

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Crl.Misc.Application No.S-277 of 2025

Applicant : Israr Ahmed son of Imam Bux Umrani,
through Mr. Muhammad Aslam H.Jatoi,
Advocate.

Respondents : SHO, P.S, Sachal and two others *through*
Mr.Aitbar Ali Bullo, Deputy Prosecutor
General, Sindh.

Proposed Accused : Imran Ali Bhatti, SHO, PS Waleed and
others *through* Mr. Abdul Rehman Bhutto,
Advocate.

Date of Hearing : 29.09.2025.

Date of Decision : 29.09.2025.

ORDER

Ali Haider 'Ada'.J:- Through the instant application, the applicant has assailed the order dated 28.07.2025, passed by the learned Additional Sessions Judge-VII/Ex-Officio Justice of Peace, Larkana, in Criminal Miscellaneous Application No.1134 of 2025, whereby the application filed by the applicant seeking issuance of directions for registration of an FIR against certain police officials was declined. The learned Ex-Officio Justice of Peace, while passing the impugned order, turned down the request.

2. The case of the applicant is that the proposed accused, being police officials, while armed with weapons, forcibly entered into his shop and obstructed his lawful business. It is further alleged that upon resistance, the said police officials became annoyed, damaged the shop, and issued threats of dire consequences in the presence of witnesses. The applicant has also alleged that he was wrongfully restrained, illegally confined in the police lock-up, and was only released after extorting an amount of Rs.100,000/-. It was further alleged that during the course of the incident, the police officials also snatched the cell phones of the applicant.

3. That after filing of the application before the learned Ex-officio Justice of Peace, relevant reports were called from the concerned quarters. Likewise,

this Court also issued notices to the competent authorities for submission of their reports. In compliance thereof, reports were submitted by the S.S.P. Larkana as well as by the DSP/SDPO, Hyderi, Larkana, in pursuance of the order of this Court dated 25.09.2025. The reports further reflected that the controversy in fact pertains to the Pakistan Telecommunication Company Limited (PTCL) Department, which had issued an official letter to the S.S.P. Larkana, requesting deployment of police force to ensure security and to maintain law and order during their official proceedings. Pursuant thereto, the police officials accompanied the PTCL authorities, who intended to recover the government land from encroachers and to prevent further illegal construction thereon, which land pertains to the PTCL Department. It was also pointed out that the said action was undertaken in pursuance of the observations of the Honourable Supreme Court of Pakistan, as specifically mentioned in the letter annexed with the report. The reports further disclosed that, during such action, resistance was offered by the applicant party, on account of which the PTCL Department lodged FIR No. 74 of 2025 at Police Station Sachal, Larkana, on 10.07.2025 at about 1730 hours, against members of the applicant party.

4. Learned counsel for the applicant submits that the incident in question actually took place and was required to be reported in accordance with law; however, the police officials refused to entertain his version. Consequently, the applicant approached the learned Ex-officio Justice of Peace, but his request for registration of FIR was declined. He contends that the allegations made by the applicant clearly constitute a cognizable offence, as the applicant's property was demolished, he was allegedly confined, and was only released after payment of an illegal gratification. Such actions, according to him, are contrary to law and fall squarely within the ambit of a cognizable offence, thus requiring registration of FIR. Learned counsel further maintains that the applicant is at least entitled to have his statement recorded in terms of law. In support of his contentions, he has placed reliance upon the cases reported as *PLD 2008 Peshawar 53* and *2025 PCr.LJ 905*.

5. Conversely, learned Deputy Prosecutor General controverts the stance of the applicant and submits that it has become a general practice of individuals involved in illegal activities to invoke the jurisdiction of the Court with a view to shield themselves from lawful action. He maintains that the applicant has approached this Court with unclean hands and has suppressed

material facts. The true position, as reflected from the official reports, is that the entire action was initiated by the PTCL Department for retrieval of its government land from illegal encroachment, whereas the police officials merely provided assistance for maintaining law and order on the request of PTCL. He further submits that when the PTCL Department took lawful action, the applicant, being one of the encroachers, resisted such proceedings, and, in order to pressurize the police, concocted a false story. Even otherwise, the applicant has failed to produce a single document substantiating his ownership or lawful possession of the shop in question. Learned D.P.G. has also pointed out conflicts in the applicant's narrative, particularly with reference to the allegation of snatching two mobile phones. According to the official verification reports of the concerned franchise, the SIMs allegedly snatched were never duplicated and continued to function without interruption, thereby falsifying the allegations of the applicant. Hence, he submits, the allegations leveled against the police officials are misconceived, frivolous, and aimed at stalling lawful proceedings. So, the learned Justice of Peace rightly dismissed the application.

6. Learned counsel for the proposed accused has also supported the submissions advanced by the learned D.P.G. and adopted the same. He further submits that all actions were carried out strictly in accordance with law for the protection of national interest and to prevent illegal occupation of government land. The grievance, if any, lies against the PTCL Department, not against the police officials, who merely discharged their lawful duties. He emphasizes that the present application has been filed with mala fide intention only to deter the concerned officials from performing their lawful functions and to apply pressure for illegal advantage. He, therefore, prays for dismissal of the application.

7. Heard and perused the material available on record.

8. It is a well-recognized principle of law that the Ex-Officio Justice of Peace, while exercising powers under Sections 22-A(6) and 22-B, Cr.P.C., is not to act as a mere post office for mechanically directing registration of FIRs upon every application. The powers vested under the said provisions are required to be exercised with due judicial discretion and conscious application of mind. The role of the Ex-Officio Justice of Peace is quasi-judicial in nature, which obliges him to evaluate the contents of the application, consider the record and reports furnished by the police, and assess whether a cognizable offence is

disclosed or whether the complaint is motivated by mala fides, aimed at harassment, or otherwise an abuse of the process of law. Where the circumstances reflect that the application is frivolous or tainted with mala fide, no direction for registration of FIR should be issued mechanically. The safeguard embedded in Sections 22-A(6) and 22-B, Cr.P.C., is to prevent injustice, not to encourage misuse of the law by malicious litigants. In this Context, reliance is placed upon the case of *Muhammad Saleem and 5 others vs. Station House Officer Police Station City Sibi and 3 others* (2022 PCr.LJ 167), as further support is drawn from the case of Honorable Apex, titled *Munawar Alan Khan vs. Qurban Ali Malano and others* (2024 SCMR 985).

9. The legislative intent underlying Section 22-A, Cr.P.C, was never to permit misuse of harassing individuals, particularly those engaged in the performance of their lawful duties. The object of the provision is to provide a remedy to an aggrieved person where the police unlawfully refuse the law for the purpose of to register a cognizable offence; however, this does not mean that directions under Sections 22-A and 22-B, Cr.P.C, are to be issued in a mechanical or automatic manner. It is the bounden duty of the Courts to subject such applications to judicial scrutiny so as to determine whether the applicant approaches the Court with clean hands, acting bona fide, or is motivated by mala fide considerations. Absent such careful consideration, public servants and police officials performing their statutory functions would be left vulnerable to frivolous and vexatious complaints, thereby discouraging them from discharging their obligations without fear or favour. Support is drawn from the case of *Imtiaz Ahmed Cheema, SHO vs. SHO Police Station Dharki, Ghotki and 2 others* (2010 Y L R 189), as this Court held that:

"I have heard the learned counsel and perused the record. The provisions of section 22-A, Cr.P.C have been misused in a number of cases. The wisdom of legislature was not that any person who in discharging of duties takes an action against the accused would be subjected to harassment by invoking provision of section 22-A, Cr.P.C. The Courts in mechanical manner should not allow application under sections 22-A & B and should apply its mind as to whether the applicant has approached the Court with clean hands or it is tainted with malice. Unless such practice is discharged, it would have far reaching effect on the police officials who in discharge of duties take actions against them. The law has to be interpreted in a manner that its protection extends to everyone. I am therefore, of the opinion that order of the Sessions Judge was passed in mechanical manner and the applicant approaching the Sessions Judge. As per the record reflects that it was tainted with malice. I do not want to comment upon the conduct of the complainant, however it will be open to complainant to file direct complaint against the applicant if so advised and observations made in these proceedings will not come in the way of the complainant. The proposed complaint it filed will be decided on its own merits. This impugned order for the aforesaid reasons is set aside and Criminal Miscellaneous Application is allowed in the above terms."

10. For the foregoing reasons, and upon careful consideration of the record and submissions, it is clear that the application is misconceived and frivolous. The applicant has sought to involve police officials only as a means to evade lawful proceedings, despite the fact that an FIR already stands registered against his party, a material fact which he deliberately concealed. Such conduct disentitles the applicant to any equitable relief. Accordingly, the instant application is dismissed in its entirety as being devoid of merit.

JUDGE