

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Misc. Appln. No. S-351 of 2025

Applicant : Sajid Hussain son of Abdul Rahim, Qazi
Through Mr. Mansoor Hussain Maitlo, Advocate

Respondent No.8 : Jan Muhammad s/o Rehmatullah
Through Mr. Aftab Hussain Bhutto, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 26.09.2025
Date of Order : 06.10.2025

ORDER

KHALID HUSSAIN SHAHANI, J. — The present application under Section 561-A Cr.P.C. seeks to set aside the impugned order dated 21st March 2025 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Ubauro, in Criminal Miscellaneous Application No.532 of 2025. The applicant challenges the dismissal of his application filed under Sections 22-A & 22-B Cr.P.C for registration of FIR against police officials and private individuals, claiming that the learned Justice of Peace committed jurisdictional errors and misapplied established legal principles governing FIR registration procedures.

2. The factual matrix reveals a family dispute stemming from matrimonial proceedings between Ali Hyder (son of applicant's sister-in-law) and Mst. Sanam Bhutto (daughter of proposed accused Jan Muhammad Bhutto). Following the marriage, a suit for dissolution of marriage was filed before the Family Court Ubauro, which remained pending at the time of the alleged incident. The private accused allegedly harbored grievances against the applicant due to this matrimonial dispute and issued threats of dire consequences. On 8th March 2025 at about 1630 hours, the applicant alleges that several police officials including ASI Allah Jiwayo, PC Shakeel Ahmed Malik, LPC Sakeena Bhutto, PC Sabir Hussain, PC Ali Abbas Bhutto, along with private accused Jan Muhammad and Zahid Hussain, forcibly entered his residence. The intrusion was purportedly in connection with crime No.

38/2025 for offences under Sections 337-A(i), F(i), 34, and 504 PPC registered at P.S Ubauro, seeking to arrest the applicant's son Shahzaib.

3. The applicant claims the officials damaged household articles and broke cupboard locks, Stole about 2.5 tola of gold ornaments and Rs. 200,000 in cash and issued threats of encounter killing ("half fry or full fry"), maltreated women folk of the family, left only after shopkeepers from the nearby market gathered at the scene. The applicant approached PS Ubauro with witnesses to report the incident but claims the SHO refused to register an FIR. Subsequently, he filed an application under Sections 22-A & 22-B Cr.P.C. before the Justice of Peace, which was dismissed vide the impugned order dated 21st March 2025. Notably, Crime No. 38/2025, the original case for which police allegedly raided the applicant's house, was later disposed of under "C" (cancelled) class.

4. The applicant's counsel advanced the arguments that the learned Justice of Peace exceeded his jurisdiction under Section 22-A(6) by conducting a detailed merit-based analysis instead of limiting inquiry to whether cognizable offences were prima facie disclosed. The allegations clearly constitute cognizable offences under various sections of the Pakistan Penal Code, warranting FIR registration regardless of the underlying family dispute. Reliance was placed on Supreme Court precedent establishing that Justice of Peace should not assume investigative roles or conduct fact-finding exercises beyond determining prima facie cognizability. The impugned order was passed without proper consideration of factual allegations and was influenced by police reports favoring the accused.

5. The respondent No.08, through his counsel and state representatives, contended that the matter arose from matrimonial proceedings and represented an attempt to transform civil disputes into criminal

proceedings with malafide intent. No medical certificates or corroborative evidence supported allegations of maltreatment or physical harm. The application was filed to pressurize police against arresting the applicant's son Shahzaib in connection with Crime No.38/2025. Both DSP Complaint Redressal Center Ghotki and SHO PS Ubauro submitted reports contradicting the applicant's version of events.

6. Heard & Perused. The Supreme Court of Pakistan in *Muhammad Bashir v. Station House Officer, Okara Cantt. and others* (PLD 2007 SC 539) established that the jurisdiction of Ex-Officio Justice of Peace under Section 22-A(6) is limited to examining whether information disclosed constitutes a cognizable offence, and if so, directing FIR registration without inquiring into the veracity of allegations. In *Younas Abbas and others v. Additional Sessions Judge, Chakwal and others* (PLD 2016 SC 581), the Supreme Court further clarified that Ex-Officio Justice of Peace exercises quasi-judicial powers with specific parameters. The Court observed that "*the past experience of around 14 years would unmistakably reveal that these provisions especially Section 22-A have been misused*" and emphasized the need for careful application to prevent abuse. The case of *Imtiaz Ahmed Cheema v. SHO, Police Station Dharki, Ghotki* (2010 YLR 189) established critical principles regarding misuse of Section 22-A provisions. The Court held, "The provisions of Section 22-A & B 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 provisions of Section 22-A Cr.P.C. The courts in mechanical manner should not allow applications under section 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".

7. Multiple High Court precedents have recognized the concerning trend of litigants attempting to convert civil disputes into criminal proceedings. In *Sikandar Ali v. Learned Additional Sessions Judge-II & Others* (Cr. Misc. Appln. No. S-597 of 2022), the Sindh High Court observed: "*There appears civil dispute among the parties and such matter... Therefore, the Filing of this application by the applicant shows that he wants to convert a civil dispute into criminal and such practice cannot be allowed*". Similarly, in various judgments, courts have noted attempts "to transform a bona fide civil dispute between the parties into a criminal case so as to bring the weight of criminal law and process to bear upon respondents".

8. However, the Supreme Court in Civil Petition No.2000-L of 2020 clarified that "the general rule is that the initiation of criminal proceeding does not bar a civil court to take cognizance of the same matter on civil side" and that "proceedings in the civil case cannot be stayed for the sake of criminal case in a connected matter".

9. While the underlying matrimonial dispute provides context, the critical question is whether the allegations transcend mere civil disagreement and venture into criminal territory. The Supreme Court's guidance in *Younas Abbas* (supra) requires careful examination to prevent both misuse and denial of legitimate grievances. The timing and circumstances raise legitimate concerns about the applicant's motives:

- a) Temporal Coincidence: The alleged incident occurred while police were seeking the applicant's son in Crime No.38/2025, which was later cancelled.*
- b) Lack of Corroboration: No medical evidence or independent witness statements support allegations of physical harm.*
- c) Police Reports: Both DSP and SHO reports contradict the applicant's version.*
- d) Family Dispute Background: The clear nexus to ongoing matrimonial proceedings suggests potential malafide intent.*

10. The case of *Imtiaz Ahmed Cheema* (2010 YLR 189) directly applies to the present circumstances. The case established that courts must examine whether applicant's approach with "clean hands" or with "malice," and mechanical allowance of Section 22-A applications undermines the legislative purpose. While *Muhammad Bashir* (PLD 2007 SC 539) established the general principle of limited inquiry, subsequent jurisprudence has refined this to prevent abuse. The *Younas Abbas judgment* (PLD 2016 SC 581) specifically noted the need for safeguards against misuse. Multiple High Court decisions have emphasized that applicants must approach Justice of Peace with clean hands. In several cases, courts have dismissed applications where ulterior motives or malafide intent was apparent. The learned Justice of Peace correctly identified that the applicant has an alternative remedy through direct complaint under Section 200 Cr.P.C. This remedy is specifically designed for cases where FIR registration is disputed. Courts have consistently held that where adequate alternative remedies exist, particularly direct complaint procedures, applicants should utilize these mechanisms rather than seeking directions under Section 22-A Cr.P.C.

11. After careful examination of the record, applicable law, and precedents, this Court reaches the conclusion that the learned Additional Sessions Judge correctly applied the principles established in *Imtiaz Ahmed Cheema* and *Younas Abbas* by examining the bona fides of the application rather than mechanically directing FIR registration.

12. The direct complaint remedy under Section 200 Cr.P.C. provides adequate legal recourse if the applicant genuinely believes cognizable offences occurred. The impugned order demonstrates proper application of judicial mind and consideration of relevant factors, contrary to applicant's contentions

13. In light of the detailed analysis above and considering the established legal principles regarding misuse of Section 22-A provisions, this Court finds that the learned Additional Sessions Judge correctly dismissed the applicant's application. The order demonstrates proper application of law and judicial discretion in preventing abuse of the statutory remedy. The application represents a clear attempt to transform a family dispute arising from matrimonial proceedings into criminal prosecution, precisely the type of misuse cautioned against in *Imtiaz Ahmed Cheema* and subsequent precedents. The lack of corroborative evidence, contradiction by police reports, and temporal coincidence with proceedings against the applicant's son all support the conclusion that the application was filed with malafide intent. Accordingly, the present Criminal Miscellaneous Application is hereby dismissed. The impugned order dated 21st March, 2025 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Ubauro, is upheld, as being in accordance with law and established judicial precedents. The applicant is at liberty to pursue his remedy through direct complaint under Section 200 Cr.P.C. before the court having jurisdiction if he so chooses and is so advised.

J U D G E