

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Miscellaneous Application No.438 of 2025

Date: Order with signature(s) of Judge(s)

- 1. For orders on MA No. 7242/2025.
- 2. For orders on MA No. 7243/2025.
- 3. For hearing of main case.

23.05.2025

Mr. Arif Khan, advocate for applicant.

ORDER

- 1. Urgency granted.
- 2-3. Upon urgent hearing of Criminal Misc. Application U/S 561-A Cr.P.C., having heard the learned counsel for the applicant and with the able assistance of the learned APG for the State, and having perused the record, this Court finds that the learned advocate for the applicant has failed to establish the maintainability of the instant application.

It is noted that a multitude of applications have been forwarded by the applicant, which appear to emerge from, and are intrinsically linked to, civil matters already pending between the parties. The core of the dispute, as gleaned from the applicant's submissions and the underlying petition, revolves around the ownership and possession of plots and their original files. This squarely falls within the domain of civil litigation.

The applicant's primary grievance in the instant application U/S 561-A Cr.P.C. is against the order dated 28.02.2025 (though the certified copy provided is dated 03.05.2025, a discrepancy noted by the applicant himself in the annexures), passed by the Learned VITH Additional Sessions Judge Malir Karachi in Petition No. 478/2025 U/S 22-A & 22-B Cr.PC. The said order declined the lodging of an FIR/recording of a statement U/S 154 Cr.P.C. and only partially allowed protection to the petitioner/applicant.

The facts presented in the application, specifically paragraphs 1, 2, 3, 4, 5, 6, 7, and 8 of the "FACTS" section, predominantly narrate an incident of alleged assault and threats related to withdrawing from Civil Suit No. 739/2022, which is pending before the IIIRD Senior Civil Judge Malir

Karachi. Furthermore, the grounds for challenging the impugned order, particularly grounds 2, 3, and 11, explicitly reference the illegal and unlawful occupation of plots and the retention of their original files by the private respondents. The prayer also seeks the recovery of these plot files.

It is a well-settled principle of law, as reinforced by the Honourable Apex Courts for avoiding conversion of civil disputes into criminal matters is understood, that criminal machinery should not be invoked or allowed to be misused for the resolution of purely civil disputes. The allegations, while couched in terms of criminal acts like assault and threats, are demonstrably interwoven with and appear to stem from the ongoing civil dispute concerning the plots. The appropriate forum for the resolution of such disputes, including the recovery of documents related to property, is the civil court where the litigation is already pending.

The learned Ex-officio Justice of Peace, in its order dated 03.05.2025, appears to have rightly recognized the underlying civil nature of the dispute and, while declining the registration of an FIR, appropriately granted protection to the applicant. This indicates a judicious application of mind to the facts before it, distinguishing between a genuine criminal complaint and a civil dispute sought to be criminalized.

Therefore, *prima facie* no infirmity or illegality is observed in the impugned order passed by the learned trial court. The application U/S 561-A Cr.P.C. lacks merit. The Cr. Misc. Application U/S 561-A Cr.P.C. is hereby dismissed along with listed applications in *limine*.

J U D G E