

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

Cr. Misc. Application No. S-454 of 2026
Mst. Farzana Farhan @ Farzana v. SSP Hyderabad & Others

Counsel of Applicant : Mr. Shahed Mirbhar, Advocate.

Official Respondents 1,2,3&10: Ms. Rameshan Oad D.P.G, alongwith
Insp. P.S Women Hyderabad Beenish
Soomro and ASI Masood Ali, P.S.
Husri.

Counsel of Respondents 4,7&8 : Mr. Waqar Ali G Zaur, Advocate.

Date of Hearing : 21.10.2026

Date of Judgment : 21.10.2026

ORDER

Muhammad Humayon Khan, J.: The applicant moved the learned II-Additional Sessions Judge/Ex-Officio Justice of Peace, Hyderabad, under section 22-A(6) Cr.P.C. (Criminal Miscellaneous Application No. 4400 of 2026). She sought a direction to the SHO, Police Station Pabban/Husri, to record her statement and register an FIR against respondents No. 4 to 9, and protection for herself. She alleged the following:

- About two and a half years ago, respondent No. 4 entered her house and committed zina with her by force.
- He later had intercourse with her on a promise of marriage, as a result of which she bore a child.
- Respondent No. 5 recently abducted her daughter and committed zina with her.
- On 06.07.2026 the respondents stoned her vehicle and attempted to abduct her.

2. By order dated 11.07.2026, the learned Justice of Peace disposed of the application with a direction to the SHO to act in accordance with law. He observed that, on the applicant's own narration, the first act was forcible, but the later intercourse on a promise of marriage was consensual and attracted section 496-B PPC.

3. The applicant does not complain that her application was refused. Her grievance is directed at that observation. Learned counsel contends that the

observation is beyond the jurisdiction of a Justice of Peace and prejudices and incriminates the applicant. He prays that it be declared to have no legal effect, and that the SHO be directed to register the FIR in the applicant's own words. The learned Deputy Prosecutor General supports the impugned order.

4. Learned Counsel for the Respondent No. 4 filed statement dated 21.10.2026 along with supporting documents, reflecting that the minor child, whom the applicant claims to have been fathered by respondent No.4, is recorded in the relevant documents of vaccination to have been fathered by Farhan, the applicant's husband. A copy of the applicant's Nikahnama has also been annexed to the said statement, which reflects that her marriage with Farhan was Solemnised on 05.12.2024.

5. I have heard learned counsel for the applicant and the learned Deputy Prosecutor General as well as learned counsel for respondents No.4, 7 & 8 and perused the record.

6. The operative part of the impugned order is a direction to the SHO to act in accordance with law on the applicant's information. That is the relief she sought. Her challenge is confined to an observation, and the question is whether that observation causes her any legal prejudice. In my view it does not, for four reasons.

7. First, the function of an Ex-Officio Justice of Peace under section 22-A(6) Cr.P.C. is quasi-judicial. It is complementary to that of the police and does not replace it, *Younas Abbas v Additional Sessions Judge, Chakwal PLD 2016 SC 581*. The Supreme Court reaffirmed in *Syed Qamber Ali Shah v Province of Sindh 2024 SCMR 1123* that a Justice of Peace is not an investigating agency, and that it is for the police to examine the nature of the allegations. An observation by a Justice of Peace about which penal provision the facts attract is therefore a tentative view expressed to explain his order. It does not bind the officer recording the information, the investigating officer, or the trial Court.

8. Secondly, the applicant's grievance rests on the assumption that the observation fixes the character of her case. It does not. The FIR records the information as it is given. The truth of that information, and the offences it discloses, are determined by investigation and ultimately by the Court. As the Supreme Court explained in *Mst. Sughran Bibi v The State PLD 2018 SC 595*, the investigating officer must collect evidence and arrive at the truth, and is not bound by any party's version of the facts. Whether the applicant's later relationship with respondent No. 4 was consensual, or was itself procured by coercion or deceit, is a question of fact for the investigation. Neither the observation nor this order decides it.

9. Thirdly, the direction to the SHO to act in accordance with law "against the applicant and the proposed accused" gives the police no power the law withholds. Under section 203-C Cr.P.C., inserted by the Protection of Women (Criminal Laws Amendment) Act, 2006, a Court may take cognizance of the offence of fornication under section 496-B PPC only upon a complaint lodged in a Court of competent jurisdiction, and not upon a report by the police. A direction to act in accordance with law cannot therefore authorise the police to register or investigate such an offence against the applicant on the strength of her own complaint, and it shall not be read in that way.

10. Fourthly, the prayer for a direction to register the FIR in the applicant's own words adds nothing. When information disclosing a cognizable offence is given to the officer in charge of a police station, section 154 Cr.P.C. obliges him to reduce it to writing as given by the informant. The impugned order already directs him to act in accordance with law, which includes that duty. A further direction would only repeat what the law and the impugned order already require.

11. The applicant is not, in any event, confined to the police. If she apprehends that her account will not be faithfully recorded or fairly investigated, the law gives her a direct remedy: a complaint under section 200 Cr.P.C. before the Court of competent jurisdiction. On such a complaint, the Court examines the complainant and her witnesses on oath. It may hold an inquiry or direct an investigation under section 202 Cr.P.C. It then decides for itself, on the material before it, which offences, if any, are disclosed and against whom. The applicant's own version would thus be placed directly before a Court and judged on its merits, which is the very assurance she seeks through this application. Where the allegations are of the kind to which sections 203-A to 203-C Cr.P.C. apply, the complaint would in any case have to proceed in the manner those provisions prescribe.

12. The inherent jurisdiction under section 561-A Cr.P.C. is to be exercised sparingly, to prevent abuse of process or to secure the ends of justice. The Supreme Court in *Rai Ashraf v Muhammad Saleem Bhatti* PLD 2010 SC 691 emphasised the caution needed in this field. An order that grants the substance of the relief sought, accompanied by a tentative observation that binds no one, occasions neither abuse of process nor injustice calling for interference.

13. The criminal miscellaneous application is dismissed. The observation in paragraph 8 of the impugned order is tentative. It shall not bind the SHO, the investigating officer or any Court, and shall not prejudice the applicant. The applicant is at liberty to institute a direct complaint under section 200 Cr.P.C. before

the Court of competent jurisdiction. Any such complaint shall be dealt with strictly in accordance with law, uninfluenced by the observations of the learned Justice of Peace or by anything said in this order.

Muhammad Danish

JUDGE