

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Misc: Appln: No.S-229 of 2025.

DATE	ORDER WITH SIGNATURE OF JUDGE
	<ol style="list-style-type: none"> 1. <i>For orders on O/objection at flag-.A</i> 2. <i>For orders on M.A. No.1911/25</i> 3. <i>For hearing of main case.</i> 4. <i>For orders on M.A. No.1922/25</i>

17.04.2025

Mr. Niaz Hussain Maitlo, Advocate along with applicant.

ORDER

Ali Haider 'Ada',J. Through this application, the applicant has assailed the order dated 25.03.2025, passed by the learned Additional Sessions Judge-III / Justice of Peace, Khairpur, whereby the application filed by Respondent No.3 under Sections 22-A and 22-B Cr.P.C. was allowed, directing the SHO, Police Station Kumb, to record the statement of Respondent No.3 on his verbatim and to proceed strictly in accordance with law.

2. Briefly, the facts of the case are that Respondent No.3 filed an application before the learned Justice of Peace under Sections 22-A and 22-B Cr.P.C, by saying that cognizable offence is made out as detailed in paragraph 4 of his application. It was asserted therein that the present applicant, Ali Gul Bozdar, along with other co-accused (arrayed as proposed accused), criminally trespassed upon the land in question while armed with deadly weapons. It was further stated that the accused extended serious threats of murder in the event that they were obstructed or prevented from re-entering the said land.

3. Learned counsel for the applicant/proposed accused contends that the civil dispute between the parties is going on and the application filed by Respondent No.3 is a result of malafide intention and is aimed at falsely implicating the applicant. He further submits that the present applicant has already registered an FIR bearing Crime No. 133 of 2024 under Section 382 PPC against Respondent No.3 and that Respondent No.3 has also lodged another FIR in retaliation. In order to harass and pressurize the applicant, the respondent has filed the instant

application before the learned Justice of Peace with ulterior motives. It is argued that the application is frivolous and lacks bonafide and thus, the impugned order passed by the learned Justice of Peace is liable to be set aside. In support of his contentions, the learned counsel has placed on record a Photostat copy of the report submitted by the SHO before the learned Justice of Peace, a Photostat copy of FIR No. 133 of 2024, registered by the applicant under Section 382 PPC against Respondent No.3 and a single-page document, presumably meant to be treated as an FIR, though without any crime number or further details and which is illegible, under the cover of statement Dated 17-04-2025.

4. Heard and perused the material available on record

5. Firstly, the contention of the learned counsel for the applicant is that a civil dispute is ongoing between the parties. However, when specifically queried regarding any documentary evidence reflecting the pendency of such civil litigation, it was conceded that no such document has been annexed either with the present miscellaneous application or with the supporting statement filed by the applicant on 17.04.2025.

6. Secondly, FIR No. 133/2024 was lodged on 31-07-2024 by the applicant against Respondent No.03 and pertains to an incident that occurred approximately eight months prior. Therefore, its relevance or nexus to the present application appears tenuous at best. It is noteworthy that no counter-version or rebuttal appears to have been recorded in relation to FIR No.133/2024, thus raising concerns regarding fairness and balance in the process.

7. Furthermore, the learned counsel has placed reliance on certain documents filed under the cover of a statement, particularly one page which he claims is a copy of an FIR. However, upon perusal, it is observed that the said document is neither legible nor complete; it lacks essential particulars such as the crime number and other relevant details. The learned counsel nonetheless contends that the Court may presume it to be a valid FIR. As, such contention cannot be sustained, as the document in question does not meet the requirements of a duly registered FIR under the prescribed format mandated by the Police Rules, 1934. In the absence of a proper and verifiable FIR, the document relied upon cannot be given any legal credence or evidentiary value.

8. In order to address this issue and clarify the standard for presenting documents before the Court, it is essential to emphasize that any document submitted must be in a legible and readable form, duly attested. It is the duty of learned counsel to carefully scrutinize all documents prior to their presentation. A counsel is not merely a conduit or a post office through which documents are passed from client to Court without care or attention. Rather, counsel bears a professional responsibility to exercise due diligence and to ensure that any material brought before the Court meets the required legal standards. The learned counsel must remain mindful of the forum before which they are appearing and act accordingly with the decorum and seriousness it demands. Counsel are, in essence, educators and guides for their clients in legal matters and are expected to advise them on the correct and lawful manner of placing documents before the Court. A passive or indifferent approach failing to review or even comprehend what is being presented is inconsistent with the role and responsibilities of a legal practitioner. As held in the case of *Munawar Hussain v. The State (PLD 2010 Lahore 39)*, it was observed with serious concern that be careful in future to file legible copy of FIR.

9. Now, on scanning the material available on record, it prima facie appears that a cognizable offence is made out. In support of this view, reliance is placed on the case of *Syed Qambar Ali Shah v. Province of Sindh and others (2024 SCMR 1123)*, wherein the Honourable Supreme Court of Pakistan held that:

9. We have examined the impugned order of the High Court and, in paragraphs 6 and 7, several observations are made as a fact-finding forum which directly affected the merits of the case. It seems to us that the learned High Court had assumed the role of an investigator and passed certain observations to declare the case false which is beyond the purview of the jurisdiction of the High Court under Section 561-A, Cr.P.C. It is well-known that the inherent jurisdiction conferred under Section 561- A, Cr.P.C., cannot be deemed to be an alternative jurisdiction or additional jurisdiction and cannot be exploited to disrupt or impede the procedural law on the basis of presumptive findings or hyper-technicalities, but it is meant to protect and safeguard the interest of justice to redress grievances of aggrieved persons for which no other procedure or remedy is provided in the Cr.P.C. Despite everything, the ends of justice inescapably denote justice as administered and dispensed with by the courts but not justice in an abstract and intangible notion. In the case of Ghulam Muhammad v. Muzammal Khan [PLD 1967 SC 317], this Court had occasion

to point out that the power given by section 561- A, Cr.P.C., can certainly not be so utilized as to interrupt or divert the ordinary course of criminal procedure as laid down in the procedural statute. The matter only relates to the simple implementation of the order passed by the Justice of Peace which was only confined to the recording of the statement of the complainant before the S.H.O. but what we have perceived is that the matter was dragged unnecessarily for the last many years and the order passed in October 2015 is at a standstill and unimplemented.

10. The mere registration of FIR does not insinuate the conviction but as a rider, it is clearly provided under Section 169 of the Cr.P.C. that if upon an investigation, it appears to the officer incharge of the police-station, or to the police-officer making the investigation that there is no sufficient evidence or reasonable ground or suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police-report and to try the accused or send him for trial. While Section 173 Cr.P.C inter alia provides that as soon as the investigation is completed, the officer incharge of the police station shall, through the Public Prosecutor, forward to a Magistrate empowered to take cognizance of the offence on a police-report, in the form prescribed by the Provincial Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody or has been released on his bond, and, if so, whether with or without sureties, and communicate, in such manner as may be prescribed by the Provincial Government. Furthermore, in the present context of the case where the respondents allegedly claim that no case was made out and the Justice of Peace exceeded his jurisdiction, it would be pertinent to point out the genre of the "A", "B" and "C" Class Reports under Section 173, Cr.P.C. The Police Report under "A" class indicates that the FIR is true but the accused persons are untraced, or there is no clue whatsoever about the culprits or property, or the accused is known but there is no evidence to justify his being sent up to the Magistrate for Trial, while report under "B" class denotes that the FIR is maliciously false or frivolous and no case is made out against the accused persons, whereas the report under "C" class refers to when the criminal case was filed due to mistake of fact or if offence complained about is of a civil nature. Had the opportunity been afforded to the Investigating Officer to carry out investigation according to the statement of the petitioner, he could perform his duties to ascertain whether any prima facie case is made out, and obviously if no case was made out then the Investigating Officer could file the report in the Court in the relevant Class. Being fully cognizant to such law

and procedure, the learned Justice of Peace, while allowing application under Section 22-A, Cr.P.C, directed the S.H.O. Police Station 'A' Section, Ghotki, to record the statement of the petitioner and if a cognizable offence is made out, then register the FIR with the rider that the proposed accused should not be arrested without collection of tangible evidence and if during investigation, the FIR is found to be false, the police will be at liberty to initiate action against the complainant (petitioner) as required under Section 182, Cr.P.C.

10. It is also well-settled that the registration of an FIR is not merely a procedural formality but a statutory and fundamental right, recognized under Section 154 of the Code of Criminal Procedure, 1898. The principle of *Primus Relatus de Crimine*, means the first account of a crime serves as the basic for initiating the criminal justice process, is very much striking.

11. It is the prime obligation of the Ex-Officio Justice of Peace to meticulously examine all relevant documents and after applying a prudent and judicious mind, issue necessary directives to the relevant authorities who have neglected to discharge their statutory responsibilities.

12. Upon perusal of the available record, it is evident that, at least for the purpose of a surface-level scrutiny, no legal infirmity is discernible in the impugned order. The directions issued by the learned Justice of Peace appear to be in accordance with law and within the scope of jurisdiction under Section 22-A & 22-B Cr.P.C. In view of the foregoing, no interference is warranted by this Court. Consequently, this Criminal Miscellaneous Application, along with the listed miscellaneous applications, stands dismissed in *limine*.

JUDGE