, departmental enquiry material, access logs and all available CCTV footage or electronic backups relating to the reported shortage. They shall prevent alteration, destruction or overwriting of material still available and nominate a responsible officer for production of the record. Relevant record shall be furnished within seven (7) days of a lawful requisition, or within an earlier period lawfully specified by the competent officer. Any genuinely

unavailable record shall be identified in writing, with its custodian, the reason for unavailability and the steps taken to locate it; any reconstructed copy shall be identified as such and shall not be presented as an original.

(v) The enquiry shall verify the actual receipt and custody of the material, reconcile lawful issues and consumption with the physical stock, identify the relevant period and custodians, and examine access and security arrangements and the explanations supported by the record. The difference between Rs.26,000,000/- and Rs.26,400,000/- shall be specifically reconciled. Any confirmed shortage and valuation shall be itemized and supported by the documents relied upon. The enquiry shall also examine directly connected falsification or diversion if disclosed by the material, subject to FIA's lawful jurisdiction.

(vi) The applicant shall cooperate fully, provide the authority and supporting records relied upon by him and attend upon lawful notice. The concerned OGDCL officials shall facilitate access to and production of the relevant institutional record. The SSP, Sanghar, and SHO, Police Station Sinjhor, shall furnish the complaint, notices, reports and material already collected by the local police upon FIA's lawful requisition. Any failure to cooperate shall be documented and dealt with through the procedure available in law. Neither the applicant's default nor a departmental enquiry shall be treated as a substitute for assessment of the available evidence.

(vii) Upon completion of the enquiry, if the material prima facie discloses a cognizable offence within FIA's statutory jurisdiction, the Agency shall, after obtaining the prescribed permission and fulfilling the applicable legal requirements, register an FIR under the provisions warranted by that material and proceed with investigation in accordance with law. The permission and registration process shall be undertaken promptly; unnecessary administrative delay shall not be permitted. Proof sufficient for conviction is not the threshold for registration. Equally, no person shall be implicated merely because his designation appears in the complaint or departmental proceedings. The investigating officer shall assess all relevant versions independently and observe the legal requirements governing arrest, search and seizure.

(viii) If the competent authority concludes that no scheduled cognizable offence is disclosed, or that initiation of an enquiry or registration is otherwise legally unwarranted, it shall record a speaking decision stating the material considered, the applicable provisions and the reasons for that

conclusion. A bare statement that the matter is departmental, that security was strict, or that the applicant did not attend shall not constitute adequate compliance. Where statutory permission is declined, the decision and its recorded reasons shall accompany the report. A copy of the reasoned decision shall also be supplied to the applicant.

(ix) If FIA finds that the allegations fall outside its statutory jurisdiction but disclose a matter for another competent authority, it shall promptly transmit the complaint and available material to that authority, inform the applicant, and identify in its compliance report the legal basis for that course, the receiving authority and the date of transmission. It shall not permit the complaint to remain unattended merely because an internal territorial allocation or question of competence arises. Nothing herein authorizes FIA to investigate an offence beyond its statutory remit.

(x) The concerned Director shall ensure completion of the enquiry and submission of a detailed compliance report through the Additional Registrar of this Court within thirty (30) days from receipt of this order. The report shall be personally signed and verified by the concerned Director and shall disclose the permissions, material examined, established quantity and valuation, reasoned findings and action taken. It shall enclose the enquiry report and the relevant competent-authority decision or, where permission has been refused, the recorded refusal and its reasons; where an FIR is registered, it shall also enclose a copy of the FIR with the particulars of the investigating officer. A statement that the matter is under process, without the required findings and documented action, shall not satisfy this direction.

(xi) The thirty-day period is for completion of the enquiry and reporting of the consequential decision and action; it is not a direction to complete any ensuing criminal trial or the entire investigation within that period. No extension shall be assumed. If an exceptional circumstance makes compliance within time impossible, the concerned Director shall apply before expiry of the period, with a verified explanation, the work completed, the impediment and a definite proposed date. Filing such an application shall not itself extend or suspend the deadline. Routine internal correspondence, transfer of the file or general assertions of workload shall not suffice.

(xii) The Additional Registrar shall forthwith transmit authenticated copies of this order, the memo of application and its annexures to the concerned Director, FIA, and send copies for implementation to the

Director General, FIA, the competent management of OGDCL, the Field Manager and Security Officer, Sinjhor Field, SSP Sanghar and SHO, Police Station Sinjhor. The dates of dispatch and acknowledged receipt shall be recorded. The initial statement and final report shall be placed before this Court upon receipt. On expiry of the thirty-day period, the office shall place the matter before the Court whether or not a report has been received. In the event of default or materially incomplete compliance, the concerned Director shall be called upon to explain the failure personally; any further action for willful disobedience shall be considered only through the procedure and notice required by law.

26. These directions require prompt performance of statutory duties and a reasoned outcome. They neither exonerate nor condemn any named or unnamed person and shall not be used as a finding of criminal liability or as a substitute for the legal grounds required for a coercive measure. The enquiry and any ensuing investigation shall proceed independently and fairly. The application stands disposed of in the above terms, subject to compliance with the directions, and the office shall maintain a separate compliance entry for placing the reports and any default before this Court. Office is directed to transmit a copy of this order to the Director General FIA, Islamabad, Director FIA, Sukkur and Deputy Director, FIA Circle Nawabshah, for information and compliance.

JUDGE

APPROVED FOR REPORTING
FAISAL