

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Misc. Appln. No. S-103 of 2024

Applicant : Muhammad Murad son of Hamzo Mahar,
Through Mr. Alam Sher Bozdar, Advocate

Proposed Accused : HC Zafar, HC Ghulam Mustafa, PC Waqar
PC Waseem, and PC Ghulam Rasool
Through Mr. Shabbir Ali Bozdar, Advocate

The State : Through Mr. Muhammad Raza Katohar, DPG

Date of hearing : 22.08.2025
Date of order : 22.08.2025

ORDER

Khalid Hussain Shahani, J:- The present criminal miscellaneous application has been filed by Muhammad Murad, who has called in question the order dated 31.01.2024, passed by the learned Additional Sessions Judge-I/ Ex-Officio Justice of Peace, Mirpur Mathelo, whereby his application under Sections 22-A(6)(i) and 22-B, Cr.P.C. was dismissed. The grievance of the applicant is that his complaint, disclosing commission of cognizable offences, was not directed to be registered as an FIR by the learned Justice of Peace, and therefore intervention of this Court is being sought.

2. The applicant has narrated that he and his son, Mehtab, are labourers at the dairy farm of Shahid Ali Hakro and earn their livelihood therefrom. On 09.12.2023, at about 6:00 a.m., while the applicant, his son, and the farm owner were present in the dairy premises, a party of police officials, namely Head Constables Zafar Hyderani and Ghulam Mustafa Soomro, Police Constables Wagar, Waseem Malhan and Ghulam Rasool along with three unidentified men, suddenly entered the farm. It is alleged that the said party wrongfully detained the applicant and his son and carried them away to Police Station Mirpur Mathelo where they were unlawfully confined. The applicant has further alleged that during this episode, the police party also took away ten goats belonging to the farm and snatched Rs.10,000/- cash from his possession. The matter assumed such seriousness that the farm owner, Shahid Ali, approached the Court under Section 491 Cr.P.C. seeking recovery of the detainees, and

pursuant thereto a learned Magistrate paid a surprise visit to the police station where the applicant and his son were indeed found in detention, released upon execution of a bond.

3. On the strength of this background, the applicant thereafter moved an application before the Additional Sessions Judge/Ex-Officio Justice of Peace, Mirpur Mathelo, praying for directions to the concerned SHO for registration of FIR against the proposed accused police personnel under Section 154 Cr.P.C. However, through the impugned order dated 31.01.2024, the request was declined.

4. Learned counsel for the applicant vehemently argued that the facts narrated constitute cognizable offences of illegal confinement, theft and robbery, hence it was incumbent upon the Justice of Peace to direct recording of the complaint as FIR. It was urged that the learned court below failed to exercise discretion judiciously and overlooked relevant material, particularly the Magistrate's visit and release of the applicant and his son, which fact alone supported that unlawful acts were indeed committed by the police party. According to him, the dismissal is legally unsustainable as it negates the very spirit of Section 154 Cr.P.C. which obligates registration of FIR whenever information of a cognizable offence is laid before the police. Counsel prayed for appropriate directions to the SHO to record the applicant's version.

5. On the other hand, learned Deputy Prosecutor General appearing for the State supported the order under challenge. He submitted that while the applicant and his son's presence at the police station during the Section 491 Cr.P.C. proceedings is a matter of record, it does not follow that robbery, abuse or physical manhandling had occurred as alleged. It was pointed out that in the Section 491 Cr.P.C. petition no such claims were mentioned, and allegations about theft of goats and snatching of money surfaced only later. Such embellishment, unaccompanied by corroboration, according to the State counsel, robs the applicant's version of credibility. He stressed that the official record, particularly the roznamcha, reflects a non-cognizable entry relating to a private transaction involving the applicant and certain persons, thus undermining the narrative of victimization by police.

6. Learned counsel for the proposed accused also resisted the applicant's plea, adopting the arguments of the State and emphasizing that the application under Sections 22-A and 22-B, Cr.P.C. has been employed

maliciously to create pressure against the police personnel. He submitted that such attempts to drag officials into false criminal cases for actions undertaken in good faith must be discouraged, as the superior courts have uniformly warned against abuse of these provisions.

7. Having examined the submissions of both sides and perused the material available, it is evident that the applicant has been unable to substantiate his allegations by producing any credible evidence. The fact of his presence at the police station on the date in question is undeniable, yet what is striking is the inconsistency in his narrative. Before the Court in proceedings under Section 491 Cr.P.C., he did not complain of theft, snatching of cash, use of abusive language or physical assault. Such allegations appear only later in his application under Section 22-A and 22-B, Cr.P.C., without reasonable explanation for the omission. This belated introduction of grave accusations creates grave doubts as to their veracity, suggesting exaggeration with ulterior motives.

8. Further, the SHO produced the relevant roznamcha entry before the learned Justice of Peace, which recorded an NC (non-cognizable) report concerning a dispute between the applicant and other private persons. This documentary record substantially weakens the foundation of his claims and lends support to the stance of the respondents. Additionally, there is no corroboration by independent witnesses, including the farm owner, regarding the alleged snatching of money or theft of goats, which undermines the weight of allegations sought to be pressed into service.

9. It is also pertinent to reiterate that while Sections 22-A and 22-B, Cr.P.C. serve a remedial purpose in providing access to justice where unlawful refusal to register FIRs occurs, it has been repeatedly emphasized by the superior courts that such powers must not be resorted to as instruments for settling personal scores or for needless harassment of public officials. The judgment in *Imtiaz Ahmed Cheema v. SHO P.S. Dharki* (2010 YLR 189) explicitly cautioned that misuse of these provisions poses a serious threat to the functioning and independence of police in discharging their lawful duties, and that courts must exercise great caution to ensure the applicant approaches the court with clean hands. The wisdom of the legislature was not to permit such provisions to be wielded recklessly against those who, in bona fide exercise of duties, take lawful action.

10. In the present matter, a careful scrutiny of the applicant's own conduct, the chronology of events, the inconsistencies in his narration, and the absence of supporting evidence leads to the conclusion that the alleged offences were not made out in the manner suggested. The order passed by the learned Justice of Peace reveals a judicious appreciation of the material presented. Far from being an arbitrary dismissal, it is a considered decision based on settled principles of law. Viewed in this backdrop, this Court is persuaded that the impugned order does not suffer from any illegality or perversity warranting interference in revisional jurisdiction. The application, being meritless and motivated, is accordingly dismissed and the order of the learned Justice of Peace is upheld.

J U D G E