

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR.
Crl.Misc. Application No.S-627 of 2025.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Applicant: Muhamad Haneef S/O Ghulam Muhammad by
caste Rajper
**Through Mr.Mujeeb ur Rehman Malano,
Advocate.**

The State: **Through Mr.Khalil Ahmed Maitlo, D. P.G.**

Respondent No.3. Sagheer Ahmed Arain,
Through Mr. Abdul Ghafoor Jiskani Advocate.

Date of hearing & order: **26.10.2026.**

Suresh Kumar J:- Through this Criminal Misc. Application under Section 561-A, Cr.P.C, the applicant has impugned the Order dated 08.09.2026 passed by learned Additional Sessions Judge-I, /Ex-officio Justice of Peace Mirwah District Khairpur in Crl; Misc. Application No.4054/2026 Re.Sagheer Ahmed v. The State and others, whereby he has allowed the application U/S 22-A & 22-B Cr.P.C for registration of FIR.

2. The facts, as per the record leading to this application, are that respondent No. 3, Sagheer Ahmed, filed an application under sections 22-A and 22-B of the Cr.P.C., stating therein that he and his brothers own 550 acres of land in Deh Bather and Deh Chbhero, Taluka Faiz Ganj, through a registered sale deed. Possession of 300 acres thereof was delivered to him, and he also paid for 250 acres; however, the applicant refused to execute the registered sale deed. On 26 August 2026, at 4:00 PM, the respondents were present at the farmhouse when the applicant/proposed accused came along with 40 to 42 armed persons and committed robbery of two lacs, also removing bags of seeds, fertilizer bags, and other materials from the spot, taking away the robbed property in a tractor trolley, and resorting to aerial firing. Thereafter, the applicant filed a Criminal Miscellaneous Application seeking directions for the registration of an FIR, which was allowed by the

learned Additional Sessions Judge/Ex-officio Justice of Peace Mirwah, as per the order dated 08 September 2026. This order is now being challenged through the present Criminal Miscellaneous Application.

3. The learned counsel for the applicant has contended that the impugned order dated 08 September 2026, passed by the learned Additional Sessions Judge/Ex-officio Justice of Peace, Mirwah, is contrary to law and natural justice. He has also contended that there is a civil dispute between the parties; therefore, the applicant has filed the present application with mala fide intention, and the respondent No. 3/complainant has attempted to convert a civil dispute into criminal litigation. He has further contended that the inquiry report submitted by the Complaint Cell corroborates the version of the applicant, indicating that there is a dispute over landed property between the parties. Lastly, he has contended that the learned Additional Sessions Judge-I/Ex-officio Justice of Peace Mirwah did not apply his judicial mind while passing the impugned order issuing directions for the registration of the FIR.

4. Learned Deputy P.G. Sindh, has not supported the impugned order. He has further contended that there is a civil dispute between the parties, therefore, respondent No.3 has filed present application with mala fide intention before Ex.Officio Justice of peace.

5. Learned counsel for the respondent No.3 has supported the impugned order and prayed for dismissal of this application. He has relied upon 2024 SCMR 1123 and 2025 YLR 875.

6. Having given due consideration to the arguments advanced by the learned counsel for the applicant/proposed accused, the learned Assistant Prosecutor General, as well as the learned counsel for the complainant/respondent No. 3, and having perused the relevant material, it is revealed from the examination of the impugned order dated 08 September 2026 that the learned Additional Sessions Judge-I/Ex-officio Justice of Peace

Mirwah has allowed the Criminal Miscellaneous Application under sections 22-A and 22-B of the Code of Criminal Procedure without appreciating the Police inquiry report.

7. From the perusal of the Police inquiry report, it reveals that there is a dispute over landed property. The inquiry report also indicates that the Call Detail Records (CDR) of the complainant and witnesses show that they were not present at the time of the incident, as alleged by them. It is well settled law that the Ex-officio Justice of Peace has authority to refuse to issue direction or registration of FIR, if the application is found to be motivated by mala fide as per available record. In similar circumstances, the Honourable Supreme Court in the case of *Munawar Alam v. Qurban Ali Malano* (2024 SCMR 985) has held that there are many precedents regarding misuse of provisions of Section 22-A and 22-B Cr.P.C. and it is the prime duty of the Court that such misuse be taken care and application filed should not be lightly entertained and decided in a mechanical manner for issuing direction to the Police. Similar view has been taken by Honourable Supreme Court in the case of *Jamal Khan v. Secretary Home Department* (2021 SCMR 468).

8. Moreover, the Honourable Supreme Court in the case of *Yonis Abbas v. Additional sessions Judge, Chakwal* (PLD 2016 581) has held that functions of Ex-official justice of Peace performs are not executive, administrative or ministerial inasmuch as he does not carry out, manage or deal with things mechanically. His functions are described in clause (i), (ii) and (iii) of Sub-Section 6 of Section 22-A Cr.P.C are quasi-judicial as he entertains applications, examine the record, hears the parties, passes orders and issue directions with due application of mind. Every *lis* before him demands discretion and judgment.

9. In the present matter, the material demonstrates that matter arises out of property contest and criminal legal machinery is being invoked pressure, harass and circumvent civil adjudication but justice of peace has ignored the

said fact. Even the mala fide is apparent on the part of the complainant/respondent No.3.

10. With due respect and regard to the case law cited by the learned counsel for respondent No.3, but the facts and circumstances of said case law are quite distinguishable therefore the same not applicable in this case.

11. For the reasons given above and guidance taken from the cited case law, the instant Crl. Misc. Application is allowed. Consequently the impugned order dated 08.09.2026, is set-aside, while application under section 22-A & 22-B Cr.P.C. filed by the complainant/respondent No.3 is dismissed.

JUDGE

Hizbullah/PA .