IN THE HIGH COURT OF SINDH BENCH AT SUKKUR.
Criminal Miscellaneous Application No.S-313 of 2026.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE

Applicant:	Mushtaque Ahmed S/O Imdadullah Jatoi, **Through Mr.Ashfaque Hussain Abro Advocate.**
Respondent No.2.	Munawar Ali S/O Khamiso Pitafi, **Through Mr. Abdul Sattar Thaheem Advocate.**
The State:	**Through Mr.Imran Mobeen, A. P.G.**

Date of hearing & order: **18.11.2026**.

Suresh Kumar J:- Through this Criminal Misc. Application, the applicant/accused Mushtaque Ahmed Jatoi has impugned the Order dated 05.05.2026 passed by learned Ex-officio Justice of Peace/Additional Sessions Judge, Gambat District Khairpur in Criminal Miscellenious Application No.1355/2026 Re.Munawar Ali Vs the State and others, whereby the application U/S 22-A & 22-B Cr.P.C for registration of FIR has been allowed.

2. Briefly, the facts leading to the present application are that respondent No. 2, Munawar Ali Pitafi, filed an application under Sections 22-A and 22-B Cr.P.C., alleging that on 23.08.2023, at about 1:00 a.m., he, along with Babar Ali and Asif Ali, was returning home when they were stopped by the police of P.S. Hingorja. HC Faiz Muhammad allegedly took away the ownership documents of the vehicle and informed them that FIR No. 66/2023 under Section 381-A PPC had been registered at the instance of one Suhrab Khan. Subsequently, they were arrested and challaned; however, the vehicle was not shown as case property. Thereafter, they were acquitted on 10.10.2024. Upon approaching HC Faiz Muhammad for the return of the vehicle, no response was received. Consequently, respondent No. 2 filed a direct complaint under Section 200 Cr.P.C. before learned Special Court (Anti-

Corruption), Sukkur. On its direction, he filed a Criminal Miscellaneous Application seeking registration of FIR, which was allowed by the learned Ex-Officio Justice of Peace/Additional Sessions Judge, Gambat, vide order dated 05.05.2026. The said order has been challenged through the instant Criminal Miscellaneous Application.

3. The learned counsel for the applicant has contended that the impugned order dated 05 May, 2026, passed by the learned Ex-officio Justice of Peace/Additional Sessions Judge, Gambat, is contrary to law and natural justice. He has also contended that the respondent No.2, is involved in many criminal cases respecting theft of electricity transformers, therefore, the respondent No.2/complainant has filed the present application with mala fide intention, and the respondent No. 2 has tried to put undue pressure upon the applicant/proposed accused with mala fide intention. He has further contended that the inquiry report submitted by the Complaint Cell corroborates the version of the applicant/accused, indicating that he is involved in many criminal case. Lastly, he has contended that the learned Ex-officio Justice of Peace/Additional Sessions Judge, Gambat 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 the respondent No.2, being a criminal type of person was involved in Crime Nos.66,67,68/2023 u/s 381-A PPC for committing theft of electricity transformers, therefore, respondent No.2 has filed present application with mala fide intention only to pressurize the proposed accused.

5. Learned counsel for the respondent No.2 has supported the impugned order and prayed for dismissal of this application.

6. Having given due consideration to the arguments advanced by the learned counsel for the applicant, the learned Assistant Prosecutor General, as well as the learned counsel for the complainant/respondent No.2, and having perused the relevant material, it is revealed from the examination of the impugned order dated 05 May,2026 that the learned Ex-officio Justice of Peace/Additional Sessions Judge, Gambat 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 respondent No.2/complainant along with others is involved in Crime Nos.66,67&68/2023 u/s 381-A PPC for committing theft of electricity transformers. The inquiry report submitted by the DSP Complaint Cell also supports the version of applicant/accused, which prima facie shows that respondent No.2/complainant has filed application for putting pressure upon the proposed accused with mala fide intention. It is well settled law that the Ex-officio Justice of Peace has authority to refuse to issue direction for 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 evidence demonstrates that the criminal machinery is being invoked to take revenge against the applicant/Police party due to the recovery of a stolen car from him. The mala fides on the part of the complainant/respondent No. 2 are also apparent.

10. 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 05.05.2026, is set-aside, while application No.1355/2026 filed by the respondent No.2/complainant under section 22-A & 22-B Cr.P.C. is dismissed.

J U D G E

Hizbullah/PA .